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WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, September 17, 2013
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–AD; Amendment 39–17535; AD 2013–15–19]

RIN 2120–AA64

Airworthiness Directives; BRP-Powertrain GmbH & Co KG Rotax Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all BRP-Powertrain GmbH & Co KG Rotax model 912 F2; 912 F3; 912 F4; 912 S2; 912 S3; 912 S4; 914 F2; 914 F3; and 914 F4 reciprocating engines. That AD required a one-time visual inspection for excessive oil or carbon deposits on the cylinder No. 2 and No. 3 (⅔) spark plug center and grounding electrodes, and if found, replacement of the cylinder head before further flight. This AD was prompted by a report that additional engine cylinder heads are likely to be affected. We are issuing this AD to prevent excessive oil consumption, which could result in an in-flight engine shutdown, forced landing, and damage to the airplane.

DATES: This AD is effective August 27, 2013.

We must receive any comments on this AD by September 26, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact BRP-Powertrain GmbH & Co KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; Internet: *http://www.FLYROTAX.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. 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 AD, the Mandatory Continuing Airworthiness Information, 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: 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:

Discussion

On April 4, 2013, we issued AD 2013–07–12, amendment 39–17416 (78 FR 22166, April 15, 2013), for certain BRP-Powertrain GmbH & Co KG Rotax model 912 F2; 912 F3; 912 F4; 912 S2; 912 S3; 912 S4; 914 F2; 914 F3; and 914 F4 reciprocating engines. That AD required a one-time visual inspection for excessive oil or carbon deposits on the ⅔ spark plug center and grounding electrodes, and if found, replacement of the cylinder head before further flight. That AD resulted from a report of certain cylinder heads not manufactured to proper specification. We issued that AD to prevent excessive oil consumption, which could result in an in-flight engine shutdown, forced landing, and damage to the airplane.

Actions Since AD Was Issued

Since we issued AD 2013–07–12 (78 FR 22166, April 15, 2013), we received a report that additional engine cylinder heads are likely to be affected. In addition, some affected cylinder head assemblies, part number (P/N) 623682 and P/N 623687, were supplied as spares between January 31, 2013 and May 28, 2013. Also, since we issued AD 2013–07–12, the European Aviation Safety Agency (EASA) has issued AD 2013–0117–E, dated May 30, 2013, which supersedes and retains the requirements of EASA AD 2013–0055–E and expands the applicability to include all model 912 and 914 engines.

Relevant Service Information

We reviewed BRP-Powertrain GmbH & Co KG Rotax Aircraft Engines Mandatory Alert Service Bulletin (MASB) No. ASB–912–062, Revision 2 and ASB–914–044, Revision 2 (provided as one document), dated May 29, 2013. The service information describes procedures for inspecting cylinder head assemblies for evidence of excessive oil consumption.

FAA's Determination

We are issuing 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.

AD Requirements

This AD requires a one-time visual inspection of the center and grounding electrodes of both top and bottom spark plugs on cylinder ⅔ for unusual deposits and to replace, before further flight, those cylinder heads not manufactured to proper specification.

FAA's Justification and 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 the short compliance

time requirement. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–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 about 197 engines installed on airplanes of U.S. registry. We also estimate that it would take about 2 hours per engine to inspect a cylinder head assembly. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $33,490.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2013–07–12, Amendment 39–17416 (78 FR 22166, April 15, 2013) and adding the following new AD:

2013–15–19 BRP-Powertrain GmbH & Co. KG (formerly BRP-Rotax GmbH & Co KG, Bombardier-Rotax GmbH & Co. KG, and Bombardier-Rotax GmbH): Amendment 39–17535; Docket No. FAA–2013–0263; Directorate Identifier 2013–NE–12–AD.

(a) Effective Date

This AD is effective August 27, 2013.

(b) Affected ADs

This AD supersedes AD 2013–07–12, Amendment 39–17416 (78 FR 22166, April 15, 2013)

(c) Applicability

This AD applies to the following BRP Powertrain GmbH & Co KG Rotax reciprocating engines:

(1) Rotax 912F from serial number (S/N) 4,413.013 to S/N 4,413.019, inclusive.

(2) Rotax 912S, from S/N 4,924.468 to S/N 4,924.543, inclusive.

(3) Rotax 914F, from S/N 4,421.156 to S/N 4,421.177, inclusive.

(4) All Rotax 912F, 912S, and 914F engines with cylinder head assembly, part number (P/N) 623682 or P/N 623687, supplied by BRP-Powertrain between January 31, 2013, and May 28, 2013, installed.

(d) Unsafe Condition

This AD was prompted by a report that additional engine cylinder heads are likely to be affected. We are issuing this AD to prevent excessive oil consumption, which could result in an in-flight engine shutdown, forced landing, and damage to the airplane.

(e) Compliance

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

(1) Within 5 flight hours or 20 days after the effective date of this AD, whichever occurs first, perform a one-time visual inspection of the center and grounding electrodes of both top and bottom spark plugs on cylinder 2 and cylinder 3, for unusual deposits of excessive oil or carbon deposits. Any excessive oil or carbon deposits indicate the cylinder head is not manufactured to proper specification and is leaking oil into the combustion chamber.

(2) Before further flight, replace cylinder heads not manufactured to proper specification.

(3) From the effective date of this AD, installation on an engine of an affected spare cylinder head assembly part number (P/N) 623682 or P/N 623687, supplied by BRP-Powertrain between January 31, 2013, and May 28, 2013, is prohibited unless the engine, with the spare cylinder head installed, is test run for at least 20 minutes and the inspection called out in paragraph (e)(1) of this AD is accomplished. If the cylinder head fails the inspection required by paragraph (e)(1) of this AD, remove the cylinder head assembly before further flight.

(f) Definitions

For the purpose of this AD, unusual deposits (excessive carbon or oil) is when:

(1) Carbon is a visual buildup of dark carbon deposits on the center and grounding electrodes as well as the immediate surrounding area, and

(2) Excessive oil is a visual buildup indicated by the presence of oil on the center and grounding electrodes as well as the immediate surrounding area, giving a wet appearance.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) 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; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to European Aviation Safety Agency Emergency Airworthiness Directive 2013–0117–E, dated May 30, 2013, and BRP-Powertrain GmbH & Co KG Rotax Aircraft Engines Mandatory Alert Service Bulletin (MASB) No. ASB–912–062, Revision 2 and ASB–914–044, Revision 2 (provided as one document), dated May 29, 2013, for related information.

(3) For service information identified in this AD, contact BRP-Powertrain GmbH & Co KG, Welser Strasse 32, A–4623 Gunskirchen, Austria; Internet: *http://www.FLYROTAX.com.*

(4) 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.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on July 24, 2013.

Thomas A. Boudreau,

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

[FR Doc. 2013–18528 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30912; Amdt. No. 3547]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 12, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 12, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–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 rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs 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 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on July 19, 2013.

John Duncan,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

. . . *Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
8/22/13	AK	Atqasuk	Atqasuk Edward Burnell Sr Memorial.	2/7242	7/16/13	NDB Rwy 24, Amdt 2
8/22/13	AK	Atqasuk	Atqasuk Edward Burnell Sr Memorial.	2/7243	7/16/13	NDB Rwy 6, Amdt 2
8/22/13	AK	Toksook Bay	Toksook Bay	3/0100	7/15/13	Takeoff Minimums and (Obstacle) DP, Amdt 1
8/22/13	OR	John Day	Grant Co Rgnl/Ogilvie Field	3/1041	7/16/13	RNAV (GPS) Z Rwy 9, Orig-A
8/22/13	OR	John Day	Grant Co Rgnl/Ogilvie Field	3/1042	7/16/13	RNAV (GPS) Y Rwy 9, Orig-A
8/22/13	CA	Blythe	Blythe	3/1523	7/16/13	Takeoff Minimums and (Obstacle) DP, Amdt 1
8/22/13	OR	Salem	Mcnary Fld	3/1680	7/16/13	LOC/DME Rwy 31, Amdt 2B
8/22/13	OR	Salem	Mcnary Fld	3/1682	7/16/13	ILS or LOC Rwy 31, Amdt 29
8/22/13	CA	Ontario	Ontario Intl	3/1730	7/16/13	ILS or LOC Rwy 26R, Amdt 3A
8/22/13	AK	Nome	Nome	3/1737	7/16/13	RNAV (GPS) Rwy 3, Orig-A
8/22/13	AK	Nome	Nome	3/1738	7/16/13	NDB/DME Rwy 3, Amdt 2A
8/22/13	AK	Nome	Nome	3/1739	7/16/13	ILS or LOC/DME Z Rwy 28, Amdt 3B
8/22/13	AK	Nome	Nome	3/1740	7/16/13	NDB A, Orig-A
8/22/13	AK	Nome	Nome	3/1741	7/16/13	VOR/DME Rwy 10, Amdt 2A
8/22/13	AK	Nome	Nome	3/1742	7/16/13	VOR Rwy 28, Amdt 2A
8/22/13	AK	Nome	Nome	3/1746	7/16/13	ILS or LOC/DME Y Rwy 28, Amdt 3B
8/22/13	AK	Nome	Nome	3/1747	7/16/13	LOC/DME BC Rwy 10, Amdt 3A
8/22/13	CA	Santa Maria	Santa Maria Pub/Capt G Allan Hancock Fld.	3/2028	7/16/13	RNAV (GPS) Rwy 30, Orig
8/22/13	CA	Santa Maria	Santa Maria Pub/Capt G Allan Hancock Fld.	3/2029	7/16/13	LOC/DME BC A, Amdt 10D
8/22/13	CO	Kremmling	Mc Elroy Airfield	3/2344	7/15/13	GPS Rwy 27, Orig
8/22/13	CO	Eagle	Eagle County Rgnl	3/2364	7/16/13	RNAV (GPS) D, Orig
8/22/13	AZ	Prescott	Ernest A. Love Field	3/2369	7/16/13	ILS/DME Rwy 21L, Amdt 3A
8/22/13	AZ	Prescott	Ernest A. Love Field	3/2370	7/16/13	RNAV (GPS) Rwy 21L, Amdt 1
8/22/13	AZ	Prescott	Ernest A. Love Field	3/2371	7/16/13	GPS Rwy 12, Orig-A
8/22/13	AZ	Prescott	Ernest A. Love Field	3/2375	7/16/13	VOR Rwy 12, Amdt 2A
8/22/13	OK	Oklahoma City	Sundance Airpark	3/2421	7/16/13	RNAV (GPS) Rwy 17, Amdt 1
8/22/13	SD	Brookings	Brookings Rgnl	3/2982	7/16/13	ILS or LOC Rwy 30, Orig-A
8/22/13	NE	Crete	Crete Muni	3/3121	7/16/13	VOR/DME Rwy 17, Amdt 4
8/22/13	TX	Livingston	Livingston Muni	3/3522	7/16/13	RNAV (GPS) Rwy 30, Orig-A
8/22/13	IL	Chicago	Chicago Midway Intl	3/3637	7/16/13	ILS or LOC/DME Rwy 4R, Amdt 1A
8/22/13	IL	Chicago	Chicago Midway Intl	3/3638	7/16/13	ILS or LOC/DME Rwy 13C, Orig-B
8/22/13	IL	Chicago	Chicago Midway Intl	3/3639	7/16/13	RNAV (GPS) Rwy 4L, Orig-A
8/22/13	IL	Chicago	Chicago Midway Intl	3/3640	7/16/13	RNAV (GPS) Rwy 31R, Orig-B
8/22/13	IL	Chicago	Chicago Midway Intl	3/3641	7/16/13	RNAV (GPS) Rwy 13L, Orig-A
8/22/13	IL	Chicago	Chicago Midway Intl	3/3642	7/16/13	RNAV (GPS) Rwy 22R, Orig-B
8/22/13	IL	Chicago	Chicago Midway Intl	3/3643	7/16/13	RNAV (GPS) Z Rwy 13C, Orig-B
8/22/13	GA	Lawrenceville	Gwinnett County—Briscoe Field.	3/3660	7/15/13	ILS or LOC Rwy 25, Amdt 2A
8/22/13	IN	Sullivan	Sullivan County	3/3817	7/15/13	RNAV (GPS) Rwy 18, Orig
8/22/13	KY	Capital City	Frankfort	3/4050	7/16/13	RNAV (GPS) Rwy 25, Amdt 2
8/22/13	KY	Capital City	Frankfort	3/4051	7/16/13	LOC Rwy 25, Amdt 3
8/22/13	KY	Capital City	Frankfort	3/4052	7/16/13	RNAV (GPS) Rwy 7, Amdt 2
8/22/13	CA	Stockton	Stockton Metropolitan	3/4109	7/16/13	VOR Rwy 29R, Amdt 18B

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4419	7/16/13	RNAV (GPS) Rwy 21, Amdt 2
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4420	7/16/13	ILS or LOC Rwy 21, Orig
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4421	7/16/13	ILS or LOC/DME Rwy 18, Amdt 1A
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4422	7/16/13	VOR/DME or TACAN Rwy 18, Amdt 1A
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4425	7/16/13	RNAV (GPS) Rwy 36, Amdt 2
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4426	7/16/13	RNAV (GPS) Rwy 32, Amdt 2
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4427	7/16/13	RNAV (GPS) Rwy 18, Amdt 2
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4428	7/16/13	RNAV (GPS) Rwy 14, Amdt 2
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4429	7/16/13	VOR/DME or TACAN Rwy 14, Orig-B
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4430	7/16/13	VOR/DME or TACAN Rwy 32, Orig-B
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4434	7/16/13	ILS or LOC/DME Rwy 36, Amdt 1A
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4435	7/16/13	RNAV (GPS) Rwy 3, Orig
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4436	7/16/13	VOR Rwy 18, Amdt 1
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4438	7/16/13	VOR Rwy 36, Orig
8/22/13	WI	Madison	Dane County Rgnl-Truax Field.	3/4440	7/16/13	VOR Rwy 14, Orig-A
8/22/13	TX	Corsicana	C David Campbell Field-Corsicana Muni.	3/4596	7/15/13	RNAV (GPS) Rwy 14, Orig-A
8/22/13	TX	Corsicana	C David Campbell Field-Corsicana Muni.	3/4597	7/15/13	RNAV (GPS) Rwy 32, Orig-A
8/22/13	NC	Lumberton	Lumberton Muni	3/4617	7/16/13	RNAV (GPS) Rwy 13, Orig
8/22/13	NC	Lumberton	Lumberton Muni	3/4626	7/16/13	RNAV (GPS) Rwy 23, Orig
8/22/13	NC	Lumberton	Lumberton Muni	3/4631	7/16/13	ILS or LOC Rwy 5, Amdt 1
8/22/13	NC	Lumberton	Lumberton Muni	3/4655	7/16/13	RNAV (GPS) Rwy 5, Orig
8/22/13	NC	Lumberton	Lumberton Muni	3/4666	7/16/13	Takeoff Minimums and (Obstacle) DP, Amdt 2
8/22/13	AK	Gambell	Gambell	3/4786	7/16/13	NDB/DME Rwy 34, Amdt 2A
8/22/13	AK	Gambell	Gambell	3/4789	7/16/13	NDB Rwy 16, Amdt 1A
8/22/13	GA	Lawrenceville	Gwinnett County—Briscoe Field.	3/5075	7/15/13	RNAV (GPS) Rwy 25, Orig-A
8/22/13	MN	Morris	Morris Muni—Charlie Schmidt Fld.	3/5140	7/15/13	VOR Rwy 32, Amdt 5
8/22/13	AK	Nenana	Nenana Muni	3/5232	7/16/13	NDB Rwy 4L, Amdt 3
8/22/13	CA	Napa	Napa County	3/5305	7/15/13	ILS or LOC Rwy 36L, Orig
8/22/13	MN	Morris	Morris Muni—Charlie Schmidt Fld.	3/5500	7/17/13	VOR Rwy 14, Amdt 1
8/22/13	NY	New York	La Guardia	3/5603	7/16/13	ILS or LOC Rwy 13, Amdt 1A
8/22/13	WA	Seattle	Seattle-Tacoma Intl	3/5801	7/17/13	ILS or LOC Rwy 34L, ILS Rwy 34L (SA CAT I & II), Amdt 1A
8/22/13	WA	Seattle	Seattle-Tacoma Intl	3/5806	7/17/13	ILS or LOC Rwy 34R, ILS Rwy 34R (SA CAT I & II), Amdt 2A
8/22/13	WA	Seattle	Seattle-Tacoma Intl	3/5807	7/17/13	ILS or LOC Rwy 34C, ILS Rwy 34C (SA CAT I & II), Amdt 3A
8/22/13	AK	Mc Grath	Mc Grath	3/5836	7/16/13	LOC/DME Rwy 16, Amdt 3
8/22/13	AK	Mc Grath	Mc Grath	3/5837	7/16/13	VOR/DME or TACAN Rwy 16, Amdt 1
8/22/13	VA	Norfolk	Norfolk Intl	3/6212	7/15/13	RNAV (GPS) Rwy 14, Orig-B
8/22/13	VA	Norfolk	Norfolk Intl	3/6213	7/15/13	VOR/DME Rwy 14, Amdt 2E
8/22/13	CA	Sacramento	Mc Clellan Airfield	3/6426	7/15/13	VOR/DME Rwy 16, Orig-B
8/22/13	CA	Sacramento	Mc Clellan Airfield	3/6427	7/15/13	ILS or LOC Rwy 16, Orig-C
8/22/13	SD	Pine Ridge	Pine Ridge	3/6487	7/16/13	RNAV (GPS) Rwy 30, Orig
8/22/13	NY	Fishers Island	Elizabeth Field	3/6780	7/16/13	VOR or GPS A, Amdt 6
8/22/13	CA	Bakersfield	Meadows Field	3/6835	7/15/13	RNAV (GPS) Rwy 12L, Amdt 1A
8/22/13	MS	Ripley	Ripley	3/6936	7/15/13	VOR/DME A, Amdt 2
8/22/13	MS	Ripley	Ripley	3/6937	7/15/13	RNAV (GPS) Rwy 3, Amdt 1
8/22/13	MS	Ripley	Ripley	3/6938	7/15/13	RNAV (GPS) Rwy 21, Amdt 1
8/22/13	IA	Algona	Algona Muni	3/7044	7/15/13	NDB Rwy 12, Amdt 6
8/22/13	IA	Algona	Algona Muni	3/7045	7/15/13	VOR/DME A, Amdt 7
8/22/13	IA	Algona	Algona Muni	3/7046	7/15/13	RNAV (GPS) Rwy 12, Orig
8/22/13	OH	Batavia	Clermont County	3/7143	7/16/13	RNAV (GPS) Rwy 4, Amdt 1

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
8/22/13	OH	Batavia	Clermont County	3/7144	7/16/13	VOR- B, Amdt 7A
8/22/13	OH	Batavia	Clermont County	3/7161	7/16/13	RNAV (GPS) Rwy 22, Amdt 1
8/22/13	OH	Batavia	Clermont County	3/7162	7/16/13	NDB Rwy 22, Amdt 1A
8/22/13	KY	Flemingsburg	Fleming-Mason	3/7374	7/15/13	RNAV (GPS) Rwy 7, Orig
8/22/13	KY	Flemingsburg	Fleming-Mason	3/7375	7/15/13	RNAV (GPS) Rwy 25, Orig
8/22/13	KY	Flemingsburg	Fleming-Mason	3/7376	7/15/13	LOC Rwy 25, Orig-B
8/22/13	PA	Toughkenamon	New Garden	3/7415	7/15/13	VOR Rwy 24, Amdt 7B
8/22/13	VA	Galax Hillsville	Twin County	3/8441	7/15/13	RNAV (GPS) Rwy 1, Amdt 1
8/22/13	OR	Baker City	Baker City Muni	3/8770	7/15/13	VOR/DME Rwy 13, Amdt 11B
8/22/13	OR	Baker City	Baker City Muni	3/8771	7/15/13	RNAV (GPS) Rwy 13, Amdt 1
8/22/13	OR	Baker City	Baker City Muni	3/8772	7/15/13	VOR A, Amdt 1A
8/22/13	CA	Sacramento	Sacramento Intl	3/9137	7/15/13	ILS or LOC Rwy 34L, Amdt 7A
8/22/13	CO	Alamosa	San Luis Valley Rgnl/ Bergman Field.	3/9279	7/15/13	Takeoff Minimums and (Obstacle) DP, Amdt 4
8/22/13	AK	Kokhanok	Kokhanok	3/9642	7/16/13	RNAV (GPS) Rwy 6, Orig-A
8/22/13	AK	Kokhanok	Kokhanok	3/9643	7/16/13	RNAV (GPS) Rwy 24, Orig-A
8/22/13	AZ	Marana	Marana Rgnl	3/9689	7/16/13	Takeoff Minimums and (Obstacle) DP, Orig
8/22/13	CA	Riverside	Riverside Muni	3/9738	7/16/13	ILS or LOC Rwy 9, Amdt 8
8/22/13	WA	Eastsound	Orcas Island	3/9787	7/16/13	RNAV (GPS) A, Orig

[FR Doc. 2013–18850 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30911; Amdt. No. 3546]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 12, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 12, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, 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 rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each

separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs 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 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on July 19, 2013.

John Duncan

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 22 August 2013

Soldotna, AK, Soldotna, RNAV (GPS) RWY 25, Amdt 1
Dumas, AR, Billy Free Muni, RNAV (GPS) RWY 36, Amdt 1
Fresno, CA, Fresno Yosemite Intl, VOR/DME OR TACAN RWY 29R, Amdt 2
Washington, DC, Manassas Rgnl/Harry P. Davis Field, RNAV (GPS) RWY 34R, Amdt 2
Palm Coast, FL, Flagler County, VOR–A, Amdt 1A, CANCELED
Panama City, FL, Northwest Florida Beaches Intl, ILS OR LOC/DME RWY 16, Amdt 2
Panama City, FL, Northwest Florida Beaches Intl, RNAV (GPS) RWY 16, Amdt 2
Panama City, FL, Northwest Florida Beaches Intl, RNAV (GPS) RWY 34, Amdt 2
West Palm Beach, FL, Palm Beach County Park, RNAV (GPS)-A, Orig
West Palm Beach, FL, Palm Beach County Park, RNAV (GPS)-B, Orig
West Palm Beach, FL, Palm Beach County Park, VOR OR GPS RWY 15, Amdt 2C, CANCELED
Atlanta, GA, Atlanta South Rgnl, RNAV (GPS) RWY 6, Amdt 1
Atlanta, GA, Atlanta South Rgnl, RNAV (GPS) RWY 24, Amdt 1
Atlanta, GA, Atlanta South Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Butler, GA, Butler Muni, RNAV (GPS) RWY 18, Amdt 1
Butler, GA, Butler Muni, RNAV (GPS) RWY 36, Amdt 1
Butler, GA, Butler Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Burlington, IA, Southeast Iowa Rgnl, RNAV (GPS) RWY 12, Amdt 1
Burlington, IA, Southeast Iowa Rgnl, RNAV (GPS) RWY 30, Amdt 1
Marshalltown, IA, Marshalltown Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Effingham, IL, Effingham County Memorial, LOC RWY 29, Amdt 1E
Effingham, IL, Effingham County Memorial, VOR RWY 1, Amdt 10B
Robinson, IL, Crawford Co, RNAV (GPS) RWY 9, Amdt 1
Robinson, IL, Crawford Co, RNAV (GPS) RWY 17, Orig
Robinson, IL, Crawford Co, RNAV (GPS) RWY 27, Amdt 1
Robinson, IL, Crawford Co, VOR OR GPS RWY 17, Amdt 4A, CANCELED
Robinson, IL, Crawford Co, VOR OR GPS RWY 27, Amdt 4A, CANCELED
Frankfort, IN, Frankfort Muni, RNAV (GPS) RWY 9, Amdt 1
Frankfort, IN, Frankfort Muni, RNAV (GPS) RWY 27, Amdt 1
Indianapolis, IN, Hendricks County-Gordon Graham Fld, RNAV (GPS) RWY 18, Amdt 1
Indianapolis, IN, Hendricks County-Gordon Graham Fld, RNAV (GPS) RWY 36, Orig
Sullivan, IN, Sullivan County, RNAV (GPS) RWY 36, Orig-A
Wichita, KS, Beech Factory, Takeoff Minimums and Obstacle DP, Amdt 1
Jamestown, KY, Russell County, RNAV (GPS) RWY 17, Amdt 1
Jamestown, KY, Russell County, RNAV (GPS) RWY 35, Amdt 1
Tompkinsville, KY, Tompkinsville-Monroe County, RNAV (GPS) RWY 22, Amdt 1
Rayville, LA, John H Hooks Jr Memorial, RNAV (GPS) RWY 18, Amdt 1
Rayville, LA, John H Hooks Jr Memorial, RNAV (GPS) RWY 36, Amdt 2
Shreveport, LA, Shreveport Rgnl, LOC RWY 6, Amdt 2
Shreveport, LA, Shreveport Rgnl, RADAR–1, Amdt 5
Shreveport, LA, Shreveport Rgnl, RNAV (GPS) RWY 6, Amdt 2
Shreveport, LA, Shreveport Rgnl, RNAV (GPS) RWY 24, Amdt 1
Shreveport, LA, Shreveport Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Hagerstown, MD, Hagerstown Rgnl-Richard A Henson Fld, COPTER RNAV (GPS) RWY 9, Orig
Hagerstown, MD, Hagerstown Rgnl-Richard A Henson Fld, COPTER RNAV (GPS) RWY 27, Orig
Hagerstown, MD, Hagerstown Rgnl-Richard A Henson Fld, ILS OR LOC RWY 9, Amdt 1
Hagerstown, MD, Hagerstown Rgnl-Richard A Henson Fld, ILS OR LOC RWY 27, Amdt 11
Hagerstown, MD, Hagerstown Rgnl-Richard A Henson Fld, RNAV (GPS) RWY 27, Amdt 1
Machias, ME, Machias Valley, Takeoff Minimums and Obstacle DP, Amdt 2
Perham, MN, Perham Muni, RNAV (GPS) RWY 13, Orig
Perham, MN, Perham Muni, RNAV (GPS) RWY 31, Amdt 1
Perham, MN, Perham Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Slayton, MN, Slayton Muni, GPS RWY 35, Orig, CANCELED
Slayton, MN, Slayton Muni, RNAV (GPS) RWY 17, Orig
Slayton, MN, Slayton Muni, RNAV (GPS) RWY 35, Orig
Waseca, MN, Waseca Muni, RNAV (GPS) RWY 15, Amdt 1

Waseca, MN, Waseca Muni, RNAV (GPS) RWY 33, Orig
Kaiser Lake Ozark, MO, Lee C Fine Memorial, VOR RWY 4, Amdt 7A
St Louis, MO, Lambert-St Louis Intl, ILS PRM RWY 11, ILS PRM RWY 11 (CAT II), ILS PRM RWY 11 (CAT III) (SIMULTANEOUS CLOSE PARALLEL), Orig-C, CANCELED
St Louis, MO, Lambert-St Louis Intl, ILS PRM RWY 12L, ILS PRM RWY 12L (CAT II), ILS PRM RWY 12L (CAT III) (SIMULTANEOUS CLOSE PARALLEL), Amdt 1A, CANCELED
St Louis, MO, Lambert-St Louis Intl, ILS PRM RWY 29 (SIMULTANEOUS CLOSE PARALLEL), Amdt 1B, CANCELED
St Louis, MO, Lambert-St Louis Intl, ILS PRM RWY 30R, ILS PRM RWY 30R (CAT II), ILS PRM RWY 30R (CAT III) (SIMULTANEOUS CLOSE PARALLEL), Amdt 1C, CANCELED
Batesville, MS, Panola County, LOC/DME RWY 19, Amdt 1
Batesville, MS, Panola County, RNAV (GPS) RWY 1, Amdt 1
Batesville, MS, Panola County, RNAV (GPS) RWY 19, Amdt 1
Batesville, MS, Panola County, Takeoff Minimums and Obstacle DP, Amdt 1
Jackson, MS, Jackson-Medgar Wiley Evers International, RNAV (GPS) RWY 16L, Amdt 2
Jackson, MS, Jackson-Medgar Wiley Evers International, RNAV (GPS) RWY 16R, Amdt 2
Jackson, MS, Jackson-Medgar Wiley Evers International, RNAV (GPS) RWY 34L, Amdt 3
Jackson, MS, Jackson-Medgar Wiley Evers International, RNAV (GPS) RWY 34R, Amdt 2
Kosciusko, MS, Kosciusko-Attala County, RNAV (GPS) RWY 14, Orig-A
Kosciusko, MS, Kosciusko-Attala County, RNAV (GPS) RWY 32, Orig-A
Meridian, MS, Key Field, Takeoff Minimums and Obstacle DP, Amdt 5
Raymond, MS, John Bell Williams, RNAV (GPS) RWY 12, Amdt 3
Raymond, MS, John Bell Williams, RNAV (GPS) RWY 30, Amdt 3
Wilmington, NC, Wilmington Intl, ILS Y OR LOC RWY 24, Amdt 1
Wilmington, NC, Wilmington Intl, ILS Y OR LOC RWY 35, Amdt 22
Wilmington, NC, Wilmington Intl, ILS Y OR LOC/DME RWY 6, Amdt 2
Wilmington, NC, Wilmington Intl, ILS Z RWY 6, Orig
Wilmington, NC, Wilmington Intl, ILS Z RWY 24, Orig
Wilmington, NC, Wilmington Intl, ILS Z RWY 35, Orig
Wilmington, NC, Wilmington Intl, RNAV (GPS) RWY 6, Amdt 3
Wilmington, NC, Wilmington Intl, RNAV (GPS) RWY 17, Amdt 3
Wilmington, NC, Wilmington Intl, RNAV (GPS) RWY 24, Amdt 2
Wilmington, NC, Wilmington Intl, RNAV (GPS) RWY 35, Amdt 3
Scribner, NE., Scribner State, RNAV (GPS) RWY 17, Amdt 1
Scribner, NE., Scribner State, RNAV (GPS) RWY 35, Amdt 1
Clayton, NM, Clayton Muni Arpk, RNAV (GPS) RWY 2, Amdt 2
Clayton, NM, Clayton Muni Arpk, RNAV (GPS) RWY 20, Amdt 2
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 10L, Amdt 19
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 10R, ILS RWY 10R (SA CAT I), Amdt 9
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 28L, ILS RWY 28L (SA CAT I), Amdt 29
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 28R, Amdt 4
Columbus, OH, Port Columbus Intl, RNAV (GPS) Y RWY 10L, Amdt 3
Columbus, OH, Port Columbus Intl, RNAV (GPS) Y RWY 10R, Amdt 3
Columbus, OH, Port Columbus Intl, RNAV (GPS) Y RWY 28L, Amdt 3
Columbus, OH, Port Columbus Intl, RNAV (GPS) Y RWY 28R, Amdt 2
Columbus, OH, Port Columbus Intl, RNAV (RNP) Z RWY 10L, Amdt 1
Columbus, OH, Port Columbus Intl, RNAV (RNP) Z RWY 10R, Amdt 1
Columbus, OH, Port Columbus Intl, RNAV (RNP) Z RWY 28L, Amdt 1
Columbus, OH, Port Columbus Intl, RNAV (RNP) Z RWY 28R, Amdt 1
Columbus, OH, Port Columbus Intl, Takeoff Minimums and Obstacle DP, Amdt 7
Union, SC, Union County, Troy Shelton Field, RNAV (GPS) RWY 5, Orig
Union, SC, Union County, Troy Shelton Field, RNAV (GPS) RWY 23, Orig
Union, SC, Union County, Troy Shelton Field, Takeoff Minimums and Obstacle DP, Amdt 1
Walterboro, SC, Lowcountry Rgnl, ILS OR LOC/DME RWY 23, Amdt 1
Walterboro, SC, Lowcountry Rgnl, NDB RWY 23, Amdt 12, CANCELED
Walterboro, SC, Lowcountry Rgnl, RNAV (GPS) RWY 5, Amdt 1
Walterboro, SC, Lowcountry Rgnl, RNAV (GPS) RWY 23, Amdt 1
Midland, TX, Midland Intl, ILS OR LOC RWY 10, Amdt 16
Midland, TX, Midland Intl, LOC BC RWY 28, Amdt 13, CANCELED
Sherman, TX, Sherman Muni, RNAV (GPS) RWY 16, Orig
Sherman, TX, Sherman Muni, RNAV (GPS) RWY 34, Orig
Sherman, TX, Sherman Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Sherman, TX, Sherman Muni, VOR/DME–A, Orig-C
Stafford, VA, Stafford Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Port Townsend, WA, Jefferson County Intl, RNAV (GPS)-A, Orig
Port Townsend, WA, Jefferson County Intl, Takeoff Minimums and Obstacle DP, Orig
Spokane, WA, Felts Field, ILS OR LOC/DME RWY 22R, Amdt 1
Spokane, WA, Felts Field, RNAV (GPS) RWY 4L, Amdt 1
Spokane, WA, Felts Field, RNAV (GPS)-A, Amdt 1
Spokane, WA, Felts Field, VOR RWY 4L, Amdt 5
Oshkosh, WI, Wittman Rgnl, ILS OR LOC RWY 36, Amdt 7
Oshkosh, WI, Wittman Rgnl, LOC/DME BC RWY 18, Amdt 7
Oshkosh, WI, Wittman Rgnl, NDB RWY 36, Amdt 6
Oshkosh, WI, Wittman Rgnl, RNAV (GPS) RWY 9, Amdt 1
Oshkosh, WI, Wittman Rgnl, RNAV (GPS) RWY 18, Amdt 1
Oshkosh, WI, Wittman Rgnl, RNAV (GPS) RWY 27, Amdt 1
Oshkosh, WI, Wittman Rgnl, RNAV (GPS) RWY 36, Amdt 2
Oshkosh, WI, Wittman Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Oshkosh, WI, Wittman Rgnl, VOR RWY 9, Amdt 10
Oshkosh, WI, Wittman Rgnl, VOR RWY 18, Amdt 8
Oshkosh, WI, Wittman Rgnl, VOR RWY 27, Amdt 5
Oshkosh, WI, Wittman Rgnl, VOR RWY 36, Amdt 17

[FR Doc. 2013–18841 Filed 8–9–13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0214]

RIN 1625–AA00

Safety Zones; Recurring Events in Captain of the Port Duluth Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish 8 permanent safety zones for annually recurring marine events in the Coast Guard Captain of the Port (COTP) Duluth zone. These safety zones are needed to protect both spectators and participants from the hazards associated with the events. During the enforcement period of the safety zones, persons and vessels are prohibited from entering, transitioning through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or designated representative.

DATES: This rule is effective September 11, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0214]. To view documents mentioned in this preamble as being available in the docket, go to *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 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Judson Coleman, Chief of Waterways Management Marine Safety Unit Duluth, U.S. Coast Guard; telephone (218) 720–5286, Extension 111 or by email *judson.a.coleman@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

A. Regulatory History and Information

To this end, on May 31, 2013, the Coast Guard published an NPRM in the **Federal Register** (78 FR 12887). The NPRM proposed to establish permanent safety zones for annually recurring events in the Captain of the Port Duluth Zone. The NPRM was open for public comment for 30 days. At close of the comment period, the Coast Guard had not received any comments on the proposed rulemaking.

B. Basis and Purpose

The purpose of this rule is to establish necessary safety zones for recurring events. This rule is being codified in order to safeguard against the hazards associated with annual marine events taking place in the Duluth Captain of the Port Zone.

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

C. Discussion of the Final Rule

This rule establishes 8 new safety zones in 33 CFR Part 165 for annual marine events in the COTP Duluth Zone. These events include fireworks displays for the 4th of July holiday, specifically the Duluth fourth festival, Cornucopia fireworks, Ashland fireworks and the Madeline Island fireworks, and other historically recurring marine events, including the Lake Superior Dragon Boat Festival (LSDBF), The Superior Man Triathlon, and the Point to LaPointe swim.

As large numbers of spectator vessels are expected to congregate around the location of these events, the safety zones are needed to protect both spectators and participants from the hazards associated with the event. During enforcement of safety zones, persons and vessels are prohibited from entering, transitioning through, remaining, anchoring, or mooring within the zone unless specifically authorized by the COTP or his designated representative. The Coast Guard may be assisted by other federal, state, and local agencies in the enforcement of these safety zones.

Certain safety zones are listed without known dates or times. The Coast Guard will give notice of the enforcement of these safety zones by all appropriate means to the effected segments of the public, including publication of a Notice of Enforcement in the **Federal Register**, Local Notice to Mariners, and Broadcast Notice to Mariners.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 conclude that this rule is not a significant regulatory action because we anticipate that it will not adversely affect the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. These safety zones will only remain effective and thus subject to enforcement for brief durations annually. Additionally, the Coast Guard will give advance notice of the enforcement of these safety zones through means, including Broadcast Notice to Mariners and Local Notice to Mariners.

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 rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the location of the safety zones established by this rule during the enforcement periods.

The regulated areas will not have a significant economic impact on a substantial number of small entities for the following reasons: the regulated areas will be of limited size and of short duration; vessels may safely navigate in all portions around these waterways except for the areas designated as regulated areas. Additionally, before the effective period, the Coast Guard will provide advance notice of enforcement, including Local Notice to Mariners and Broadcast Notice to Mariners.

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 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.

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

4. Collection of Information

This rule 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 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 INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This rule will not 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 rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined 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 rule involves establishing safety zones and is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.943 to read as follows:

§ 165.943 Annual events requiring safety zones in the Captain of the Port Duluth zone.

(a) *Safety Zones.* The following areas are designated safety zones:

(1) *Bridgefest Regatta Fireworks; Houghton, MI.* (i) *Location.* All waters of the Keweenaw Waterway bounded by the arc of a circle with a 300-foot radius from the fireworks launch site with its center in position 47°07′28.35″ N, 088°35′01.78″ W.

(ii) *Enforcement date and time.* This event historically occurs in mid June. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(2) *Lake Superior Dragon Boat Festival Fireworks; Superior, WI.* (i) *Location.* All waters of Superior Bay, WI within a 150-foot radius with its center at 46°43′23.52″ N 092°03′45.19″ W.

(ii) *Enforcement date and time.* This event historically occurs in late August. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(3) *Duluth Fourth Fest Fireworks; Duluth, MN.* (i) *Location.* All U.S. navigable waters of the Duluth Harbor Basin Northern Section within a 900-foot radius of position 46°46′19.00″ N, 092°06′11.00″ W.

(ii) *Enforcement date and time.* This event historically occurs during the 4th of July week. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(4) *Cornucopia Fireworks; Cornucopia, WI.* (i) *Location.* All waters of the area bounded by a circle with a 300-foot radius surrounding the fireworks launch site with its center in position 46°51′35.00″ N, 091°06′10.00″ W.

(ii) *Enforcement date and time.* This event historically occurs the week before, after or during 4th of July week. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(5) *LaPointe Fireworks; LaPointe, WI.* (i) *Location.* All waters of Lake Superior bounded by the arc of a circle with a 375-foot radius from the fireworks launch site with its center in position 46°46′40.10″ N, 090°47′22.00″ W.

(ii) *Enforcement date and time.* This event historically occurs during the 4th of July week. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(6) *Ashland Fireworks; Ashland, WI.* (i) *Location.* All waters of the Lake Superior bounded by the arc of a circle with a 600-foot diameter from the fireworks launch site with its center in position 46°35′50.37″ N, 090°52′59.82″ W.

(ii) *Enforcement date and time.* This event historically occurs during the 4th of July week. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(7) *Point to LaPointe Swim; LaPointe, WI.* (i) *Location.* All waters between Bayfield, WI and Madeline Island, WI within an imaginary line created by the following coordinates: 46°48′50.97″ N, 090°48′44.28″ W, moving southeast to 46°46′44.90″ N, 090°47′33.21″ W, then moving northeast to 46°46′52.51″ N 090°47′17.14″ W, then moving northwest to 46°49′03.23″ N 090°48′25.12″ W and finally running back to the starting point.

(ii) *Enforcement date and time.* This event historically occurs in early August. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(8) *Superior Man Triathlon; Superior, WI.* (i) *Location.* All waters of the Duluth Harbor Basin, Northern Section, including the Duluth Entry encompassed in an imaginary line beginning at point 46°46′36.12″ N 092°06′06.99″ W, running southeast to 46°46′32.75″ N 092°06′01.74″ W, running northeast to 46°46′45.92″ N 092°05′45.18″ W, running northwest to 46°46′49.47″ N 092°05′49.35″ W and finally running southwest back to the starting point.

(ii) *Enforcement date and time.* This event historically occurs in late August. The Captain of the Port Duluth, will establish enforcement dates that will be announced with a Notice of Enforcement and marine information broadcast.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring in this safety zone is prohibited unless authorized by the Captain of the Port Duluth, or the designated on-scene representative.

(2) This safety zone is closed to all vessel traffic except as authorized by the Captain of the Port Duluth, or the designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Duluth, is any Coast Guard commissioned, warrant, or petty officer who has been designated to act on behalf of the Captain of the Port Duluth. The on-scene representative of the Captain of the Port Duluth will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Duluth, or the designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth, or the designated on-scene representative to obtain permission to do so. Vessel operators given authorization to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Duluth, or the on-scene representative.

Dated: July 24, 2013.

A.H. Moore Jr.,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2013–19417 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–1057]

Safety Zone; Sprucewold Cabbage Island Swim, Linekin Bay, Boothbay Harbor, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone in the Captain of the Port Northern New England Zone on the specified date and time. This action is necessary to ensure the safety of participants, vessels and spectators from hazards associated with the swim event. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port.

DATES: The regulation for the Sprucewold Cabbage Island Swim safety zone described in 33 CFR 165.171 will be enforced on August 18, 2013, from 1 p.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Elizabeth Morris, Coast Guard; telephone 207–767–0398, email *Elizabeth.V.Morris@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.171 on the specified date and time as indicated in Table 1 below. This regulation was published in the **Federal Register** on April 20, 2012 (77 FR 23608).

TABLE 1

1. Sprucewold Cabbage Island Swim, Linekin Bay, Boothbay Harbor, ME Safety Zone, 33 CFR 165.171(8.1).	• Event Type: Swim Event. • Sponsor: Sprucewold Association. • Date: August 18, 2013. • Time: 1:00 p.m. to 4:00 p.m. • Location: The regulated area includes all waters of Linekin Bay between Cabbage Island and Sprucewold Beach in Boothbay Harbor, Maine within the following points (NAD 83): 43°50′37″ N, 069°36′23″ W. 43°50′37″ N, 069°36′59″ W. 43°50′16″ N, 069°36′46″ W. 43°50′22″ N, 069°36′21″ W.

Under the provisions of 33 CFR 165.171, vessels may not transit the regulated areas without Patrol Commander approval. Vessels permitted to transit must operate at a no wake speed, in a manner which will not endanger participants or other crafts in the event. Spectators or other vessels shall not anchor, block, loiter, or

impede the movement of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by an official patrol vessel. The Patrol Commander may control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both. Vessels not associated with the event shall maintain a separation zone of 200 feet from participating swimmers. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.171 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: July 29, 2013.

B.S. Gilda,

Captain, U.S. Coast Guard, Captain of the Port Northern New England.

[FR Doc. 2013–19420 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0582; FRL–9845–2]

Approval and Promulgation of Implementation Plans; Tennessee; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a portion of the State Implementation Plan (SIP) submission, submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), to demonstrate that the State meets the prevention of significant deterioration (PSD) related infrastructure requirements of the Clean Air Act (CAA or Act) for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. TDEC certified that the Tennessee SIP contains provisions that ensure the 2008 Lead NAAQS are implemented, enforced, and maintained in Tennessee (hereafter referred to as ''infrastructure submission''). Tennessee provided to EPA an infrastructure submission on October 19, 2009, to address the infrastructure requirements for the 2008 Lead NAAQS, however the subject of this notice is limited to the PSD-related infrastructure elements. All other applicable Tennessee infrastructure elements have been addressed in a separate rulemaking.

DATES: This rule will be effective September 11, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0582. 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 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, 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. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov*.

SUPPLEMENTARY INFORMATION:

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

I. Background

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As already mentioned, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements of the section 110(a) infrastructure SIP for purposes of the 2008 Lead NAAQS are listed below [1] and in EPA's October 14, 2011, memorandum entitled'' Guidance on Infrastructure State Implementation

[1] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's final rulemaking does not address the section 110(a)(2)(C) and (J) infrastructure elements as they relate to the requirement as part D, Title I of the CAA.

Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS).''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.[2]
- 110(a)(2)(D): Interstate transport.
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[3]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The revised primary and secondary Lead NAAQS were revised to 0.15 μg/m^3. Tennessee provided its infrastructure submission for the 2008 Lead NAAQS on October 19, 2009.

On March 20, 2013, EPA proposed to approve, and in the alternative, conditionally approve in part, Tennessee's 2008 Lead NAAQS infrastructure SIP. In that proposed action, EPA explained that the Agency was proposing to conditionally approve the PSD-related portions of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (hereafter referred to as prong 3 of 110(a)(2)(D)(i)),[4] and 110(a)(2)(J), and a portion of section 110(a)(2)(E)(ii) of Tennessee's October 19, 2009, infrastructure submission because Tennessee's SIP (at the time of EPA's proposal) did not include provisions to comply with all of the requirements associated with the aforementioned sections. Further, in the proposal, EPA explained that Tennessee had committed to submit SIP revisions to address these deficiencies. As such, EPA also proposed, in the alternative, to approve the entire Tennessee SIP, including the sections described above, as meeting the applicable infrastructure requirements for the 2008 Lead NAAQS, and explained that should Tennessee submit, and EPA approve, the necessary provisions to correct the identified infrastructure SIP deficiencies prior to EPA taking final action on the October 19, 2009, infrastructure submission, that EPA anticipated finalizing full approval of the infrastructure SIP. It was also explained that, if EPA did not approve necessary provisions prior to taking final action on the October 19, 2009, infrastructure submission, EPA anticipated finalizing conditional approvals for those elements for which the Tennessee infrastructure SIP remained deficient. *See* 78 FR 17168. On June 18, 2013, EPA took final action on a majority of Tennessee's October 19, 2009, submissions with regards to the 2008 Lead NAAQS. *See* 78 FR 36440. Today's final rulemaking takes action on the remaining required elements of Tennessee's October 19, 2009, SIP revision (110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) as each relates to PSD requirements) regarding the infrastructure requirements for the 2008 Lead NAAQS.

The PSD-related requirements of section 110(a)(2)(C), prong 3 of section 110(a)(2)(D)(i), and section 110(a)(2)(J) include four necessary SIP revisions to address required changes to the State's part C PSD permit program. The first revision was required by the November 29, 2005, Ozone Implementation Rule New Source Review (NSR) Update—Phase 2 Rule (hereafter referred to as the Ozone Implementation NSR Update). Among other requirements, the Ozone Implementation NSR Update required that SIPs include the recognition of nitrogen oxides as a precursor for ozone consistent with 40 CFR 51.166 and 40 CFR 52.21. *See* 70 FR 71612. In addition to the Ozone Implementation NSR Update, there are three other requirements that states must satisfy in order to meet the PSD-related requirements of section 110(a)(2)(C), prong 3 of section 110(a)(2)(D)(i), and section 110(a)(2)(J). These three revisions are related to (1) the ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (June 3, 2010, 75 FR 31514), (2) the NSR $PM_{2.5}$ Rule (May 16, 2008, 73 FR 28321), and (3) the portion of the final rulemaking entitled ''Final Rule 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'' that relates to the $PM_{2.5}$ PSD increments requirements (hereafter referred to as the $PM_{2.5}$ PSD Increment-SILs-SMC Rule (only as it relates to $PM_{2.5}$ PSD Increments)) (75 FR 64864).

Tennessee's SIP has been revised to meet each of the above PSD-related requirements. Specifically, Tennessee's Ozone Implementation NSR Update SIP revision was submitted by TDEC on May 28, 2009, and approved by EPA on February 7, 2012. *See* 77 FR 6016. Tennessee submitted its Greenhouse Gas (GHG) Tailoring Rule SIP revision to EPA on January 11, 2012, and EPA approved it on February 28, 2012. *See* 77 FR 11744. Tennessee submitted its NNSR SIP revision related to the implementation of the NSR $PM_{2.5}$ Rule on July 29, 2011, and EPA approved this revision on July 30, 2012. *See* 77 FR 44481. Lastly, on May 10, 2013, Tennessee submitted a SIP revision to satisfy the requirements of the PSD $PM_{2.5}$ Increments, SILs and SMC Rule, and the final rulemaking for this SIP revision was published on July 23, 2013. *See* 78 FR 44886.

II. This Action

EPA is taking final action to approve Tennessee's infrastructure submission as demonstrating that the State meets the PSD-related requirements of section 110(a)(2)(C), prong 3 of section 110(a)(2)(D)(i), and section 110(a)(2)(J) of the CAA for the 2008 Lead NAAQS. Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an ''infrastructure'' SIP. Tennessee, through TDEC, certified that the Tennessee SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Tennessee. EPA received no adverse comments on its March 20, 2013, proposed approval of Tennessee's October 19, 2009, infrastructure submission pertaining to section 110(a)(2)(C), prong 3 of section 110(a)(2)(D)(i), and section 110(a)(2)(J). EPA has determined that the Tennessee infrastructure submission, adequately addresses the PSD-related requirements of section 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) of the

[2] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[3] This requirement was inadvertently omitted from EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' but as mentioned above is not relevant to today's proposed rulemaking.

[4] Section 110(a)(2)(D)(i) includes four requirements referred to as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I); prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II).

CAA for the 2008 Lead NAAQS, and is consistent with section 110 of the CAA.[5]

III. Final Action

EPA is taking final action to approve, Tennessee's October 19, 2009, submission as demonstrating that the State meets the PSD-related requirements of section 110(a)(2)(C), prong 3 of section 110(a)(2)(D)(i), and section 110(a)(2)(J) of the CAA for the 2008 Lead NAAQS because this submission is consistent with section 110 of the CAA. TDEC has addressed the aforementioned elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to EPA's November 12, 2008, guidance to ensure that the 2008 Lead NAAQS are implemented, enforced, and maintained in Tennessee.

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 October 11, 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 31, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATIONS OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 3. Section 52.2220(e), is amended by adding an entry ''110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards'' at the end of the table to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

[5] As described above, in a previous rulemaking, EPA took action on Tennessee's October 19, 2009, submission for all other required infrastructure elements associated with the 2008 Lead NAAQS. *See* 78 FR 36440.

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*	*	* *	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards.	Tennessee	10/19/2009	8/12/2013 [Insert citation of publication].	This approval is for sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) only.

[FR Doc. 2013–19360 Filed 8–9–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0010; FRL 9846–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Mosley Road Sanitary Landfill (MRSL) Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the MRSL Superfund Site (Site), located in Oklahoma City, Oklahoma County, Oklahoma, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 26, 2013 unless EPA receives adverse comments by September 11, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0010, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *Email:* Michael Torres, Remedial Project Manager: *torres.michael@epa.gov.*
- *Fax:* Michael Torres; Remedial Project Manger (RPM): 214–665–6660.
- *Mail:* Michael Torres, RPM, US–EPA Region 6, Mail Code 6SF–RL, 1445 Ross Avenue, Dallas, Texas 75202.
- *Hand Delivery:* Michael Torres, RPM, US–EPA Region 6, 1445 Ross Avenue, 7th floor, Dallas, Texas 75202. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0010. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

ODEQ Central Records, 405–702–1188, 707 N. Robinson, Oklahoma City, OK 73102, office hours: 8:00 to 4:30 Monday through Friday.

Ralph Ellison Library, 405–424–1437, 2000 NE. 23rd Street, Oklahoma City, OK 73111, hours: 9:00 a.m. to 8:00 p.m. Monday through Thursday, 9:00 a.m. to 6:00 p.m. Friday, and 9:00 a.m. to 5:00 p.m. Saturday.

FOR FURTHER INFORMATION CONTACT: Michael Torres, Remedial Project Manager, U.S. Environmental Protection Agency, Region 6, 6SF–RL, 1445 Ross Avenue, Dallas, Texas 75202, 214–665–2108, *torres.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 6 is publishing this direct final Notice of Deletion of the MRSL Superfund Site (Site), from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous

Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective September 26, 2013 unless EPA receives adverse comments by September 11, 2013. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the MRSL Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the ODEQ, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the state of Oklahoma prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the Oklahoma Department of Environmental Quality, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in The Daily Oklahoman. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The closed Mosley Road Sanitary Landfill Superfund Site (MRSL or Site) is located at 3300 Mosley Road between NE 23rd and NE 36th Street in Oklahoma City, Oklahoma County, Oklahoma. The MRSL site consists of approximately 70 acres surrounded by predominantly undeveloped land between Oklahoma City and Midwest City, Oklahoma. The East Oak Recycling and Disposal Facility (East Oak), which is currently in operation, is located just to the west of the Site.

Waste management of Oklahoma (WMO) is the current owner of the MRSL. The MRSL was originally owned by Floyd Swen, who operated the site under the name A–1 Sanitation Company from 1971 to 1975. From 1975 through 1984, the landfill was owned and operated by Oklahoma City Disposal Inc. (OCD), which at the time was a subsidiary of SCA Services, Inc. Originally permitted by Oklahoma State Department of Health (OSDH) (now Oklahoma Department of Environmental Quality) as a sanitary landfill, OCD was authorized by OSDH to accept industrial hazardous wastes between February 20, 1976, and August 24, 1976, due to the temporary closure of the Royal Hardage Landfill in Criner, Oklahoma. During the six-month period, OCD reportedly accepted approximately 1.7 million gallons of predominantly liquid hazardous waste, which included industrial and plating sludge, caustics, acid solutions, oil emulsions, alkaline solutions, solvents, paint sludge, toxaphene, and trichloroethene. All of the hazardous waste was placed in three below-grade unlined pits (referred to as the waste pits) that are now buried beneath municipal waste. In 1984, WMO acquired the stock of SCA Services, which thus transferred the

ownership, operation, and maintenance of the MRSL site to WMO. The landfill reached its permitted capacity and was closed in November 1987. A compacted clay cover was installed over the landfill in 1988 in accordance with existing regulations governing landfill closure.

An EPA site assessment was conducted from November 1986 through November 1990. The Site was HRS scored by EPA on February 6, 1987. The MRSL was proposed to the NPL on June 24, 1988. On February 21, 1990, EPA added the MRSL to the NPL (55 FR 6154) and registered the site in the CERCLIS database as OKD980620868.

There were no removal action activities at the site, however, EPA enforcement activities continued in efforts to address the site's contamination issues. WMO plans on optimizing reuse of the property by integrating the site development plan for the East Oak Recycling and Disposal Facility into the MRSL footprint. Integration of the active East Oak facility with the inactive MRSL site will increase solid waste disposal capacity for the region. WMO's planned expansion will not interfere or compromise the Site's remedy.

Remedial Investigation and Feasibility Study (RI/FS)

The RI/FS identified primary constituents of concern (COCs) to be vinyl chloride (VC) in the Alluvium aquifer and benzene in the Garber-Wellington aquifer. Arsenic and barium were determined to be secondary COCs because they represented less risk to human health and the environment. Arsenic and barium, both of which are naturally occurring metals, were included as COCs primarily because they were detected in concentrations greater than Applicable or Relevant and Appropriate Requirements (ARARs) in ground water at the time the risk assessment was conducted and not because they were identified as effective source area indicators. Investigation activities began in January 1990 and the FS was completed in August 1991. The RI and FS reports and the Proposed Plan for the MRSL were released by EPA to the public on April 8, 1992.

Selected Remedy

The major components of the selected remedy in the 1992 ROD include the following: Enforcing institutional controls (ICs), such as land use restrictions, site access restrictions, posting of signs, fencing, and restrictions on the extraction and use of ground water from MRSL wells; restoring ground water as a potential source of drinking water through the process of natural attenuation; monitoring leachate migration via a ground water monitoring program and periodic sampling; implementing a landfill gas monitoring system (LGMS) to prevent explosion or inhalation hazards; and repairing and improving the existing cap, and adding a vegetative soil layer to reduce erosion and infiltration.

The ROD identifies source control and migration management as remedial performance objectives. Source control focuses on preventing surface water from infiltrating the waste unit and impacting ground water, and migration management focuses on monitoring ground water to detect and control contaminant releases. Source control is both a short-term and long-term protectiveness measure. Once constructed, the clay cap provided immediate protection and when properly maintained will continue to provide protection for the long term. Source control is achieved via the following engineering controls, technology, and administrative controls: Prevent direct contact with and exposure to landfill contents through the use of the clay cap and institutional controls such as restrictions on future property use; restrictions on groundwater use, and restrictions and warnings in the property deed records; control surface runoff and resulting erosion through a continued landfill maintenance program of the clay cap, which will result in the reduction or elimination of leachate formation within the landfill and transport of contaminants into the ground water; prevent inhalation of and explosion of landfill gas by implementing a landfill gas monitoring program; and prevent human and animal exposure to and ingestion of contaminated ground water. This will be accomplished through long-term ground water monitoring, landfill maintenance, ICs and, if necessary, implementation of contingency measures.

Ground water monitoring is a long-term protectiveness remedy component ensuring that the primary remedial measure (capping and landfill gas management systems) are functioning as designed. The ground water monitoring program included development of baseline values for each monitoring constituent, and comparison of new data to baseline or established ground water protection standards (GWPS) to identify potential contaminant releases. Contamination migration management is achieved by the following controls:

- Contain low-level ground water contamination within site boundaries. The ground water remediation goals were established for ROD-defined COCs only (i.e., benzene, vinyl chloride, barium, and arsenic).
- Prevent contamination of the Garber-Wellington aquifer above health-based risk levels by implementing a ground water monitoring program of alluvial and Garber-Wellington wells. The program includes contingencies for active remediation described in the ROD.
- Restore ground water to beneficial use.
- Prevent water infiltration through the landfill that could increase contaminant transport into ground water.

Response Actions

A Unilateral Administrative Order (UAO) was issued by EPA and the Remedial Design (RD) commenced on January 28, 1994. The effective date of the UAO was February 14, 1994. An Order to Proceed was issued to WMO on March 3, 1994, to prepare the Remedial Design Work Plan and Ground water Monitoring Work Plan (GWMP). Deed restrictions were filed with the Oklahoma County Clerk on April 1, 1994, and Deed Notices were filed on May 12, 1994. In October 1994, WMO submitted the Landfill Gas Assessment Report for the MRSL site. The Remedial Design Work Plan Ground water Monitoring Work Plan, and the Health and Safety Plan for the RD were submitted to EPA by WMO in November 1994. On February 25, 1995, Terracon Consultants completed the ground water monitoring well installation and soil boring program. On August 18, 1995, WMO completed the RD Work Plan.

Phase I construction activities for the LGMS began on August 24, 1995, and were completed in February 1996. The MRSL Construction Quality Assurance Plan for Phase I cap improvements was revised and approved in August 1995. The Final Cover Quality Assurance Testing Report was submitted to EPA on December 30, 2003. The Quality Assurance/Quality Control documents for Phase II construction activities of the site's gas system and final cap improvements were submitted to EPA on July 16, 2004.

Cleanup Goals

EPA and ODEQ conducted a pre-final inspection of the Site on August 3, 2004, which consisted of a walk-over survey including a description and schedule for correcting or addressing minor construction contract items by WMO and its contractors. These ''punch list'' items included inspection of: (1) The MRSL site's vegetative cover, (2) the drainage from the top of the landfill, (3)

indications of subsidence or minor erosion, (4) the gas collection system and wells, and (5) adequate plugging and abandonment of a barren well. EPA and ODEQ also reviewed QA/QC construction documents for the ground water monitoring system and well summaries during the pre-final inspection process to check the natural attenuation progression. Furthermore, a review of implemented ICs shows that the deed restrictions and notices have been successful in providing human health and environmental protection at the Site. On September 8, 2004, EPA issued the Preliminary Close Out Report, which documents that EPA completed all construction activities for the remedial action at the Site in accordance with *Close Out Procedures for National Priorities List Sites* (EPA OSWER Directive 9320.22 May 2011).

Operation and Maintenance

A modified GWMP was developed by WMO for the MRSL to provide a transitional plan to ensure that the long-term protectiveness goals are achieved. The GWMP was approved by the ODEQ in April 2010 and endorsed by EPA in April 2011 to facilitate transition of the MRSL site to ODEQ under the East Oak Recycling and Disposal Facility solid waste permit (#3555036). With the approval by both agencies, ground water monitoring will continue through the operating and post-closure care periods of the active East Oak Recycling and Disposal Facility using sampling programs and statistical evaluation methods to ensure the underlying Garber-Wellington Aquifer is not adversely impacted at concentrations greater than ARARs. The ground water monitoring data will be submitted for primacy review to ODEQ and included in five-year review reports. The MRSL Interim Operation and Maintenance Plan (OMP) was reorganized in a report dated April 2010. The OMP was subsequently approved by the ODEQ in a letter dated May 6, 2010. The OMP outlines protocols for maintenance inspection and monitoring of the cover, stormwater conveyance, and landfill gas system. As per ODEQ and EPA requests, the OMP now includes addition of a maintenance log reporting requirement to be housed at the active East Oak Recycling and Disposal Facility for review and inspection as needed.

All administrative requirements have been implemented at the MRSL Superfund Site. A deed notice identifying restrictions was filed with the Oklahoma County Clerk, and recorded in Book 2202, pages 0068 through 0070, on May 12, 1994. A Covenant was filed with the Oklahoma County Clerk and recorded in Book 6583, pages 1972 through 1974, on April 1, 1994. The deed restrictions include the following requirements and information: Land use restrictions; access restrictions, posting of signs, restrictions to groundwater use, remedial activities at the facility, hazardous substances at the site, and warning of activities that could result in exposure.

Five-Year Review

Three five-year reviews have been conducted at the MRSL site, the first in 2000, the second in 2005, and the third completed in 2009. The implemented action taken at the Mosley Road Sanitary Landfill Superfund Site was found to be protective of human health and the environment in the short-term. However, a third five-year review addendum was performed and completed in July 2010. The Third Five-Year Review Report First Addendum for the Mosley Road Sanitary Landfill Superfund Site protectiveness determination follows: Because the deficiencies identified in the September 2009 five-year review have been adequately addressed by the Responsible Party, EPA has now determined that the remedy implemented to date at the Mosley Road Sanitary Landfill Superfund Site is protective of human health and the environment in the long term. Current monitoring data indicate that the remedy is functioning as required to achieve ground water cleanup goals through monitored natural attenuation and the LGMS. Because the actions currently implemented at the MRSL site prevent exposure to residual Site contamination, the remedy is considered protective of human health and the environment in the long-term and will remain so as long as the remedy is properly maintained. Restrictions to access, signage, restrictions to ground water use, remedial activities, declaration of hazardous substances at the Site, and warning of activities that could result in exposure are institutional controls that are permanently in place to limit use of the site. These institutional controls are considered protective of human health and the environment. The next Five Year Review will be performed in 2015 and every five years in perpetuity or until on-site wastes that do not allow unlimited use and unrestricted exposure are removed from the MRSL Superfund Site.

Community Involvement

A public availability session was conducted by the EPA, ODEQ, and WMO in April 1992 to discuss with the community the proposed plan for the remedy. Public comments were received and addressed in the Responsive Summary portions of the June 1992 ROD. A public notice announcing initiation of the most recent or third five-year review was published in The Daily Oklahoman on June 27, 2009. EPA will accept public comments on the proposal to delete the Site for thirty (30) days after publication of this document in the **Federal Register**.

Determination That the Site Meets the Criteria for Deletion in the NCP

WMO has implemented all appropriate response action required. EPA Region 6 issued a ROD which documented the remedial action activities, and all appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated May 15, 2013. A notice has been published in the local newspaper and has been distributed to appropriate Federal, State, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete. All relevant documents have been made available for public review in the local Site information repository.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Oklahoma, has determined that all appropriate response action under CERCLA has been implemented, and no further action by the PRP is appropriate.

V. Deletion Action

The EPA, with concurrence of the State of Oklahoma through the ODEQ, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 26, 2013 unless EPA receives adverse comments by September 11, 2013. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 1, 2013.

Samuel Coleman,

Acting Regional Administrator, EPA Region 6.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300 [Amended]

■ 2. Table of Appendix B to part 300 is amended by removing ''Mosley Road Sanitary Landfill Superfund Site'', ''Oklahoma City''.

[FR Doc. 2013–19481 Filed 8–9–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected
Butler County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1089			
Barren River (Backwater effects from Green River).	From the confluence with the Green River to approximately 0.6 mile upstream of the confluence with Little Muddy Creek.	+424	Unincorporated Areas of Butler County.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected
Big Bull Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 0.5 mile upstream of Johnson Cemetery Road.	+428	Unincorporated Areas of Butler County.
Big Reedy Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 1,202 feet downstream of the confluence with Big Reedy Creek Tributary 4.	+433	Unincorporated Areas of Butler County.
Deerlick Creek (Backwater effects from Green River).	From the confluence with the Mud River to approximately 935 feet upstream of Penrod Road.	+404	Unincorporated Areas of Butler County.
Deerlick Creek Tributary 6 (Backwater effects from Green River).	From the confluence with Deerlick Creek to approximately 765 feet upstream of the confluence with Deerlick Creek.	+404	Unincorporated Areas of Butler County.
East Prong Indian Camp Creek (Backwater effects from Green River).	From the confluence with Indian Camp Creek to approximately 1,179 feet downstream of the confluence with East Prong Indian Camp Creek.	+415	Unincorporated Areas of Butler County.
Gary Creek (Backwater effects from Green River).	From the confluence with Little Reedy Creek to approximately 0.9 mile upstream of the confluence with Little Reedy Creek.	+429	Unincorporated Areas of Butler County.
Grassy Lick Creek (Backwater effects from Green River).	From the confluence with Muddy Creek to approximately 1.1 mile downstream of Sandy Creek Road.	+407	Unincorporated Areas of Butler County.
Green River	At the confluence with the Mud River	+404	City of Morgantown, City of Rochester, City of Woodbury, Unincorporated Areas of Butler County.
	At approximately 1.7 mile upstream of Reedyville Road	+438	
Hickory Camp Creek (Backwater effects from Green River).	From the confluence with Panther Creek to approximately 478 feet upstream of the confluence with Hickory Camp Creek Tributary 1.	+405	Unincorporated Areas of Butler County.
Hickory Camp Creek Tributary 1 (Backwater effects from Green River).	From the confluence with Hickory Camp Creek to approximately 676 feet upstream of the confluence with Hickory Camp Creek.	+405	Unincorporated Areas of Butler County.
Indian Camp Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 1.1 mile downstream of Dexterville-Gilstrap Road.	+415	Unincorporated Areas of Butler County.
Lindsey Creek (Backwater effects from Green River).	From the confluence with East Prong Indian Camp Creek to approximately 0.4 mile downstream of Brownsville Road.	+415	Unincorporated Areas of Butler County.
Little Bull Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 0.6 mile upstream of the confluence with Tallow Branch.	+425	Unincorporated Areas of Butler County.
Little Reedy Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 0.9 mile upstream of the confluence with Rosy Creek.	+429	Unincorporated Areas of Butler County.
Meffords Branch (Backwater effects from Green River).	From the confluence with the Mud River to approximately 1,425 feet upstream of Perry Harper Road.	+404	Unincorporated Areas of Butler County.
Meffords Branch Tributary 4 (Backwater effects from Green River).	From the confluence with Meffords Branch to approximately 0.6 mile upstream of the confluence with Meffords Branch.	+404	Unincorporated Areas of Butler County.
Mud River (Backwater effects from Green River).	From the confluence with the Green River to approximately 2.2 miles upstream of the confluence with Deerlick Creek.	+404	Unincorporated Areas of Butler County, City of Rochester.
Mud River Tributary 17 (Backwater effects from Green River).	From the confluence with the Green River to approximately 314 feet upstream of Rochester Road.	+404	Unincorporated Areas of Butler County, City of Rochester.
Mud River Tributary 17.2 (Backwater effects from Green River).	From the confluence with Mud River Tributary 17 to approximately 312 feet upstream of Rochester Road.	+404	Unincorporated Areas of Butler County.
Muddy Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 877 feet upstream of the confluence with Muddy Creek Tributary 18.	+407	Unincorporated Areas of Butler County.
Muddy Creek Tributary 18 (Backwater effects from Green River).	From the confluence with Muddy Creek to approximately 1,306 feet upstream of the confluence with Muddy Creek.	+407	Unincorporated Areas of Butler County.
Muddy Creek Tributary 27 (Backwater effects from Green River).	From the confluence with Muddy Creek to approximately 1,421 feet downstream of Muddy Creek Tributary 27.2.	+407	Unincorporated Areas of Butler County.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Muddy Creek Tributary 39.1 (Backwater effects from Green River).	From the confluence with Muddy Creek to approximately 669 feet downstream of Muddy Creek Tributary 39.1.	+407	Unincorporated Areas of Butler County.
Panther Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 1,550 feet downstream of G. Southerland Road.	+405	Unincorporated Areas of Butler County.
Pipe Spring Hollow (Backwater effects from Green River).	From the confluence with the Green River to just downstream of William H. Natcher Parkway.	+408	Unincorporated Areas of Butler County.
Pitman Creek (Backwater effects from Green River).	From the confluence with Welch Creek to approximately 554 feet upstream of the confluence with Pitman Creek Tributary 3.	+419	Unincorporated Areas of Butler County.
Pitman Creek Tributary 3 (Backwater effects from Green River).	From the confluence with Pitman Creek to approximately 280 feet upstream of the confluence with Pitman Creek.	+419	Unincorporated Areas of Butler County.
Renfrow Creek (Backwater effects from Green River).	From the confluence with the Green River to approximately 177 feet downstream of Bowling Green Road.	+419	Unincorporated Areas of Butler County.
Renfrow Creek Tributary 6 (Backwater effects from Green River).	From the confluence with Renfrow Creek to approximately 1,236 feet downstream of Embry Way.	+419	Unincorporated Areas of Butler County.
Renfrow Creek Tributary 7 (Backwater effects from Green River).	From the confluence with Renfrow Creek to just downstream of South Main Street.	+419	Unincorporated Areas of Butler County.
Renfrow Creek Tributary 8 (Backwater effects from Green River).	From the confluence with Renfrow Creek to approximately 0.5 mile upstream of the confluence with Renfrow Creek.	+419	Unincorporated Areas of Butler County.
Renfrow Creek Tributary 9 (Backwater effects from Green River).	From the confluence with Renfrow Creek to just upstream of East Whalen Road.	+419	Unincorporated Areas of Butler County.
Rosy Creek (Backwater effects from Green River).	From the confluence with Little Reedy Creek to approximately 0.7 mile upstream of the confluence with Little Reedy Creek.	+429	Unincorporated Areas of Butler County.
Sandy Creek (Backwater effects from Green River).	From the confluence with Muddy Creek to approximately 494 feet downstream of Martin Road.	+407	Unincorporated Areas of Butler County.
Sandy Creek Tributary 5 (Backwater effects from Green River).	From the confluence with Sandy Creek to just upstream of Dunbar-Leetown Road.	+407	Unincorporated Areas of Butler County.
Tallow Branch (Backwater effects from Green River).	From the confluence with Little Bull Creek to approximately 0.5 mile upstream of the confluence with Little Bull Creek.	+426	Unincorporated Areas of Butler County.
Welch Creek (Backwater effects from Green River).	From the confluence with the Green River to just downstream of Brownsville Road.	+419	Unincorporated Areas of Butler County.
West Prong Indian Camp Creek (Backwater effects from Green River).	From the confluence with Indian Camp Creek to approximately 3.7 miles upstream of the confluence with Indian Camp Creek.	+414	Unincorporated Areas of Butler County.
Wolfpen Hollow (Backwater effects from Green River).	From the confluence with East Prong Indian Camp Creek to approximately 1,205 feet downstream of McKendree Chapel Road.	+415	Unincorporated Areas of Butler County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Woodbury
Maps are available for inspection at 1 Lock 4 Road, Woodbury, KY 42288.

City of Morgantown
Maps are available for inspection at City Hall, 117 North Main Street, Morgantown, KY 42261.

City of Rochester
Maps are available for inspection at City Hall, 672 Russellville Street, Rochester, KY 42273.

Unincorporated Areas of Butler County
Maps are available for inspection at the County Courthouse, 110 North Main Street, Morgantown, KY 42261

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Scott County, Kentucky, and Incorporated Areas Docket No.: FEMA–B–1089			
Dry Run	Approximately 0.5 mile upstream of the North Elkhorn Creek confluence.	+801	City of Georgetown, Unincorporated Areas of Scott County.
	Approximately 1.2 miles upstream of Burton Pike	+880	
Dry Run Tributary 1 (backwater effects from Dry Run).	From the Dry Run confluence to approximately 0.3 mile downstream of I–75.	+828	Unincorporated Areas of Scott County.
Hall Branch (backwater effects from Eagle Creek).	From the Eagle Creek confluence to approximately 0.3 mile upstream of Hinton-Sadieville Road.	+780	Unincorporated Areas of Scott County.
Lane Run	At the North Elkhorn Creek confluence	+811	City of Georgetown, Unincorporated Areas of Scott County.
	Approximately 850 feet upstream of Delaplain Road	+889	
McCracken Creek (backwater effects from North Elkhorn Creek).	From the North Elkhorn Creek confluence to approximately 269 feet downstream of the McCracken Creek Tributary 2 confluence.	+782	City of Georgetown, Unincorporated Areas of Scott County.
Royal Springs Creek (backwater effects from North Elkhorn Creek).	From the North Elkhorn Creek confluence to approximately 0.4 mile upstream of Paddler Lane.	+798	City of Georgetown, Unincorporated Areas of Scott County.
South Elkhorn Creek	Just downstream of South Weisenberger Mill Road	+813	Unincorporated Areas of Scott County.
	At the Town Branch confluence	+816	
Spoon Branch (backwater effects from Eagle Creek).	From the Eagle Creek confluence to approximately 783 feet upstream of Sadieville Road.	+778	City of Sadieville, Unincorporated Areas of Scott County.
Town Branch (backwater effects from South Elkhorn Creek).	From the South Elkhorn Creek confluence to approximately 0.4 mile upstream of the South Elkhorn Creek confluence.	+816	Unincorporated Areas of Scott County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Georgetown
Maps are available for inspection at City Hall, 100 Court Street, Georgetown, KY 40324.

City of Sadieville
Maps are available for inspection at City Hall, 605 Pike Street, Sadieville, KY 40370.

Unincorporated Areas of Scott County
Maps are available for inspection at 100 East Main Street, Georgetown, KY 40324.

Schenectady County, New York (All Jurisdictions) Docket No.: FEMA–B–1184			
Lisha Kill	Approximately 1,825 feet downstream of New York Route 7 (Troy-Schenectady Road).	+238	Town of Niskayuna.
	At the Albany County boundary	+269	
Mohawk River	At Canadian Pacific Railway Bridge	+225	City of Schenectady, Town of Glenville, Town of Rotterdam, Village of Scotia.
	Approximately 1.08 miles downstream of Lock 8	+231	
Normans Kill	Approximately 1.15 miles downstream of Giffords Church Road.	+276	Town of Princetown.
	Approximately 1.16 miles upstream of Giffords Church Road.	+292	
Poentic Kill	At the Mohawk River confluence	+231	City of Schenectady, Town of Rotterdam
	Approximately 0.93 mile upstream of Campbell Road	+306	
Schoharie Creek	Approximately 3.23 miles downstream of U.S. Route 20	+541	Town of Duanesburg
	Approximately 3.13 miles upstream of U.S. Route 20	+590	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL) Modified	Communities affected

ADDRESSES

City of Schenectady
Maps are available for inspection at City Hall, 105 Jay Street, Schenectady, NY 12305.

Town of Duanesburg
Maps are available for inspection at the Town Hall, 5853 Western Turnpike, Duanesburg, NY 12056.

Town of Glenville
Maps are available for inspection at the Municipal Center, 18 Glenridge Road, Glenville, NY 12302.

Town of Niskayuna
Maps are available for inspection at the Town Hall, 1 Niskayuna Circle, Niskayuna, NY 12309.

Town of Princetown
Maps are available for inspection at the Princetown Town Hall, 165 Princetown Plaza, Schenectady, NY 12306.

Town of Rotterdam
Maps are available for inspection at the John F. Kirvin Government Center, 1100 Sunrise Boulevard, Rotterdam, NY 12306.

Village of Scotia
Maps are available for inspection at the Village Hall, 4 North Ten Broeck Street, Scotia, NY 12302.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19401 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2012–0183]

Hours of Service of Drivers of Commercial Motor Vehicles; Regulatory Guidance for Oilfield Exception

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of regulatory guidance; response to public comments.

SUMMARY: FMCSA responds to the public comments to its June 5, 2012, notice of regulatory guidance concerning the hours-of-service requirements for oilfield operations, and the Agency announces its decision to retain the 2012 guidance. On June 5, 2012, FMCSA updated its April 4, 1997, regulatory guidance to explain the applicability of the ''Oilfield operations'' exceptions in 49 CFR 395.1(d) to the ''Hours of Service [HOS] of Drivers'' regulations, and requested comments on the additional language. FMCSA also held three ''listening sessions'' in Pennsylvania, Colorado, and Texas to accept public comments for the docket. Following a review of all comments, the Agency has determined that no further elaboration on the regulatory guidance is needed, at this time, and the Agency will continue to monitor the use of the two HOS oilfield exceptions in 49 CFR 395.1(d). The Agency also calls attention to 49 CFR part 381, which provides procedures for persons to apply for individual or class exemptions from certain regulations provided the exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent the exemption. Therefore, motor carriers that believe the current oilfield operations exceptions do not provide sufficient relief for their operations should consider submitting an application for an exemption to the Agency describing an alternative that would ensure the requisite level of safety.

DATES: This regulatory guidance was effective June 5, 2012, as announced in the **Federal Register** on June 5, 2012 (77 FR 33098).

ADDRESSES: For access to the docket to read background documents or comments received, go to *www.regulations.gov* at any time or to the ground floor, room W12–140, USDOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, phone (202) 366–4325, email *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis

The Motor Carrier Act of 1935 provides that ''The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation'' [49 U.S.C. 31502(b)].

The Motor Carrier Safety Act of 1984 (MCSA) confers on the Secretary the authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to prescribe safety standards for commercial motor vehicles (CMVs). At a minimum, the regulations must ensure that (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination

standards and, after the national registry maintained by FMCSA under section 31149(d) is established, are listed on such registry; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operator [49 U.S.C. 31136(a)]. The Act also grants the Secretary broad power to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate'' [49 U.S.C. 31133(a)(8) and (10)].

The Administrator of FMCSA has been delegated the authority to carry out the functions vested in the Secretary by the Motor Carrier Act of 1935 [49 CFR 1.87(i)] and the MCSA [§ 1.87(f)].

Background

The Interstate Commerce Commission (ICC), which originally had jurisdiction over CMV highway safety, first heard requests for an oilfield exemption when the earliest HOS rules were issued in 1939. The Commission declined to grant the request, which was based on economic hardships, stating that ''. . . important as these considerations are, they do not overcome our primary duty to prescribe maximum hours which will be reasonably safe'' (Ex Parte No. MC–2, 11 M.C.C. 206, January 27, 1939).

In 1962, the ICC revisited the HOS rules. The Commission considered testimony from oilfield equipment suppliers and operators that provided specialized oilfield equipment requiring special training. The ICC approved a 24-hour restart provision for operators of this equipment. This provision allowed drivers to restart the 70-hours of on-duty time (in 8 consecutive days) during which driving was allowed. The record also indicates that this restart provision was intended to apply to operators employed exclusively in the transportation of equipment for use in servicing the well operations. In other words, the restart was to be available to two groups of drivers—operators of specialized oilfield equipment requiring special training and drivers exclusively transporting oilfield equipment. [Ex Parte No. MC–40 (Sub-No.1), 89 M.C.C. 28–30, March 29, 1962]. This restart provision was codified on April 13, 1962 (27 FR 3553) as § 195.3(d), and later recodified as § 395.1(d)(1). Neither the original nor the recodified regulatory language mentioned specially designed vehicles or specially trained drivers, although the ICC's March 29 report discussed both.

Approximately 5 months after granting the 24-hour restart, the ICC granted without comment the ''waiting time'' exception now codified at§ 395.1(d)(2), using the ''specially constructed'' and ''specially trained'' phrases (27 FR 8119; August 15, 1962). Although the ICC provided no discussion of the reasons for the ''waiting time'' exception, the **Federal Register** notice included a long list of petitions from industry groups and equipment manufacturers that were filed after the March 29 decision. The petitions themselves, filed more than 50 years ago, are no longer available, and the ICC was terminated in December 1995 [Pub. L. 104–88, 109 Stat. 803, Dec. 29, 1995].

The oilfield ''waiting time'' exception (referring to specially constructed vehicles and specially trained drivers) was codified in 49 CFR 195.2 as part of the definition of ''on duty time.'' [§ 195.2(a)(9)]. The 24-hour restart exception, referring to the broader group servicing the oilfield sites, was codified in 49 CFR 195.3, which governed ''Maximum driving and on-duty time'' [§ 195.3(d)].

In a 1992 technical amendment published in the **Federal Register** as part of a broader final rule, the 24-hour restart and waiting-time provisions were transferred to become today's § 395.1(d)(1) and (2) [57 FR 33638; July 30, 1992].

On April 4, 1997 (62 FR 16420), the Federal Highway Administration (FHWA)—the Agency responsible for motor carrier safety until the establishment of FMCSA—published ''Regulatory Guidance for the Federal Motor Carrier Safety Regulations'' which provided interpretive guidance material for the Federal Motor Carrier Safety Regulations. The FHWA consolidated previously issued interpretations and regulatory guidance materials and developed concise interpretive guidance in question and answer form for each part of the FMCSRs. The 1997 notice included several questions and answers concerning oilfield operations.

Reason for This Notice

A significant increase in oil and gas drilling operations in many States has resulted in a major increase in CMV traffic to move oilfield equipment, and transport large quantities of supplies, especially water and sand, to the sites. The operators of many of these vehicles and law enforcement officials have raised questions about the applicability of § 395.1(d).

Section 395.1(d) provides two separate exceptions to the HOS rules, with the two exceptions applying to different operators. Section 395.1(d)(1) states that for drivers of CMVs used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more consecutive hours. This is commonly referred to as a ''24-hour restart'' of the 70 hours in 8 days total on-duty time limit in § 395.3(b).

Section 395.1(d)(2) states, in part, that in the case of specially trained drivers of CMVs that are specially constructed to service oil wells, ''on-duty time shall not include waiting time at a natural gas or oil well site.'' Under the definition of ''On duty time'' in § 395.2, drivers who are standing by at an oil well site until their services are needed would normally be considered on-duty, thereby reducing the hours that they would have available to drive a CMV within the HOS-rule limits. This exception is often referred to as the ''oilfield waiting time'' provision.

On June 5, 2012, FMCSA updated its regulatory guidance on these oilfield provisions in the **Federal Register** (77 FR 33098). Updates were made to Questions 6 and 8 to 49 CFR 395.1, which had been published on April 4, 1997. Although the updated guidance was effective upon publication, FMCSA announced that it would accept comments to the public docket until August 6, 2012, to ''. . . determine whether any further clarification of these regulatory provisions is necessary'' (77 FR 33099).

The Agency later extended the public comment period until October 5, 2012, to include comments made at public ''listening sessions'' to be held in August and September (Denver, CO, August 17; Coraopolis, PA, August 21; Dallas, TX, September 27) (77 FR 46640, August 6, 2012). Approximately 15 people spoke at each of the listening sessions. Transcripts of these sessions have been filed in docket FMCSA–2012–0183 at *www.regulations.gov.*

General Comments

Written comments to the docket were filed by 81 individuals or associations. In some instances, the same comments were presented at one or more of the listening sessions. Of the 81 comments, seven were filed by the American Trucking Associations, Inc. (ATA) and State-level motor carrier associations. Nine comments were filed by other major trade associations such as the American Petroleum Institute (API), National Association of Manufacturers (NAM), International Association of Drilling Contractors (IADC), and similar organizations. About 29 comments were identifiable with individual motor

carriers, well site operators, and equipment suppliers. One comment was filed by the Advocates for Highway and Auto Safety (Advocates), a public safety advocacy organization. In addition, letters co-signed by 14 U.S. senators and 63 congressmen were submitted to the docket, expressing concerns similar to those of other parties in written and verbal comments. The remaining comments were filed by drivers or could not otherwise be classified.

Administrative Procedure Act (APA)

Comments

Many of the commenting associations claimed that the revisions to Questions 6 and 8 to 49 CFR 395.1 were a major departure from long-standing Agency interpretations, and that their content was contrary to 49 CFR 395.1(d). At least, they argued, the revised regulatory guidance should have been subjected to the full ''notice and comment'' provisions of the APA.

FMCSA Response

As explained in the Agency's 2012 **Federal Register** notice, FMCSA amended Questions 6 and 8 because of reports it had received that § 395.1(d) was being inconsistently enforced in States with substantial oil and gas drilling operations. A significant increase in such operations in many States has generated major increases in CMV traffic to move drilling equipment and related supplies, such as water and sand, to the well sites.

Prior to the recent surge, oil and gas production was conducted at isolated locations without the heavy traffic in vehicles hauling sand and water that is required by hydraulic fracturing (or ''fracking'') operations. Traditional production methods appear to have created no particular need for enforcement activity and thus generated little or no controversy. As drilling operations began in States having little prior experience with oil and gas exploration and the volume of traffic to and from fracking sites increased, State and local officials received more and more reports of safety problems. Enforcement efforts intensified, leading to inquiries about the status of sand and water delivery trucks under § 395.1(d).

Contrary to the assertion of some commenters, there has been no ''long standing'' interpretation that operators of water and sand delivery trucks are eligible for the ''waiting time'' provision. The ICC's 1962 decisions did not address the issue at all. However, the party that submitted the inquiry now listed as Question 10 in the Agency's guidance, which deals explicitly with the transportation of sand and water and was published in 1997, clearly assumed that such operations are part of the ''servicing of the field operations of the natural gas and oil industry,'' and inquired whether the 24-hour restart provision in § 395.1(d)(1) would apply under certain conditions.

FMCSA agreed with the submitter that drivers used exclusively to transport sand and water to service field operations were eligible for the restart exception, and replied accordingly [62 FR 16370, 16420, April 4, 1997]. The statement in Question 6—also adopted in 1997—that ''[w]ater servicing companies, whose operations are exclusive to servicing the natural gas and oil industry, are also covered by the provisions of § 395.1(d),'' must be read in conjunction with the more explicit discussion of such companies in Question 10, where their eligibility for the 24-hour restart is affirmed (i.e., § 395.1(d)(1)).

Nothing in these Questions and Answers suggests that drivers of trucks delivering sand and water are eligible for the waiting time exception (i.e., § 395.1(d)(2)), nor has FMCSA ever issued guidance to that effect. Because interpretations of § 395.1(d) did not specifically address the applicability of the waiting time provision to operators of vehicles such as sand and water delivery trucks, the States appear to have evolved inconsistent enforcement practices. In other cases a lack of enforcement of the § 395.1(d) provisions may have given carriers and drivers the misimpression that their assumptions about applicability were accurate.

The regulatory guidance issued in 2012 is the first specifically clarifying that trucks delivering supplies (including sand and water) and equipment to the well sites are not eligible for the ''waiting time'' provision of § 395.1(d)(2). The guidance is consistent with the regulation itself and prior guidance, and does not represent a change in the enforcement policies of many (though not all) States. Thus, the guidance was not a reversal of any long-standing interpretation or policy. Only in those States that allowed the sand and water trucks to utilize the ''waiting time'' exception, without any basis in regulatory language or FMCSA guidance, would carriers and drivers have perceived this national clarification as a change.

Comments to the docket and at the listening sessions made it clear that prior discussions of the § 395.1(d) provisions had not been precise enough to clarify which of the two separate sub-section exceptions (''24-hour restart'' and ''waiting time'') were being addressed. For example, inquiries about mechanical modifications of sand and water delivery trucks centered around whether the modifications helped to prove that the vehicle was used ''exclusively'' in oilfield operations and therefore eligible for the ''24-hour restart'' provision of § 395.1(d)(1). It may not have been clear to all commenters that these discussions were not about eligibility for the ''waiting time'' exception, which is different than that for the ''24 hour restart.''

Changes Needed in the Regulation

Comments

Many commenters asked FMCSA to ''rescind'' the 2012 guidance and undertake a full rulemaking to revise § 395.1(d). They offered a variety of suggestions as to the provisions of a revised regulatory section.

FMCSA Response

Rescission of the 2012 guidance—even if justified, which is not the case, as the above discussion demonstrates—would result in inconsistent compliance and enforcement. It would be unclear, pending the completion of a notice-and-comment procedure, whether or not operators of sand and water delivery trucks would be eligible for the § 395.1(d)(2) ''waiting time'' provision, potentially leading to a return to inconsistent enforcement.

FMCSA does not believe that a rulemaking process is necessary. A fair reading of the Agency's prior guidance in this area demonstrates that the 2012 revision simply clarified a point that had been implicit in FMCSA's Questions and Answers for more than 15 years.

Cost and Economic Impact Issues

Comments

Numerous commenters stated that compliance with the 2012 regulatory guidance would result in significant cost increases for them to hire additional drivers who would be needed to cover the hours currently worked by drivers incorrectly using the ''waiting time'' exception to exceed the 14-hour ''driving window'' established by § 395.3.

FMCSA Response

It is possible that some motor carriers that have not been fully complying with the § 395.1(d) provisions may need to employ additional drivers if existing schedules have generated overly-long periods of wakefulness for some drivers. In comments to the docket and at the listening sessions, some drivers and

carriers acknowledged that deliveries of sand and water may be delayed at the well sites, resulting in a duty day well beyond 14 hours.

Section 395.3(a)(2) is specifically intended to prevent driving a CMV after the 14th hour after the driver came on duty, whatever his or her intervening activities. The HOS rules issued in the last decade included substantial evidence supporting the need to limit excessive hours of driving and work, which can lead to fatigued driving. The rationale for the 14-hour driving window applies with particular force to drivers using the ''waiting time'' exception in § 395.1(d)(2). There is no indication that the ''waiting time'' exception in § 395.1(d)(2) was ever intended to allow driving after long periods of time had elapsed since the start of the duty day. The history of the oilfield regulatory language, as explained in the Background section of this notice, makes it clear that § 395.1(d)(2) was intended for use by persons who are primarily specialized equipment operators but who occasionally drive a CMV, as opposed to individuals whose primary job is to drive delivery vehicles, even if those vehicles might have simple modifications to help them make deliveries in rough oilfield terrain.

If some motor carriers had to hire additional drivers to operate within the § 395.1(d) provisions, that would merely place them on par (''level the playing field'') with motor carriers that have been in compliance all along.

Road and Well-Site Safety Issues

Comments

Several commenters claimed that a lack of safety evidence exists to justify what they deemed to be a major regulatory change.

FMCSA Response

Because the 2012 notice changed neither the regulation nor the substance of the Agency's regulatory guidance, no statistical evaluation of the clarified guidance was needed, as would be required in a notice-and-comment rulemaking. Allowing drivers of trucks making routine deliveries of sand and water to oilfields to utilize the ''waiting time'' exception would enable them to resume driving immediately after waiting for many hours and then unloading, which has never been the case with operators of specialized equipment who drive only occasionally, despite the ''waiting'' time exception. Any such reading of § 395.1(d) is neither consistent with the history of the oilfield exceptions nor justified by modern research on fatigue.

Future Activity

FMCSA believes the 2012 amendment of the regulatory guidance has resolved most of the confusion regarding applicability of § 395.1(d) to oilfield operations. As with any regulation, unique situations may arise that require further regulatory guidance of an informal or formal nature, and FMCSA will consider those scenarios on a case-by-case basis.

The Agency will continue to monitor use and impacts of this HOS exception within the substantial constraints of existing data collection systems of records.

Consideration of Regulatory Alternatives: 49 CFR Part 381 Exemptions

FMCSA acknowledges the concerns of the commenters and participants in the three listening sessions. While the guidance is consistent with the underlying regulations, the Agency believes there are options available to the oil and natural gas industries that could be used to address their needs for hours-of-service flexibility.

FMCSA calls attention to the provisions of 49 CFR Part 391, ''Subpart C—Procedures for Applying for Exemptions.'' Sections 381.300-.381.331 explain a procedure through which any affected persons or classes of persons may apply for an exemption from the HOS rules, among others, if the applicant can justify that operation under the proposed exemption would ''. . . achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulations . . .'' [§ 381.310 (b)(5)]. Exemptions may be granted for a maximum 2-year period and may be renewed. Therefore, motor carriers that believe the current oilfield operations exceptions do not provide sufficient relief for their operations should consider submitting an application for an exemption to the Agency describing an alternative that would ensure the requisite level of safety.

The Agency emphasizes the exemption process is an effective process for addressing issues concerning specific motor carriers and in some instances, segments of the industry. The process includes an opportunity for notice-and-comment to ensure transparency and public participation as the Agency considers an exemption application from an individual carrier, group of carriers, or an association submitting the request on behalf of the industry.

The Agency invites interested parties to visit www.regulations.gov for previously published **Federal Register** notices concerning exemptions to see examples of how the Agency notifies the public about the exemption applications, complete copies of the exemption applications, the types of public comments received in response to the notices, and the Agency's response to the public comments and final decisions.

Issued on: August 5, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–19402 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 78, No. 155
Monday, August 12, 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 No. EERE–2013–BT–DET–0034]

RIN 1904–AD03

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Proposed Determination of Computer Servers as a Covered Consumer Product

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

ACTION: Extension of public comment period.

SUMMARY: This document announces an extension of the time period for submitting comments on the proposed determination that computer servers (servers) qualify as a covered product.

DATES: The comment period for the proposed determination relating to servers published on July 12, 2013 (78 FR 41868) is extended. Comments are due September 12, 2013.

ADDRESSES: Any comments submitted must identify the proposed determination for servers and provide docket number EERE–2013–BT–DET–0034 and/or RIN number 1904–AD03. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal at http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* to *Servers2013DET0034@ee.doe.gov.* Include EERE–2013–BT–DET–0034 and/or RIN 1904–AD03 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Proposed Coverage Determination of Servers, EERE–2013–BT–DET–0034, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, 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. Telephone: (202) 586–9870. Email: *DOE_server_standards@ee.doe.gov.*

In the office of the General Counsel, contact Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On July 12, 2013, The U.S. Department of Energy (DOE) published a proposed determination in the **Federal Register** (78 FR 41868) tentatively determining that servers qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act (EPCA), as amended. DOE has preliminarily determined that servers meet the criteria for covered products because classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA, and the average U.S. household energy use for servers is likely to exceed 100 kilowatt-hours (kWh) per year. The proposed determination requested public comment from interested parties on matters relevant to consideration of a determination for servers and provided for the submission of comments by August 12, 2013. Thereafter, the Consumer Electronics Association (CEA), on behalf of itself and its member organizations, requested an extension of the public comment period by a minimum of 30 days. CEA stated that many companies in the information technology industry have not previously been involved in the DOE rulemaking process and could benefit from additional time. Thus, CEA asserted that additional time could help ensure complete input and feedback from all interested companies is provided to DOE in response to this proposal.

Based on CEA's request, DOE believes that extending the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is extending the comment period until September 12, 2013 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by September 12, 2013 to be timely submitted.

Issued in Washington, DC, on August 6, 2013.

Kathleen B. Hogan,

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

[FR Doc. 2013–19475 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2013–BT–DET–0035]

RIN 1904–AD04

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Proposed Determination of Computers as a Covered Consumer Product

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

ACTION: Extension of public comment period.

SUMMARY: This document announces an extension of the time period for submitting comments on the proposed determination that computers qualify as a covered product.

DATES: The comment period for the proposed determination relating to computers, published on July 12, 2013 (78 FR 41873), is extended. Comments are due September 12, 2013.

ADDRESSES: Any comments submitted must identify the proposed determination for computers and provide docket number EERE–2013–BT–DET–0035 and/or RIN number 1904–AD04. Comments may be submitted using any of the following methods:

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

• *Email:* to *Computers2013DET0035@ee.doe.gov.* Include EERE–2013–BT–DET–0035 in the subject line of the message.

• *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Proposed Determination for Computers, EERE–2013–BT–DET–0035, 1000 Independence Avenue SW., Washington, DC 20585–0121. Phone: (202) 586–2945. Please submit one signed paper original.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, 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. Telephone: (202) 586–9870. Email: *DOE_computer_standards@ee.doe.gov.*

In the office of the General Counsel, contact Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On July 12, 2013, The U.S. Department of Energy (DOE) published a proposed determination in the **Federal Register** (78 FR 41873) tentatively determining that computers qualify as a covered product under Part A of Title III of the Energy Policy and Conservation Act (EPCA), as amended. DOE has preliminarily determined that computers meet the criteria for covered products because classifying products of such type as covered products is necessary or appropriate to carry out the purposes of EPCA, and the average U.S. household energy use for computers is likely to exceed 100 kilowatt-hours (kWh) per year. The proposed determination requested public comment from interested parties on matters relevant to consideration of a determination for computers and provided for the submission of comments by August 12, 2013. Thereafter, the Consumer Electronics Association (CEA), on behalf of itself and its member organizations, requested an extension of the public comment period by a minimum of 30 days. CEA stated that many companies in the information technology industry have not previously been involved in the DOE rulemaking process and could benefit from additional time. Thus, CEA asserted that additional time could help ensure complete input and feedback from all interested companies is provided to DOE in response to this proposal.

Based on CEA's request, DOE believes that extending the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is extending the comment period until September 12, 2013 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by September 12, 2013 to be timely submitted.

Issued in Washington, DC, on August 6, 2013.

Kathleen B. Hogan,

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

[FR Doc. 2013–19474 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0697; Directorate Identifier 2013–SW–009–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. (Bell) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) for Bell Model 214B, 214B–1, and 214ST helicopters with certain tail rotor hanger bearings (bearing) installed. The existing AD currently requires inspecting the bearing to determine whether an incorrectly manufactured seal material is installed on the bearing. Since we issued that AD, we have determined that replacing the defective bearing is a required terminating action. This proposed AD would retain the repetitive inspection of the bearings and would also require replacing the defective bearings. The proposed actions are intended to prevent loss of bearing grease, failure of the bearing, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by October 11, 2013.

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

• *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.

• *Fax:* 202–493–2251.

• *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

• *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

For service information identified in this proposed AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone (817) 280–3391; fax (817) 280–6466; or at *http://www.bellcustomer.com/files/.* You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: James Blyn, Aviation Safety Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5762; email *7-AVS-ASW-170@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or

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

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

Discussion

On May 17, 2013, we issued AD 2013–11–05, amendment 39–17465 (78 FR 33204, dated June 4, 2013) for Bell Model 214B, 214B–1, and 214ST helicopters with certain part-numbered bearings installed. AD 2013–11–05 requires inspecting the bearings to determine whether an incorrectly manufactured seal material is installed on the bearing, and if it is installed, inspecting the bearing every 10 hours time-in-service (TIS) for any leaking grease or damage. If the bearing is leaking or has any damage, AD 2013–11–05 requires replacing the bearing. AD 2013–11–05 was prompted by a report that all part number 214–040–606–005 and 214–040–606–101 bearings delivered between May 2011 and June 2012 were manufactured with incorrect seal material. This incorrect seal material does not meet Bell's operating and environmental temperature specifications and under extreme heat could result in seal failure and grease loss from the bearing. The incorrect seal material is black in color; the correctly manufactured bearings have a red/orange to brown colored seal. Those actions are intended to prevent loss of bearing grease, failure of the bearing, and subsequent loss of control of the helicopter.

Actions Since Existing AD Was Issued

Since we issued AD 2013–11–05, we have determined that replacing the bearings within 500 hours TIS will provide an acceptable level of safety and should be a required terminating action for the repetitive inspections required by AD 2013–11–05. These actions are intended to provide a terminating action for AD 2013–11–05.

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 helicopters of these same type designs.

Related Service Information

Bell has issued Alert Service Bulletin (ASB) 214–13–74, Revision A, dated March 25, 2013, for Model 214B and 214B–1 helicopters serial number (S/N) 28001 through 28070, and ASB 214ST–13–90, Revision A, dated March 25, 2013, for Model 214ST helicopters. Both ASBs describe procedures to determine whether any bearing with incorrect seal material is installed on the helicopter and for inspecting any installed bearing with incorrect seal material every 10 hours time-in-service (TIS). Both ASBs also specify replacing any bearing with incorrect seal material that is leaking grease or damaged. Finally, the ASBs specify replacing any bearing with incorrect seal material within 500 hours TIS or by December 31, 2013.

Proposed AD Requirements

This proposed AD would retain the repetitive inspection requirements of AD 2013–11–05. This proposed AD would also require replacing any bearing that has black seal material with a bearing that has correct seal material within 500 hours TIS or 6 months, whichever occurs earlier, as a terminating action.

Differences Between the Proposed AD and the Service Information

The Bell ASBs allow 25 hours TIS for the initial inspection, while this proposed AD would require inspecting within 10 hours TIS. The ASBs specify replacing any bearing with black seal material within 500 hours TIS or by December 31, 2013. This proposed AD would require replacement within 500 hours TIS or 6 months, whichever occurs earlier.

Costs of Compliance

We estimate that this AD will affect 26 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor cost of $85 per hour, inspecting the bearings would require about 2.5 work hours, for a cost per helicopter of $213 and a cost of $5,538 for the fleet. Replacing a defective bearing would require about 3 work hours, and required parts would cost $1,372, for a cost per helicopter of $1,627.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39-17465 (78 FR 33204, dated June 4, 2013) and adding the following new airworthiness directive (AD):

Bell Helicopter Textron, Inc. (Bell): Docket No. FAA–2013–0697; Directorate Identifier 2013–SW–009–AD.

(a) Applicability

This AD applies to Bell Model 214B helicopters, serial number (S/N) 28001 through 28070, Model 214B–1 helicopters, S/N 28001 through 28070, and Model 214ST helicopters, S/N 28101 through 28200, with a tail rotor hanger bearing (bearing), part number (P/N) 214–040–606–005 or 214–040–606–101 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a bearing with incorrect seal material, which could fail under extreme temperature or environmental conditions, resulting in loss of tail rotor control and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2013–11–05, Amendment 39–17465 (78 FR 33204, dated June 4, 2013).

(d) Comments Due Date

We must receive comments by October 11, 2013.

(e) Compliance

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

(f) Required Actions

(1) Within 10 hours time in service (TIS):

(i) Inspect each bearing to determine whether the seal material is correct, as described in the Accomplishment Instructions, Part 1- Inspection, paragraphs 1.a. through 2. and Figure 1 of Bell Alert Service Bulletin (ASB) 214–13–74, Revision A, dated March 25, 2013, for Model 214B and 214B–1 helicopters and ASB 214ST–13–90, Revision A, dated March 25, 2013, for Model 214ST helicopters.

(ii) For each bearing with black seal material, before further flight and thereafter at intervals not to exceed 10 hours TIS, inspect the bearing for leakage, slung grease, or damage. If there is any leakage, slung grease, or damage, before further flight, replace the bearing with an airworthy bearing with red/orange to brown color seal material.

(2) Within 500 hours TIS or 6 months, whichever occurs earlier, replace any bearing with black seal material with an airworthy bearing with red/orange to brown color seal material.

(3) Do not install bearing P/N 214–040–606–005 or 214–040–606–101 with black seal material on any helicopter.

(g) Special Flight Permits

Special flight permits are prohibited.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: James Blyn, Aviation Safety Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5762; email *7–AVS–ASW–170@faa.gov.*

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

(j) Subject

Joint Aircraft Service Component (JASC) Code: 6500: Tail Rotor Drive Bearing.

Issued in Fort Worth, Texas, on August 2, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–19431 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0557; Directorate Identifier 2013–NE–22–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 certain Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines. This proposed AD was prompted by a ''chip illumination event'' in flight on a Turbomeca S.A. Arriel 1 engine. This proposed AD would require a one-time inspection of the free turbine (FT) module (M04) for the affected Turbomeca S.A. Arriel 1 engines and, if a discrepancy is found, repair of the affected module. We are proposing this AD to prevent a loss of FT bearing lubrication, resulting FT module failure, damage to the engine, and damage to the aircraft.

DATES: We must receive comments on this proposed AD by October 11, 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: Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *robert.c.morlath@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–2013–0557; Directorate Identifier 2013–NE–22–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 review 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 Airworthiness Directive No. 2013–0120, dated June 4, 2013 (referred to herein after as ''MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A ''chip light illumination'' event in flight on an ARRIEL 1C2 engine was reported to Turbomeca. Following the event, which resulted from Free Turbine front bearing deterioration, the investigation revealed that the loss of the Free Turbine (FT) bearing module has led to a major disruption in the lubrication of the FT module (M04) bearings. The root cause of the event has been attributed to incorrect bonding of the Free Turbine Bearing Plug, accomplished during the repair process in an identified Repair Center. Consequently, it was possible to identify a batch of Modules M04 which are potentially affected.

This condition, if not corrected, could lead to a loss of FT bearing lubrication resulting in FT module failure, damage to the engine, and damage to the aircraft. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Turbomeca S.A. has issued Alert Mandatory Service Bulletin No. A292 72 0838, Version A, dated May 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 a one-time inspection of the FT module (M04) of certain Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines and, if a discrepancy is found, repair of the affected module.

Costs of Compliance

We estimate that this proposed AD affects five engines installed on aircraft of U.S. registry. We also estimate that it would take about 1 hour per engine to comply with the inspection requirement in this proposed AD, and about 3 hours per engine to repair the module. The average labor rate is $85 per hour. Required parts cost about $13 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,765.

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 proposed 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–2013–0557; Directorate Identifier 2013–NE–22–AD.

(a) Comments Due Date

We must receive comments by October 11, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2,

1K1, 1S, and 1S1 turboshaft engines equipped with free turbine (FT) module (M04) identified by the part and serial numbers listed in Figure 2 of Turbomeca S.A. Alert Mandatory Service Bulletin (MSB) No. A292 72 0838, Version A, dated May 24, 2013.

(d) Reason

This AD was prompted by a ''chip illumination event'' in flight on a Turbomeca S.A. Arriel 1 engine. We are issuing this AD to prevent a loss of FT bearing lubrication resulting in FT module failure, damage to the engine, and damage to the aircraft.

(e) Actions and Compliance

Unless already done, do the following.

(1) For Arriel 1B, 1D, and 1D1 engines with an FT module (M04) with a part and serial number listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, within 50 flight hours (FHs) from the effective date of this AD, inspect the M04 module. Use the instructions in paragraph 6 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013 to do your inspection.

(2) For Arriel 1A1, 1A2, 1C, 1C1, 1C2, 1E2, 1K1, 1S, and 1S1 engines with an FT module (M04) with a part and serial number listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, within 300 FHs from the effective date of this AD, inspect the M04 module. Use the instructions in paragraph 6 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, to perform the inspection.

(3) If you find that the M04 module is not eligible for return to service, remove the M04 module before further flight.

(f) Installation Prohibition

After the effective date of this AD, do not install any affected FT module (M04) listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, onto any engine, or an engine with an affected FT module (M04) onto any helicopter, unless the module has passed the inspections required by paragraphs (e)(1) and (e)(2) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *robert.c.morlath@faa.gov.*

(2) Refer to Mandatory Continuing Airworthiness Information AD 2013–0120, dated June 4, 2013, and Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, for related information.

(3) 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.

(4) 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 August 5, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–19415 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0672; Directorate Identifier 2013–NM–058–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 767–200, –300, –300F, and –400ER airplanes. This proposed AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. This proposed AD would require an inspection of the left- and right-hand wing fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations, and to replace any door with an impact-resistant access door if necessary. This proposed AD also would require an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. This proposed AD would also require revising the maintenance program to incorporate changes to the airworthiness limitations section. We are proposing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

DATES: We must receive comments on this proposed AD by September 26, 2013.

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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–2013–0672; Directorate Identifier 2013–NM–058–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received reports of a standard access door located where an impact-resistant access door is required, and stencils were missing from some spare impact-resistant access doors. This condition, if not corrected, could result in foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine nozzle), consequently leading to a fuel-fed fire.

Relevant Service Information

We reviewed Boeing Service Bulletin 767–28–0105, dated January 12, 2012; and critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0672.

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 these same type designs.

Proposed AD Requirements

The FAA issued section 121.316 of the Federal Aviation Regulations (14 CFR 121.316) requiring that each turbine powered transport category airplane meet the requirements of section 25.963(e) of the Federal Aviation Regulations (14 CFR 25.963(e)). Section 25.963(e) outlines the certification requirements for fuel tank access covers on turbine powered transport category airplanes.

This proposed AD would require inspecting fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations and replacing any door with an impact-resistant access door if necessary; inspecting application of stencils and index markers of impact-resistant access doors and application of new stencils or index markers if necessary; and revising the maintenance program.

This proposed AD requires revisions to certain operator maintenance documents to include a new CDCCL. Compliance with CDCCLs is required by section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator might not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to the procedures specified in paragraph (j) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

Costs of Compliance

We estimate that this proposed AD affects 425 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per roduct	Cost on U.S. perators
Inspection	Up to 7 work-hours × $85 per hour = $595	$0	$595	$252,875
Maintenance program revision	1 work-hour × $85 per hour = $85	0	85	36,125

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement per door	3 work-hours × $85 per hour = $255	$8,000	$8,255
Stencil and index marker	9 work-hours × $85 per hour = $765	0	765

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0672; Directorate Identifier 2013–NM–058–AD.

(a) Comments Due Date

We must receive comments by September 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes; certificated in any category; as identified in Boeing Service Bulletin 767–28–0105, dated January 12, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. We are issuing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine nozzle), consequently leading to a fuel-fed fire.

(f) Compliance

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

(g) Inspections

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0105, dated January 12, 2012.

(1) Do either a general visual inspection or ultrasonic non-destructive test of the left- and right-hand wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations. If any standard access door is found, before further flight, replace with an impact-resistant access door, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0105, dated January 12, 2012.

(2) Do a general visual inspection of the left- and right-hand wing fuel tank impact-resistant access doors to verify stencils and index markers are applied. If a stencil or index marker is missing, before further flight, apply stencil or index marker, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–28–0105, dated January 12, 2012.

(h) Maintenance Program Revision

Within 60 days after the effective date of this AD, revise the maintenance program to incorporate critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Door,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) of Boeing 767 Maintenance Planning Data Document D622T001–9, Revision October 2012.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

(1) For more information about this AD, contact Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov.*

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

Issued in Renton, Washington, on August 2, 2013.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19458 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0002; Directorate Identifier 2011–NE–42–AD]

RIN 2120–AA64

Airworthiness Directives; Continental Motors, Inc. Reciprocating 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 Airmotive Engineering Corp. replacement parts manufacturer approval (PMA) cylinder assemblies marketed by Engine Components International Division (ECi), used on the Continental Motors, Inc. (CMI) models 520 and 550 reciprocating engines, and all other engine models approved for the use of CMI models 520 and 550 cylinder assemblies such as the CMI model 470 when modified by supplemental type certificate (STC). This proposed AD was prompted by failure reports of multiple cylinder head-to-barrel separations and cracked and leaking aluminum cylinder heads. This proposed AD would require initial and repetitive inspections, replacement of cracked cylinders, and replacement of cylinder assemblies at reduced times-in-service. This proposed AD would also prohibit the installation of affected cylinder assemblies into any engine. We are proposing this AD to prevent cylinder head cracks, engine failure, and loss of the airplane.

DATES: We must receive comments on this proposed AD by October 11, 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 certain service information identified in this proposed AD, contact Continental Motors, Inc., PO Box 90, Mobile, AL 36601; phone: 251–438–3411, Internet: *http://tcmlink.com/servicebulletins.cfm.* For certain other service information identified in this proposed AD, contact Engine Components International Division, 9503 Middlex Drive, San Antonio, TX 78217; phone 210–820–8101; Internet: *http//www.eci.aero/pages/tech_svcpubs.aspx.* 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: Jurgen E. Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; phone: 817–222–5159; fax: 817–222–5785; email: *jurgen.e.priester@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–2012–0002; Directorate Identifier 2011–NE–42–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received multiple failure reports of Airmotive Engineering Corp. PMA cylinder assemblies, part number (P/N) AEC631397, ECi Class 71 and Class 76, installed on certain CMI models IO–520, TSIO–520, IO–550, and IOF–550 reciprocating engines and other engines approved for the use of CMI models 520 and 550 cylinder assemblies such as the CMI model 470 when modified by STC. ECi part numbering includes four Classes of P/N AEC631397 cylinder assemblies based upon their intended use. Only Classes 71 and 76 are affected; Classes 68 and 70 are not affected. The Class number appears in the ECi P/N cylinder marking immediately following AEC631397. These markings are found on the bottom flange of the cylinder. We identified two independent failure modes resulting in the cylinder head separations; however, the exact root cause of each failure mode could not be definitively identified. One failure mode is cracking that initiates in the internal dome radius of the cylinder head and the second is cracking at the cylinder head-to-barrel threads. The affected cylinder assemblies are separated into two manufacturing groups that would require the actions in this proposed AD. Those two groups are defined by serial number (S/N) ranges. One group consists of cylinder assemblies with S/N 1 through S/N 33696. The second group consists of cylinder assemblies with S/N 33697 through S/N 61176. The unsafe condition, if not corrected, could result in cylinder head cracks, engine failure, and loss of the airplane.

Airmotive Engineering Corp. held a meeting, which we attended, on December 11, 2012, to discuss certain active PMA projects. Also on their agenda was a briefing to us on their meeting with the National Transportation Safety Board (NTSB) regarding the subject of this proposed AD. Although that briefing was not intentioned by us, because it occurred, we are placing a summary and a copy of what they provided for our consideration, into the AD docket for public review.

Airmotive Engineering Corp. held another meeting, with us and the NTSB in attendance, on February 14, 2013. The purpose of the meeting was to further discuss the causes of their cylinder failures and what they have done to address these failures. We are placing all of the information from this meeting in the AD docket for public review.

Knowing the likely impact that compliance with the AD will have upon the owners and operators, a detailed review was performed to consider all aspects of the information provided by Airmotive Engineering Corp. After considering all factors, which included, for example, the efforts of two Chief Scientific and Technical Advisors, data from the FAA/Airmotive Engineering Corp. meetings, and the application of the FAA Policy Statement on Risk Assessment 08/07/13for Reciprocating Engine Airworthiness Directives (PS–ANE100–1999–00006), we concluded that proceeding with this proposed AD to correct the unsafe condition was appropriate.

Relevant Service Information

We reviewed Continental Motors, Inc. Service Bulletin (SB) No. SB96–12, dated September 10, 1996. Part 1 Section C of the SB describes procedures for leak checking cylinder assemblies. We also reviewed ECi Service Instruction No. 99–8–1,

Revision 9, dated February 23, 2009, Sections 4.3, 4.4, 6.1, and 6.2, which provide information on cylinder identification and part numbering.

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 divides ECi cylinder assemblies, P/N AEC631397, Class 71 and Class 76, into two groups; Group A cylinder assemblies and Group B cylinder assemblies. Group A cylinder assemblies are those cylinder assemblies with S/N 1 through S/N 33696. Group B cylinder assemblies are those cylinder assemblies with S/N 33697 through S/N 61176. This proposed AD would require removing Group A cylinder assemblies from service within 25 operating hours if, on the effective date of the AD, the cylinder operating hours are fewer than 500 hours, or more than 1,000 hours. This proposed AD would also require removing Group B cylinder assemblies from service within 25 operating hours if, on the effective date of the AD, the cylinder operating hours are 1,000 or more.

This proposed AD would also require repetitive visual inspections, compression tests, and leak checks for cracks, for Group A cylinder assemblies with between 500 and 1,000 operating hours, and for Group B cylinder assemblies with fewer than 1,000 operating hours, until they are removed from service.

Finally, this proposed AD would also prohibit installing affected ECi cylinder assemblies onto any engine and would require reporting to the FAA all removed cylinder assemblies.

Costs of Compliance

We estimate that this proposed AD would affect about 6,000 Continental Motors, Inc. models IO–520, TSIO–520, IO–550, and IOF–550 reciprocating engines and all other engine models approved for the use of CMI models 520 and 550 cylinder assemblies (such as the CMI model 470 when modified by STC), installed on airplanes of U.S. registry. We also estimate that each affected ECi cylinder will be inspected on average four times in the first year. We also estimate that about six hours per engine would be required to perform the visual inspection, compression test, and leak check. The average labor rate is $85 per hour. Finally, we estimate that about 18 hours would be required to replace all six cylinder assemblies during scheduled overhaul maintenance, and that a replacement cylinder assembly would cost about $1,700. Based on these figures, we estimate the total cost of this proposed AD to U.S. operators to change all ECi cylinders to be $82,620,000. Our cost estimate is exclusive of possible warranty coverage.

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):

Continental Motors, Inc. (formerly Teledyne Continental Motors, Inc., formerly Continental): Docket No. FAA–2012–0002; Directorate Identifier 2011–NE–42–AD.

(a) Comments Due Date

We must receive comments by October 11, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Continental Motors, Inc. (CMI) models 520 and 550 reciprocating engines, and all other engine models approved for the use of CMI models 520 and 550 cylinder assemblies such as the CMI model 470 when modified by supplemental type certificate (STC), with Airmotive Engineering Corp. replacement parts manufacturer approval (PMA) cylinder assemblies, marketed by Engine Components International Division (hereinafter referred to as ECi), part number (P/N) AEC631397, with ECi Class 71 or Class 76, serial number (S/N) 1 through S/N 33696, or S/N 33697 through S/N 61176, installed on, but not limited to:

(1) IO–520–A, –B, –BA, –BB, –C, –CB, –D, –E, –F, –J, –K, –L, –M, –MB, –N, –NB, and LIO–520–P.

(2) TSIO–520–A, –AE, –AF, –B, –BB, –BE, –C, –CE, –D, –DB, –E, –EB, –G, –H, –J, –JB, –K, –KB, –L, –LB, –M, –N, –NB, –P, –R, –T, –U, –UB, –VB, –WB, and LTSIO–520–AE.

(3) IO–550–A, –B, –C, –D, –E, –F, and –L.

(4) IOF–550–B, –C, –D, –E, –F, and –L.

(5) Other engines using CMI models 520 and 550 cylinder assemblies, such as the CMI model 470 when modified by STC.

(d) Unsafe Condition

This AD was prompted by reports of multiple cylinder head-to-barrel separations and cracked and leaking aluminum cylinder heads. We are issuing this AD to prevent cylinder head cracks, engine failure, and loss of the airplane.

(e) Compliance

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

(1) Review the engine maintenance records to determine if any affected cylinders were

installed at the time of engine overhaul or during any other maintenance event, or were installed when the engine was modified and are currently installed.

(2) If you do not have any of the affected ECi cylinders installed on your engine, no further action is required.

(f) Cylinder Identification and Serial Number Location

(1) Check the cylinder assembly P/N and Class number. The ECi cylinder assembly, P/N AEC631397, Class 71 or Class 76, is stamped on the bottom flange of the cylinder barrel. Guidance on the P/N and Class number description and location can be found in ECi Service Instruction No. 99-8-1, Revision 9, dated February 23, 2009.

(2) For ECi cylinder assemblies, P/N AEC631397, manufactured through 2008, find the cylinder assembly S/N stamped on the intake port boss two inches down from the top edge of the head.

(3) For ECi cylinder assemblies, P/N AEC631397, manufactured on or after January 1, 2009, find the cylinder assembly S/N stamped just below the top edge of the head on the exhaust port side.

(4) If you cannot see the cylinder assembly P/N when the cylinder assembly is installed on the engine, an alternative method of identification may be used as follows:

(i) Remove the cylinder rocker box cover.

(ii) Find the letters ECi, cast into the cylinder head between the valve stems.

(iii) Check the cylinder head casting P/N. Affected cylinder assemblies have the cylinder head casting P/N, AEC65385, cast into the cylinder head between the valve stems.

(iv) Find the cylinder assembly S/N as specified in paragraph (f)(2) or (f)(3) of this AD as applicable.

(g) Removal From Service

(1) For those Group A cylinder assemblies, P/N AEC631397, ECi Class 71 or 76, S/N 1 through S/N 33696, with fewer than 500 operating hours time-in-service (TIS) or with more than 1,000 operating hours TIS on the effective date of this AD, remove the cylinder assemblies from service within the next 25 operating hours TIS.

(2) For those Group B cylinder assemblies, P/N AEC631397, ECi Class 71 or 76, S/N 33697 through S/N 61176, with more than 1,000 operating hours TIS on the effective date of this AD, remove the cylinder assemblies from service within the next 25 operating hours TIS.

(h) Inspection of Group A Cylinder Assemblies With Between 500 and 1,000 Operating Hours TIS and Group B Cylinder Assemblies With Fewer Than 1,000 Operating Hours TIS

(1) Within the next 10 operating hours TIS after the effective date of this AD, visually inspect, compression test, and leak check the Group A cylinder assemblies with between 500 and 1,000 operating hours TIS, and Group B cylinder assemblies with fewer than 1,000 operating hours TIS. Use paragraphs (h)(2) through (h)(5) of this AD to do the inspection, test, and leak check.

(2) Visually inspect the exterior of each cylinder head and barrel interface around the perimeter of the cylinder as follows:

(i) Before any engine cleaning, with good lighting, look for signs of white or black combustion products between cooling fins, especially on the exhaust valve side of the cylinder assembly.

(ii) Remove the cylinder from service if you find any indication of a crack or black combustion products on the side of a cylinder.

(iii) The presence of oil or a normal dirty appearance may not indicate a head crack.

(3) Perform a standard differential compression test to the cylinder assembly. If the cylinder assembly has a pressure reading of less than 55/80 pounds per square inch gauge pressure, on the differential pressure test gauges, remove the cylinder assembly from service.

(4) Use Part 1 Section C ''Leak Check'' of Teledyne Continental Motors Service Bulletin (SB) No. SB96–12, dated September 10, 1996, to perform the leak checks required by this AD.

(5) Remove from service any cylinder assembly found cracked and/or leaking.

(6) Repeat paragraphs (h)(2) though (h)(5) of this AD within every 50 operating hours TIS since last inspection. Remove from service any cylinder assembly before accumulating 1,000 operating hours TIS.

(i) Installation Prohibitions

After the effective date of this AD:

(1) Do not repair, or reinstall onto any engine, any cylinder assembly removed per this AD.

(2) Do not install any ECi cylinder assemblies, P/N AEC631397, ECi Class 71 or 76, with the S/Ns listed in paragraph (c) of this AD, onto any engine.

(3) Do not install any engine having one or more ECi cylinder assemblies, P/N AEC631397, ECi Class 71 or 76, with the S/Ns listed in paragraph (c) of this AD, into any aircraft.

(4) Do not return to service any aircraft that has an engine with an ECi cylinder assembly subject to this AD, if the cylinder assembly has 1,000 or more operating hours TIS.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Reporting Requirements

Report to the FAA all cylinder assemblies that you removed per this AD. Send your report to the Special Certification Office, FAA, Rotorcraft Directorate, Attn: Jurgen E. Priester, Aerospace Engineer, 2601 Meacham Blvd., Fort Worth, TX 76137; phone: 817–222–5159; fax: 817–222–5785; email: *9-ASW-190-COS@faa.gov.* Include the following information:

(1) Aircraft model.

(2) Continental Motors, Inc. engine model number.

(3) ECi cylinder assembly S/N.

(4) Cylinder assembly total operating hours.

(5) Installation date of ECi cylinder assembly.

(6) Airplane utilization average per year (flight hours per year).

(7) Number of flight hours since last mandatory inspection required by this AD.

(8) Reason for cylinder removal, i.e., leaking head with cracks or other indications found, failed compression test, valves or rings leaking, or a head separation.

(9) How the defect was found, i.e., visual inspection, leak check, compression test, etc.

(10) Source of leak(s).

(11) Location of crack(s). Locate by counting the number of cooling fins up from the head/barrel interface.

(12) Length of crack(s).

(13) Location of separation. Locate by counting the number of cooling fins up from the head/barrel interface.

(14) Your contact information (optional).

(l) Paperwork Reduction Act Burden Statement

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

(m) Related Information

(1) For more information about this AD, contact Jurgen E. Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76193; phone: 817–222–5159; fax: 817–222–5785; email: *jurgen.e.priester@faa.gov.*

(2) For ECi Service Instruction No. 99–8–1, Revision 9, dated February 23, 2009, which is not incorporated by reference in this AD, contact Engine Components International Division, 9503 Middlex Drive, San Antonio, TX 78217; phone 210–820–8101; Internet: *http//www.eci.aero/pages/tech_svcpubs.aspx.*

(3) For other service information referenced in this AD, contact Continental Motors, Inc., PO Box 90, Mobile, AL 36601; phone: 251–438–3411, Internet: *http://tcmlink.com/servicebulletins.cfm.*

(4) 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 August 5, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–19414 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0674; Directorate Identifier 2012–NM–217–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by a design review, which revealed that no controlled bonding provisions are present on a number of critical locations inside the fuel tank or connected to the fuel tank wall. This proposed AD would require installing additional bonding provisions in the fuel tank, and revising the airplane maintenance program by incorporating fuel airworthiness limitation items and critical design configuration control limitations. We are proposing this AD to prevent an ignition source in the fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by September 26, 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1137; fax 425–227–1149.

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–2013–0674; Directorate Identifier 2012–NM–217–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 we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0242, dated November 12, 2012 (referred to after this the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Prompted by an accident * * *, the FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.
> The design review conducted by Fokker Services on the Fokker 70 and Fokker 100 in response to these regulations revealed that no controlled bonding provisions are present on a number of critical locations, inside the fuel tank or connected to the fuel tank wall.
> This condition, if not corrected, may create an ignition source in the fuel tank vapour space, possibly resulting in a fuel tank explosion and consequent loss of the aeroplane.
> For the reasons described above, this [EASA] AD requires the installation of additional bonding provisions and, subsequently, the implementation of the associated Fuel Airworthiness Limitation Items (ALI) and Critical Design Configuration Control Limitations (CDCCL[s]) [and revising the maintenance program to incorporate the ALIs and CDCCLs].

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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 (66 FR 23086, May 7, 2001) requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt

airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88 (66 FR 23086, May 7, 2001). (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–28–069, dated August 17, 2012, which includes the following attachments:

- Fokker Drawing W31036, Sheet 001, Issue A, dated November 12, 2012;
- Fokker Drawing W69280, Sheet 001, Issue A, dated November 12, 2009;
- Fokker Drawing W69350, Sheet 001, Issue A, dated November 12, 2009;
- Fokker Drawing W69285, Sheet 001, Issue A, dated November 12, 2009;
- Fokker Drawing W69200, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009;
- Fokker Drawing W69240, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009;
- Fokker Drawing W69335, Sheet 001, dated November 12, 2009;
- Fokker Drawing W69405, Sheet 001, dated November 12, 2009; and
- Fokker Drawing W692710, Sheet 004, Issue B, dated November 12, 2008.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed 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 proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 10 products of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of bonding provisions and maintenance program revision.	36 work-hours × $85 per hour = $3,060	$0	$3,060	$30,600

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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 AD:

Fokker Services B.V.: Docket No. FAA–2013–0674; Directorate Identifier 2012–NM–217–AD.

(a) Comments Due Date

We must receive comments by September 26, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a design review, which revealed that no controlled bonding provisions are present on a number of critical locations inside the fuel tank or connected to the fuel tank wall. We are issuing this AD to prevent an ignition source in the fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of 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) Installation of Bonding Provisions

(1) Within 24 months after the effective date of this AD: Install the additional bonding provisions at the locations specified in, and in accordance with, Parts 3, 4, 5, and 6 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–069, dated August 17, 2012, which includes the attachments identified in paragraphs (g)(1)(i) through (g)(1)(ix) of this AD.

(i) Fokker Drawing W31036, Sheet 001, Issue A, dated November 12, 2012.

(ii) Fokker Drawing W69280, Sheet 001, Issue A, dated November 12, 2009.

(iii) Fokker Drawing W69350, Sheet 001, Issue A, dated November 12, 2009.

(iv) Fokker Drawing W69285, Sheet 001, Issue A, dated November 12, 2009.

(v) Fokker Drawing W69200, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009.

(vi) Fokker Drawing W69240, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009.

(vii) Fokker Drawing W69335, Sheet 001, dated November 12, 2009.

(viii) Fokker Drawing W69405, Sheet 001, dated November 12, 2009.

(ix) Fokker Drawing W692710, Sheet 004, Issue B, dated November 12, 2008.

(2) At the next scheduled opening of the fuel tanks after the effective date of this AD, but no later than 84 months after the effective date of this AD, install the additional bonding provisions at the locations specified in, and in accordance with, Parts 1, 2, 7, 8, and 9 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–28–069, dated August 17, 2012, which includes the attachments identified in paragraphs (g)(2)(i) through (g)(2)(ix) of this AD.

(i) Fokker Drawing W31036, Sheet 001, Issue A, dated November 12, 2012.

(ii) Fokker Drawing W69280, Sheet 001, Issue A, dated November 12, 2009.

(iii) Fokker Drawing W69350, Sheet 001, Issue A, dated November 12, 2009.

(iv) Fokker Drawing W69285, Sheet 001, Issue A, dated November 12, 2009.

(v) Fokker Drawing W69200, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009.

(vi) Fokker Drawing W69240, Sheet 001, Issue A, and Sheets 002 through 004, Issue B, dated November 12, 2009.

(vii) Fokker Drawing W69335, Sheet 001, dated November 12, 2009.

(viii) Fokker Drawing W69405, Sheet 001, dated November 12, 2009.

(ix) Fokker Drawing W692710, Sheet 004, Issue B, dated November 12, 2008.

(h) Revision of Maintenance or Inspection Program

Within 30 days after installing the bonding provisions specified in paragraph (g)(1) or (g)(2) of this AD, whichever occurs first: Revise the airplane maintenance or inspection program, as applicable, by incorporating the fuel airworthiness limitation items and CDCCLs specified in paragraph 1.L.(1)(c) of Fokker Service Bulletin SBF100–28–069, dated August 17, 2012.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch; ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1137. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2012–0242, dated November 12, 2012, for related information. The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov.*

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

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

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19461 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0686; Directorate Identifier 2013–NM–006–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2007–16–19, which applies to certain The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes. AD 2007–16–19 requires repetitive detailed inspections for cracking of the aft tension tie channels from body station (BS) 1120 to BS 1220 and from BS 880 to BS 1100, and corrective actions if necessary, and optional terminating action. Since we issued that AD, analysis has indicated the need to mandate the previously optional modification. This proposed AD would retain the existing requirements, limit the area of the detailed inspection, add repetitive surface high-frequency eddy current inspections, and mandate the previously optional terminating action. We are proposing this AD to prevent fatigue cracking of the tension ties, which could result in reduced structural integrity of the airplane and rapid depressurization of the airplane.

DATES: We must receive comments on this proposed AD by September 26, 2013.

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@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–2013–0686; Directorate Identifier 2013–NM–006–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On August 2, 2007, we issued AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), for certain The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes. AD 2007–16–19 requires repetitive detailed inspections for cracking of the aft tension tie channels from body station (BS) 1120 to BS 1220 and from BS 880 to BS 1100, and corrective actions if necessary. AD 2007–16–19 was prompted by cracks found in the aft tension tie channels at four station locations on a Model 747–200B series airplane that had been modified to a special freighter. We issued AD 2007–16–19 to detect and correct cracking of the aft tension tie channels; failure of more than one tension tie could result in rapid depressurization of the airplane.

WFD (Widespread Fatigue Damage) Program

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that design approval holders establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

Actions Since AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007) Was Issued

AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), provides a terminating modification as an option. We have determined that it is necessary to mandate this modification to adequately address the identified unsafe condition. We can better ensure long-term continued operational safety by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety necessary for the transport airplane fleet. This determination, along with a better understanding of the human factors associated with numerous continual inspections, has led us to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is consistent with these conditions.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0686.

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

Although this proposed AD does not explicitly restate the requirements of AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), this proposed AD would retain all of the requirements of AD 2007–16–19. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. Also, this proposed AD would limit the area of the existing detailed inspection required by AD 2007–16–19, add repetitive surface high-frequency eddy current inspections, and mandate the previously optional terminating action.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

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

Difference Between Proposed AD and Service Information

Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 1 airplane of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained detailed inspection (retained actions.	4 work-hours × $85 per hour = $340 per inspection cycle.	$0	$340 per inspection cycle.	$340 per inspection cycle.
New proposed surface high-frequency eddy current inspection.	4 work-hours × $85 per hour = $340 per inspection cycle.	0	$340 per inspection cycle.	$340 per inspection cycle.
New proposed modification	64 work-hours × $85 per hour = $5,440.	14,948	$20,388	$20,388.

We have received no definitive data that would enable us to provide work-hour estimates for repair of cracks found in a bolt hole during the detailed inspection specified in this proposed AD. The cost for parts (oversized fastener kit) for this condition is $2,292.

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 have 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 that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), and adding the following new AD:

The Boeing Company: Docket No. FAA–2013–0686; Directorate Identifier 2013–NM–006–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by September 26, 2013.

(b) Affected ADs

This AD supersedes AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007). Certain requirements of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), affect certain requirements of this AD.

(c) Applicability

This AD applies to The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the tension ties are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking of the tension ties, which could result in reduced structural integrity of the airplane and rapid depressurization of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as specified in paragraph (i) of this AD: Do detailed and surface high-frequency eddy current inspections for cracks in the tension ties at body stations (STAs) 880 to 1100, 1120, 1160, 1200, and 1220, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as required by paragraph (i)(3) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, until the tension ties have been modified as required by paragraph (h) of this AD. Repair or modification of a tension tie at any location in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, terminates the repetitive inspection requirements of this AD for that tension tie location only.

(h) Tension Tie Modification

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as specified in paragraph (i) of this AD: Modify the tension ties from STA 880 to 1100, and do all applicable related investigative and corrective actions, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Modification of all tension ties at the body stations specified in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, terminates the repetitive inspection requirements of this AD. Modification of a tension tie at STA 1120 to 1220, as required by paragraph (p) of AD 2012–15–13, Amendment 39–17142 (77 FR 47267, August 8, 2012), is acceptable for compliance with the requirements of paragraph (h) of this AD for that tension tie location only.

(i) Service Information Clarification and Exceptions

(1) Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies certain compliance times ''after August 28, 2007.'' August 28, 2007, is the effective date of AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007).

(2) Where Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified time after the effective date of this AD.

(3) Where Boeing Alert Service Bulletin 747–53A2610, Revision 1, dated December 4, 2012, specifies to contact Boeing for certain repair instructions: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the detailed inspections, repairs, and modification specified in paragraphs (g) and (h) of this AD, for that affected tension tie location only, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2610, dated May 10, 2007 (which is not incorporated by reference in this AD).

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously in accordance with AD 2007–16–19, Amendment 39–15158 (72 FR 45151, August 13, 2007), are approved as AMOCs for the corresponding provisions of this AD.

(l) Related Information

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–

3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

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

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

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–19462 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0608; Airspace Docket No. 13–ACE–14]

Proposed Establishment of Class E Airspace; Curtis, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Curtis, NE. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Curtis Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before September 26, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0608/Airspace Docket No. 13–ACE–14, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice of proposed rulemaking must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0608/Airspace Docket No. 13–ACE–14.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7.6-mile radius to accommodate new standard instrument approach procedures at Curtis Municipal Airport, Curtis, NE. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at Curtis Municipal Airport, Curtis, NE.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and

Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Curtis, NE [New]

Curtis Municipal Airport, NE
(Lat. 40°38′20″ N., long. 100°28′24″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of Curtis Municipal Airport.

Issued in Fort Worth, TX on July 26, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19450 Filed 8–9–13; 8:45 am]

BILLING CODE 4901–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0173; Airspace Docket No. 13–ASW–6]

Proposed Amendment of Class E Airspace; Carlsbad, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Carlsbad, NM. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Cavern City Air Terminal. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before September 26, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0173/Airspace Docket No. 13–ASW–6, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice of proposed rulemaking must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0173/Airspace Docket No. 13–ASW–6.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ''ADDRESSES'' section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Cavern City Air Terminal, Carlsbad, NM. Accordingly, an additional segment would extend from the 7.4-mile radius of the airport to 10.7 miles southwest of the airport, to retain the safety and management of IFR aircraft in Class E airspace to/from the en route environment.

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

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend controlled airspace at Cavern City Air Terminal, Carlsbad, NM.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW NM E5 Carlsbad, NM [Amended]

Carlsbad, Cavern City Air Terminal, NM
(Lat. 32°20′15″ N., long. 104°15′48″ W.)
Cavern City Air Terminal Localizer
(Lat. 32°20′22″ N., long. 104°15′19″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Cavern City Air Terminal, and within 1.4 miles each side of the Cavern City Air Terminal Localizer southwest course extending from the 7.4-mile radius to 9.4 miles southwest of the airport, and within 1.8 miles each side of the 044° bearing from the airport extending from the 7.4-mile radius to 8.7 miles northeast of the airport, and within 2 miles each side of the 209° bearing from the airport extending from the 7.4-mile radius to 10.7 miles southwest of the airport.

Issued in Fort Worth, TX, on July 26, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19456 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0585; Airspace Docket No. 13–ACE–7]

Proposed Amendment of Class E Airspace; Hampton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Hampton, IA. Decommissioning of the Hampton non-directional beacon (NDB) at Hampton Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before September 26, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0585/Airspace Docket No. 13–ACE–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice of proposed rulemaking must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0585/Airspace Docket No. 13–ACE–7.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ''**ADDRESSES**'' section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking

202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Hampton Municipal Airport, Hampton, IA. A segment would extend from the 6.4-mile radius of the airport to 7.7 miles south of the airport. Airspace reconfiguration is necessary due to the decommissioning of the Hampton NDB and the cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

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

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend controlled airspace at Hampton Municipal Airport, Hampton, IA.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Hampton, IA [Amended]

Hampton Municipal Airport, IA
(Lat. 42°43′25″ N., long. 93°13′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hampton Municipal Airport, and within 2 miles each side of the 177° bearing from the airport extending from the 6.4-mile radius to 7.7 miles south of the airport.

Issued in Fort Worth, TX, on July 26, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19445 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0176; Airspace Docket No. 13–AGL–13]

Proposed Amendment of Class E Airspace; Kankakee, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Kankakee, IL. Additional controlled airspace is necessary to accommodate amended Standard Instrument Approach Procedures (SIAP) at Greater Kankakee Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport. Geographic coordinates would also be updated.

DATES: Comments must be received on or before September 26, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0176/Airspace Docket No. 13–AGL–13, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice of proposed rulemaking must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0176/Airspace Docket No. 13–AGL–13.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ''**ADDRESSES**'' section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate amended standard instrument approach procedures at Greater Kankakee Airport, Kankakee, IL. Accordingly, segments would extend from the 7-mile radius of the airport to 16 miles and 16.6 miles southwest and 7.5 miles northeast of the airport, to retain the safety and management of IFR aircraft in Class E airspace to/from the en route environment. Geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

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

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend controlled airspace at Greater Kankakee Airport, Kankakee, IL.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Kankakee, IL [Amended]

Kankakee, Greater Kankakee Airport, IL
(Lat. 41°04′17″ N., long. 87°50′47″ W.)
Kankakee VOR/DME
(Lat. 41°04′28″ N., long. 87°51′01″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Greater Kankakee Airport, and within 2 miles each side of the 218° bearing from the airport extending from the 7-mile radius of the airport to 16.6 miles southwest of the airport, and within 4 miles northwest and 8 miles southeast of the Kankakee VOR/DME 212° radial extending from the 7-mile radius of the airport to 16 miles southwest of the airport, and within 2.4 miles each side of the Kankakee VOR/DME 051° radial extending from the 7-mile radius of the airport to 7.5 miles northeast of the airport.

Issued in Fort Worth, TX, on July 26, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19455 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0580; Airspace Docket No. 12–ASW–2]

Proposed Establishment of Class D Airspace; Mesquite, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class D airspace at Mesquite, TX. Establishment of an air traffic control tower at Mesquite Metro Airport

has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at Mesquite Metro Airport.

DATES: Comments must be received on or before September 26, 2013.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2012–0580/Airspace Docket No. 12–ASW–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice of proposed rulemaking must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2012–0580/Airspace Docket No. 12–ASW–2.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ''**ADDRESSES**'' section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class D airspace from the surface up to but not including 2,000 feet MSL within a 3.5-mile radius of Mesquite Metro Airport, Mesquite, TX, with a segment extending from the 3.5-mile radius to 4.1 miles south of the airport. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at Mesquite Metro Airport, Mesquite, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW TX D Mesquite, TX [New]

Mesquite, Mesquite Metro Airport, TX (Lat. 32°44′49″ N., long. 96°31′50″ W.)

That airspace extending upward from the surface to but not including 2,000 feet MSL within a 3.5-mile radius of Mesquite Metro Airport, and within 1 mile each side of the 181° bearing from the airport extending from the 3.5-mile radius to 4.1 miles south of the airport. This Class D airspace area is effective during the specific dates and times

established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, TX on July 26, 2013.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2013–19448 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0010; FRL–9845–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Mosley Road Sanitary Landfill Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a Notice of Intent to Delete the Mosley Road Sanitary Landfill (MRSL) Superfund Site (Site) located in Oklahoma City, Oklahoma County, Oklahoma, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by September 11, 2013.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0010, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *Email:* Michael Torres; Remedial Project Manager; *torres.michael@epa.gov*
- *Fax:* Michael Torres, Remedial Project Manager (RPM): 214–665–6660
- *Mail:* Michael Torres, RPM, US-EPA Region 6, 1445 Ross Avenue, Mail Code 6FS–RL, Dallas, Texas 75202
- *Hand delivery:* Michael Torres, RPM, US-EPA Region 6, 1445 Ross Avenue, 7th floor, Dallas, Texas 75202. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0010. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

ODEQ Central Records, 405–702–6145, 707 N Robinson, Oklahoma City, OK 73102, office hours: 8:00 to 4:30 Monday through Friday.

Ralph Ellison Library, 405–424–1188, 2000 NE 23rd Street, Oklahoma City, OK 73111, hours: 9:00 a.m. to 8:00 p.m. Monday through Thursday, 9:00 a.m. to 6:00 p.m. Friday, and 9:00 a.m. to 5:00 p.m. Saturday.

FOR FURTHER INFORMATION CONTACT: Michael Torres, Remedial Project Manager, U.S. Environmental Protection Agency, Region 6, 6SF–RL, 1445 Ross Avenue, Dallas, Texas 75202, 214–665–2108; or via email at: *torres.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the MRSL Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 1, 2013.

Samuel Coleman,

Acting Regional Administrator, EPA-Region 6.

[FR Doc. 2013–19482 Filed 8–9–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2013–0443; FRL–9395–3]

Hydrofluorosilicic Acid in Drinking Water; TSCA Section 21 Petition; Reasons for Agency Response

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition; reasons for Agency response.

SUMMARY: This document announces the availability of EPA's response to a petition received by EPA under the Toxic Substances Control Act (TSCA). The TSCA section 21 petition, dated May 9, 2013, was submitted by American University students, alumni, and faculty. The petitioners requested EPA to take action to prohibit the use of hydrofluorosilicic acid (HFSA) as a water fluoridation agent. After careful consideration, EPA denied the TSCA section 21 petition for the reasons discussed in this document.

DATES: EPA's response to this TSCA section 21 petition was signed August 6, 2013.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Toni Krasnic, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–0984; fax number: (202) 564–4775; email address: *krasnic.toni@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Operators and customers of public water systems may have particular interest in this action. This action also might be of interest to those persons who manufacture (including import) or process HFSA or other fluoridation agents.

B. How can I access information about this petition?

The docket for this TSCA section 21 petition, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0443, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. TSCA Section 21

A. What is a TSCA Section 21 Petition?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish that it is necessary to take the requested action. EPA must grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. 15 U.S.C. 2620(b)(3). A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or the expiration of the 90-day period. 15 U.S.C. 2620(b)(4).

B. What criteria apply to a decision on a TSCA section 21 petition?

Section 21(b)(1) of TSCA requires that the petition ''set forth the facts which it is claimed establish that it is necessary'' to issue the rule or order requested. 15 U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B). Accordingly, EPA has relied on the standards in TSCA section 21 and in the provision under which the action has been requested to evaluate this TSCA section 21 petition.

Of particular relevance here is the legal standard regarding TSCA section 6 rules. In order to promulgate a rule under TSCA section 6, the EPA Administrator must find that ''there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture . . . presents or will present an unreasonable risk.'' 15 U.S.C. 2605(a). This finding cannot be made considering risk alone. Under TSCA section 6, a finding of ''unreasonable risk'' requires the consideration of costs and benefits. Specifically, in promulgating any rule under TSCA section 6(a), the statute (15 U.S.C. 2605(c)(1)) requires that the EPA Administrator consider:

- The effects of such chemical substance or mixture on health and the magnitude of the exposure of human beings to such chemical substance or mixture.
- The effects of such chemical substance or mixture on the environment and the magnitude of the exposure of the environment to such chemical substance or mixture.
- The benefits of such chemical substance or mixture for various uses and the availability of substitutes for such uses.
- The reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

Furthermore, the control measure adopted is to be the ''least burdensome requirement'' that adequately protects against the unreasonable risk. 15 U.S.C. 2605(a).

In addition, TSCA section 21(b)(4)(B) provides the standard for judicial review should EPA deny a request for rulemaking under TSCA section 6(a): ''If the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that . . . there is a reasonable basis to conclude that the issuance of such a rule . . . is necessary to protect health or the environment against an unreasonable risk of injury,'' the court shall order the EPA Administrator to initiate the requested action. 15 U.S.C. 2620(b)(4)(B).

Finally, TSCA section 9(b) directs EPA to take regulatory action on a chemical substance or mixture under other statutes administered by the Agency if the EPA Administrator determines that actions under those statutes could eliminate or reduce to a sufficient extent the risks posed by the chemical substance or mixture. If this is the case, the regulation can be promulgated under TSCA only if the EPA determines that it is in the ''public interest'' to protect against that risk under TSCA rather than the alternative authority. 15 U.S.C. 2608(b).

III. Summary of the TSCA Section 21 Petition

A. What action was requested?

In the petition, dated May 9, 2013, American University students, alumni, and faculty seek to have EPA take action under TSCA section 6 to prohibit the use of HFSA as a water fluoridation agent (Ref. 1).

B. What support do the petitioners offer?

The petitioners claim that HFSA leads to the contamination of drinking water with arsenic, lead, and radionuclides. In addition, the petitioners claim that an existing alternative source of fluoride for water fluoridation, pharmaceutical grade sodium fluoride (NaF), would not contribute to drinking water levels of arsenic, lead, or radionuclides comparable to those in HFSA. The following is a summary of major claims by the petitioners:

1. *Arsenic.* Petitioners claim that an alternate source of fluoride, pharmaceutical grade NaF, delivers at least 100-fold lower levels of arsenic than does HFSA when water authorities choose to adjust their water supply to contain about 0.7 milligram per liter (mg/L) of fluoride. The petitioners cite an analysis that purports to show that for typical levels of arsenic in HFSA and pharmaceutical grade NaF, use of pharmaceutical grade NaF as a fluoridation agent produces about 100-fold fewer lung and bladder cancer cases than HFSA (3.4 versus 320 cases) (Ref. 2). That analysis also purports to show that use of typical pharmaceutical grade NaF, rather than HFSA (delivering an average level of arsenic as determined by National Sanitation Foundation (NSF) tests), results in over 500-fold fewer lung and bladder cancer cases (3.4 versus 1,800 cases). Based on this analysis, the petitioners assert that the net cost to the citizens of the United States of using HFSA is at least $1,011 million (M) to $6,191M more per year than using the pharmaceutical grade NaF (Ref. 2; see Tables 1–3, case 1 and case 4).

2. *Lead.* Petitioners claim that HFSA contains lead and that the use of HFSA results in leaching of lead from lead-containing water piping systems into water. The petitioners also claim that when chloramine is used in conjunction with silicofluorides (chemical substances composed of silicon and fluorine), such as HFSA, enhanced leaching of lead into water occurs (Refs. 3, 4, and 5). Petitioners further claim that when pharmaceutical grade NaF is used as the fluoridating agent, rather than HFSA, leaching of lead is greatly reduced or eliminated altogether. The petitioners assert children drinking water fluoridated with silicofluorides are at increased risk of having elevated blood lead levels (Refs. 6 and 7).

3. *Radionuclides.* Petitioners also expressed concerns about radionuclides impurities in HFSA and increased risk of cancer as a common concern for all radionuclides (Refs. 1 and 8).

IV. Disposition of TSCA Section 21 Petition

A. What is EPA's response?

After careful consideration, EPA denied the TSCA section 21 petition primarily because EPA concluded that petitioners have not set forth sufficient facts to establish that HFSA presents or will present an unreasonable risk and that it is necessary to initiate a TSCA section 6(a) rulemaking to protect adequately against such risk. A copy of the Agency's response, which consists of a letter to the petitioners, is available in the docket for this TSCA section 21 petition.

B. What is EPA's reason for this response?

For the purpose of making its decision, EPA evaluated the information presented or referenced in the petition as well as the Agency's authority and requirements under TSCA sections 6, 9, and 21. After careful consideration, EPA denied the TSCA section 21 petition because the evidence presented by the petitioners does not adequately support a conclusion that HFSA, when used as a fluoridation agent, presents or will present an unreasonable risk to health or the environment and that a TSCA section 6 rulemaking is necessary to protect adequately against such risk. More specifically:

1. *Arsenic.* EPA evaluated the cost-benefit analysis submitted by the petitioners and determined that the petitioners miscalculated net benefits for pharmaceutical grade NaF compared to HFSA. Specifically, it appears that the petitioners failed to convert their estimates of lifetime cancer risk to estimates of annual cancer risk for the purpose of calculating annual net benefits. This error alone results in a 70-fold overestimation of the number of annual cancer cases due to arsenic. That is, for the analysis in which the petitioners evaluate arsenic concentrations of 0.078 parts per billion (ppb) due to HFSA and 0.00084 ppb due to pharmaceutical grade NaF, the estimated numbers of cancer cases, when corrected, decrease from 320 to 4.6 per year for HFSA and from 3.4 to 0.05 per year for pharmaceutical grade NaF (Refs. 2 and 9). Similarly, for the analysis in which the petitioners evaluate an arsenic concentration of 0.43 ppb due to HFSA and 0.00084 due to pharmaceutical grade NaF, the estimated numbers of cancer cases, when corrected, decrease from 1,800 to 25 per year for HFSA and from 3.4 to 0.05 per year for pharmaceutical grade NaF (Refs. 2 and 9). After making the correction (i.e., annualizing the lifetime cancer risk), and retaining all other assumptions of the petitioners analysis, the analysis actually indicates that the cost-benefit ratio is in favor of using HFSA over pharmaceutical grade NaF (−$81M/year to −$8M/year, respectively) rather than pharmaceutical grade NaF over HFSA (Ref. 9). As a result, the information submitted by petitioners does not support the petitioners' claim that there are net benefits in switching from HFSA to pharmaceutical grade NaF. Given that the petition is based upon the premise that the benefits of using pharmaceutical grade NaF as a fluoridation agent significantly exceed the costs relative to the use of HFSA as a fluoridation agent, EPA concludes that petitioners have not set forth sufficient facts to establish that HFSA presents or will present an unreasonable risk of injury to health or the environment with respect to arsenic or that it is necessary to initiate a TSCA section 6(a) rulemaking to protect adequately against such risk.

2. *Lead.* Petitioners assert that HFSA contains lead but provided no data to support this assertion. Petitioners also assert that the use of HFSA in lead-containing water piping systems results in leaching of lead from lead-containing water piping systems into water (Ref. 5), and that when chloramine is used in conjunction with silicofluorides greatly enhanced leaching of lead into water occurs (Ref. 3). However, multiple other studies concluded that the fluoridation of drinking water with HFSA has little impact on corrosivity and/or release of metals from plumbing materials (Refs. 10, 11, 12, and 13). For example, the Centers for Disease Control and Prevention (CDC) conducted a study of the relationship between the additives used for fluoridation (i.e., HFSA, sodium silicofluoride, and sodium fluoride) and blood lead concentrations among a nationally representative sample of >9,000 U.S. children, aged 1–16 years (Ref. 10). The study analysis did not offer support for the hypothesis that silicofluorides in community water systems increase blood lead concentrations in children. Based on the available evidence, EPA cannot conclude that the use of HFSA, with or

without the presence of chloramine, results in enhanced leaching of lead.

Further, and as discussed in this unit, as petitioners seeking that EPA initiate a TSCA section 6 rulemaking banning HFSA pursuant to TSCA section 21, petitioners must provide facts that establish it is necessary to issue a TSCA section 6 rulemaking, including that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture (in this case HFSA), or that any combination of those activities, presents or will present an unreasonable risk of injury to health or the environment. Here, petitioners have not provided information specific to the costs and benefits of using pharmaceutical grade NaF as compared to HFSA with respect to lead. In sum, with respect to concerns about lead, petitioners have not demonstrated that the use of HFSA presents or will present an unreasonable risk of injury to health or the environment or that it is necessary to initiate a TSCA section 6(a) rulemaking to protect adequately against such risk.

3. *TSCA section 9(b).* TSCA section 9(b) directs EPA to take regulatory action on a chemical substance or mixture under other statutes administered by the Agency if the EPA Administrator determines that actions under those statutes could eliminate or reduce to a sufficient extent the risks posed by the chemical substance or mixture. If that is the case, the regulation can be promulgated under TSCA only if EPA determines that it is in the ''public interest'' to protect against that risk under TSCA rather than the alternative authority. 15 U.S.C. 2608(b).

In 1974, Congress passed the Safe Drinking Water Act (SDWA). That law requires EPA to determine the level of contaminants in drinking water at which no adverse health effects are likely to occur with an adequate margin of safety. These non-enforceable health goals, based solely on possible health risks, are called maximum contaminant level goals (MCLG). The MCLGs for both arsenic and lead are zero. EPA has set these levels based on the best available science, which indicates there is no safe level of exposure to arsenic or lead. However, for most contaminants, EPA sets an enforceable regulation called a maximum contaminant level (MCL) based on the MCLG. The MCLs are set as close to the MCLGs as possible, considering cost, benefits, and the ability of public water systems to detect and remove contaminants using suitable treatment technologies.

In 2001, EPA amended the arsenic standard for drinking water, lowering it to 0.010 parts per million (ppm) (10 ppb) to protect consumers served by public water systems from the effects of long-term, chronic exposure to arsenic (Ref. 16). As part of that rulemaking, EPA performed an extensive review—including review by EPA's Science Advisory Board—of both the costs and benefits to determine what the appropriate achievable MCL should be. The MCL established by EPA was one that maximizes health risk reduction benefits at a cost that is justified by the benefits. 42 U.S.C. 300g–1(b)(6)(A). As a result, EPA has already weighed costs, benefits, and risk reduction relating to arsenic in drinking water as part of its rulemaking efforts under SDWA. The petition provides no information that would cause EPA to question the conclusions reached in that rulemaking. That rulemaking, as with other drinking water standards under SDWA, is reviewed every 6 years to determine whether revisions are appropriate. 42 U.S.C. 300(g)–1(b)(9). EPA believes, therefore, that the SDWA standard-setting process provides the most appropriate regulatory authority to eliminate or reduce to a sufficient extent the health risks from arsenic in drinking water systems.

While arsenic levels in HFSA are higher than in pharmaceutical grade NaF, the arsenic levels in drinking water due to HFSA use presented in the cost-benefit analysis submitted by petitioners (at 0.078 ppb and 0.00084 ppb respectively (Ref. 2)), are lower than the arsenic MCL of 10 ppb. In addition, these levels are also lower than the NSF International/American National Standards Institute Standard 60–2012 Drinking Water Treatment Chemicals—Health Effects (NSF/ANSI 60–2012) for drinking water treatment chemicals (i.e., single product allowable concentration (SPAC)) of 1 ppb (Refs. 14 and 15). When the Agency established the arsenic MCL in 2001, the Agency noted that the lung and bladder cancer risks at the 10 ppb level were within the Agency's target risk range of 10^{-4} to 10^{-6} (Ref. 16). Therefore, the excess cancer risk attributable to HFSA at the 0.078 ppb arsenic concentration (128 times lower than the arsenic 10 ppb MCL) would be consistent with the Agency's acceptable excess lifetime cancer risk range of 10^{-4} to 10^{-6}.

NSF compiled data from initial and annual monitoring tests for fluoridation products that NSF certified to NSF/ANSI 60 between 2007 and 2011 (216 samples) and between 2000 and 2006 (245 samples). Arsenic was detected in 50% of the 216 samples analyzed between 2007 and 2011. The mean arsenic concentration was 0.15 ppb (non-detects were estimated at ½ the detection limit) and the maximum was 0.6 ppb. Arsenic was detected in 43% of the 245 samples analyzed between 2000 and 2006. The mean arsenic concentration was 0.12 ppb (non-detects were estimated at ½ the detection limit) and the maximum was 0.6 ppb. In both sets of data, the mean and the maximum values were less than the NSF/ANSI 60 SPAC of 1 ppb (Ref. 15). Fluoridation additive dosing was at the highest optimal level (i.e., 1.2 mg/L of fluoride). At the newly proposed optimal fluoride dosing of 0.7 mg/L (Ref. 17), the concentration of arsenic would be approximately 40% lower.

To address lead in drinking water, EPA promulgated the Lead and Copper Rule under SDWA in 1991 (Ref. 11) and revised the regulation in 2000 and 2007 (see 40 CFR Parts 141 and 142) . The rule is undergoing a longer-term revision at this time. Because lead contamination of drinking water often results from corrosion of the plumbing materials in the distribution system, EPA established a treatment technique, rather than an MCL, for lead. A treatment technique is an enforceable procedure or level of technological performance that water systems must follow to ensure control of a contaminant. The regulation requires systems to collect tap samples from sites served by the system that are more likely to have plumbing materials containing lead. If more than 10% of tap water samples exceed the lead action level of 15 ppb, then water systems are required to take additional actions to control the corrosivity of the water including:

- Taking further steps to optimize their corrosion control treatment (for water systems serving 50,000 people that have not fully optimized their corrosion control).
- Educating the public about lead in drinking water and actions consumers can take to reduce their exposure to lead.
- Replacing the portions of lead service lines (lines that connect distribution mains to customers) under the water system's control.

In sum, EPA's Lead and Copper Rule under SDWA already directly addresses lead leaching in drinking water distribution systems and the rule is subjected to periodic review and revision to incorporate the latest scientific studies. Like the arsenic rule under SDWA, EPA's requirements under SDWA related to lead in drinking water distribution systems already address and balance risks, costs, and

benefits, and, as with arsenic, the petition provides no information that would cause EPA to question the current approach. EPA believes, therefore, that the SDWA provides the most appropriate authority (and in fact has been used) to eliminate or reduce to a sufficient extent the health risks identified by petitioners as being associated with HFSA when used as a fluoridation agent.

4. *Radionuclides.* Although the petitioners mention ''concern'' about radionuclides, the petitioners present limited information to support a claim that HFSA presents or will present and unreasonable risk with respect to radionuclides. NSF compiled data from initial and annual monitoring tests for fluoridation products that NSF certified to NSF/ANSI 60 between 2007 and 2011 (216 samples) and between 2000 and 2006 (245 samples). Alpha emitters (type of radioactive decay in which an atomic nucleus emits an alpha particle) were detected in less than 1% of the 216 samples analyzed between 2007 and 2011. The mean (non-detects were estimated at ½ the detection limit) and maximum values were less than the MCL of 15 picoCuries per liter (pCi/L) and were less than the NSF/ANSI 60 SPAC of 1.5 pCi/L (Ref. 15). Beta photon emitters (another type of radioactive decay in which an atomic nucleus emits a beta particle) also were detected in less than 1% of the 216 samples analyzed between 2007 and 2011. The mean (non-detects were estimated at ½ the detection limit) and maximum values were less than the MCL of 4 millirems per year (mrem/y) and were less than the NSF/ANSI 60 SPAC of 0.4 mrem/y (Ref. 15). Radionuclides (alpha or beta) were not detected in any (0%) of the 245 samples analyzed between 2000 and 2006 (Ref. 11). The concentrations reported represent contaminant levels expected when the fluoridation products are dosed into water at the allowable maximum use levels for NSF/ANSI 60–2012 (see Refs. 14 and 15). NSF notes that lower product use levels would produce proportionately lower contaminant concentrations.

Thus, the petition has failed to present facts that establish that HFSA presents or will present an unreasonable risk of injury to health or the environment with respect to radionuclides, or that it is necessary to issue a TSCA section 6 rulemaking to protect health and the environment from such risk.

For the reasons set forth in this document, EPA denied the TSCA section 21 petition.

V. References

As indicated under **ADDRESSES**, a docket has been established for this document under docket ID number EPA–HQ–OPPT–2013–0443. The following is a listing of the documents that are specifically referenced in this action. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

1. American University students, alumni, and faculty. Letter from J. William Hirzy to EPA Acting Administrator Robert Perciasepe, ''Re: Citizen Petition Under Toxic Substances Control Act Regarding the Hydrofluorosilicic Acid (HFSA) in Drinking Water.'' May 9, 2013.
2. Hirzy, J.W.; Carton, R.J.; Bonanni, C.D.; Montanero, C.M.; and Nagle, M.F. Comparison of hydrofluorosilicic acid and pharmaceutical sodium fluoride as fluoridating agents—a cost-benefit analysis. *Environmental Science & Policy.* Vol. 29, pp. 81–86. 2013.
3. Maas, R.P.; Patch, S.C.; Christian, A–M.; and Coplan, M.J. Effects of fluoridation and disinfection agent combinations on lead leaching from leaded-brass part. *Neurotoxicology.* Vol. 28, pp. 1023–1031. 2007.
4. Coplan, M.J.; Patch, S.C., Masters, R.D; and Bachman, M.S. Confirmation of and explanations for elevated blood lead and other disorders in children exposed to water disinfection and fluoridation chemicals. *Neurotoxicology.* Vol. 28, pp. 1032–1042. 2007.
5. Edwards, M.; Triantafyllidou, S.; and Best, D. Elevated blood lead in young children due to contaminated drinking water: Washington, DC 2001–2004. *Environmental Science & Technology.* Vol. 43, pp. 1618–1623. 2007.
6. Masters, R.D. and Coplan, M.J. Water treatment with silicofluorides and lead toxicity. *International Journal of Environmental Studies.* Vol. 56, pp. 435–449. 1999.
7. Masters, R.D.; Coplan, M.J.; Hone, B.T.; and Dykes, J.E. Association of silicofluoride treated water with elevated blood lead. *Neurotoxicology.* Vol. 21, pp. 1091–1099. 2000.
8. Stein, M.; Starinsky, A.; and Kolodny, Y. Behaviour of uranium during phosphate ore calcination. *Journal of Chemical Technology and Biotechnology.* Vol. 32, pp. 834–847. 1982.
9. EPA. EPA Correction of the ''Comparison of hydrofluorosilicic acid and pharmaceutical sodium fluoride as fluoridating agents—a cost-benefit analysis'' by Hirzy et al. 2013.
10. Macek, M.D.; Matte, T.D.; Sinks, T.; and Malvitz, D.M. Blood lead concentrations in children and method of water fluoridation in the United States, 1988–1994. *Environmental Health Perspectives.* Vol. 114, pp. 130–134. 2006.
11. EPA. Drinking Water Regulations, Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule. **Federal Register** (56 FR 26460, June 7, 1991).
12. American Water Works Association (AWWA). Water Fluoridation Principles and Practices. *AWWA Manual M4.* Fifth Ed. Denver: AWWA. 2004.
13. Urbansky, E.T. and Schock, M. R. Can fluoridation affect lead (II) in potable water? Hexafluorosilicate and fluoride equilibria in aqueous solution. *International Journal Environmental Studies.* Vol. 57, pp. 597–637.
14. NSF International. June 7, 2013. Available at *http://www.nsf.org/business/standards_and_publications.*
15. NSF International. NSF Fact Sheet on Fluoridation Products. June 7, 2013. Available at *http://www.nsf.org/business/water_distribution/pdf/NSF_Fact_Sheet_flouride.pdf.*
16. EPA. National Primary Drinking Water Regulation; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Final Rule. **Federal Register** (66 FR 6976, January 22, 2001).
17. Health and Human Services Department (HHS). Proposed HHS Recommendation for Fluoride Concentration in Drinking Water for Prevention of Dental Caries; Notice. **Federal Register** (76 FR 2383, January 13, 2011).

List of Subjects in 40 CFR Chapter I

Environmental protection, Hydrofluorosilicic acid (HFSA), Drinking water, Toxic Substances Control Act (TSCA).

Dated: August 6, 2013.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–19486 Filed 8–9–13; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1614

Private Attorney Involvement

AGENCY: Legal Services Corporation.

ACTION: Revised notice of rulemaking workshop and request for comments and expressions of interest in participating in the rulemaking workshop.

SUMMARY: The Legal Services Corporation (LSC) is conducting two Rulemaking Workshops (Workshops), as noticed at 78 FR 27339 (May 10, 2013), and is requesting public comments on revising LSC's Private Attorney Involvement (PAI) rule to respond to

Recommendation 2 of LSC's Pro Bono Task Force (PBTF) Report. The discussions in the Workshops and the other comments received will be considered in connection with rulemaking by LSC.

On July 23, 2013, LSC hosted the first of the two Workshops. LSC solicits expression of interest in participating as a panelist in the second Workshop on September 17, 2013, from the recipient community, the organized bar, pro bono organizations, and other interested parties. In preparation for that workshop, LSC is publishing the additional questions below. Additionally, LSC is extending the deadline for comments and expressions of interest for that Workshop. The new deadline is August 28 at 5:30 p.m. Eastern Daylight Time. The final deadline for all comments in this stage of rulemaking remains October 17, 2013, at 5:30 p.m. Eastern Daylight Time.

DATES: Three deadlines are set out in this notice. Submissions that do not follow the directions in this notice, or that are received after a deadline has passed, may not be considered by LSC, in its discretion.

(1) The deadline of August 20, 2013, in the May 10, 2013, Notice is hereby extended to August 28, 2013. Expressions of interest in participating as a panelist in the second Workshop must be received by 5:30 p.m. EDT on August 28, 2013. Written comments for consideration at the second Workshop regarding (a) the revision of LSC's PAI rule, 45 CFR part 1614, to respond to Recommendation 2 of the PBTF Report, or (b) additions, deletions, or modifications to the Topics for Discussion in the Workshop, including relevant alternatives, must be received by the same deadline of 5:30 p.m. EDT on August 28, 2013.

(2) Non-panelist public participants for the second Workshop must register with LSC by 5:30 p.m. EDT on September 6.

(3) All written comments on revising the PAI rule, 45 CFR part 1614, in response to Recommendation 2 of the PBTF Report must be received by 5:30 p.m. EDT on October 17, 2013.

ADDRESSES: Written materials, expressions of interest, and registration for the workshops must be submitted to Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; 202–337–6519 (fax); or *pairulemaking@lsc.gov.* Electronic submissions are preferred via email with attachments in Acrobat PDF format.

FOR FURTHER INFORMATION CONTACT: Mark Freedman, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1623 (phone); 202–337–6519 (fax); or *pairulemaking@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On January 26, 2013, the LSC Board of Directors (LSC Board) voted to authorize LSC to initiate rulemaking to consider revisions to 45 CFR part 1614—Private Attorney Involvement (PAI) to respond to Recommendation 2 of the LSC Pro Bono Task Force (PBTF) Report, available at: *http://bit.ly/LSCPBTF-Report.* Part 1614 is designed to ensure that recipients of Legal Services Corporation funds involve private attorneys in the delivery of legal assistance to eligible clients. 45 CFR 1614.1. With certain exceptions, a recipient of LSC funding is required to devote an amount equal to at least 12½% of the recipient's LSC annualized basic field award to the involvement of private attorneys in the delivery of legal services to eligible clients. *Id.*

Recommendation 2 of the PBTF Report suggests LSC should reexamine the regulation in three areas, which are the three Topics for Discussion for this rulemaking:

Topic 1: Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in ''incubator'' initiatives;

Topic 2: Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients; and

Topic 3: LSC should reexamine the rule that mandates adherence to LSC grantee case handling requirements including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

On April 16, 2013, the LSC Board voted to convene two Workshops in connection with the rulemaking. On May 10, 2013, LSC published a notice in the **Federal Register** at 78 FR 27339 (May 10, 2013) regarding the Workshops and seeking comments on the potential rulemaking. *https://federalregister.gov/a/2013-11071.* The first Workshop was held in connection with LSC's Board meeting in Denver, Colorado on July 23, 2013. The second Workshop will be held on September 17, 2013, at the F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007, from 1:30 p.m.–4:30 p.m. EDT. Participants are invited to attend in person, via webinar, or telephonically. Information about how to participate, materials regarding this rulemaking, and materials from the first Workshop are available on LSC's Web site at *http://bit.ly/PAIrulemakingdetails.*

II. Nature of the Workshops

Rulemaking workshops enable LSC to meet with interested parties to discuss, but not negotiate, LSC rules and regulations. The Workshops for the PAI rule are meetings at which the panelists and participants hold open discussions to share ideas regarding how to revise the PAI rule in a manner responsive to the Recommendation 2 of LSC's Pro Bono Task Force Report.

III. Public Participation: Panelists and Open Comment

LSC is inviting expressions of interest from the public to participate in the second Workshop as a panelist. Expressions of interest in participating as a panelist should be submitted, in writing, to LSC at the address above before the stated deadline. LSC will select panelists shortly thereafter and will inform all those who expressed interest whether or not they have been selected.

Expressions of interest must include:

(1) A brief outline of the key points that you would like to make as they relate to the three topics and items of interest identified in the May 10, 2013, Notice and the additional questions identified in this Notice;

(2) a summary of your qualifications; and

(3) a completed checklist of the topics and items that you will address, including the additional questions identified below. The checklist will be available at the Workshop Web site at: *http://bit.ly/PAIrulemakingdetails.*

The Workshop will be open to public observation, and portions of the Workshop will be open for public comment from in-person, webinar, and telephone participants (who must register for the webinar to comment via the telephone). Participants other than selected panelists must register with LSC before 5:30 p.m. EST on September 6, 2013, to ensure that sufficient arrangements can be made for their participation. Panelists and in-person participants are expected to cover their own expenses (travel, lodging, etc.). LSC may consider providing financial assistance to a panelist for whom travel costs would represent a significant

hardship and barrier to participation. Any such person should so note in his/her expression of interest for LSC's consideration.

Beginning with the May 10, 2013, Notice, LSC has an open comment period through October 17, 2013, regarding revisions to 45 CFR part 1614 to respond to Recommendation 2 of the PBTF Report. LSC welcomes written comments during the comment period and will consider the comments received in the rulemaking process. Written comments received prior to the Workshop may be addressed in the Workshop. Written comments must be submitted as per the directions above and the deadlines indicated.

IV. Topics for Discussion

The May 10, 2013, Notice identified the three topics and items for discussion for the Workshops and written comments. Each topic is taken directly from the three suggestions in Recommendation 2 of the PBTF Report stated above. Members of the public are welcome to recommend additions, deletions, or modifications to these Topics for Discussion, including relevant alternatives, for LSC's consideration through written comments submitted prior to the second Workshop.

The May 10, 2013, Notice, topics, items for discussion, additional background information on each of these topics, and materials from the first Workshop are located at the PAI Workshops Web page at *http://bit.ly/PAIrulemakingdetails.*

V. Additional Questions

The May 10, 2013, Notice contained the three Topics for Discussion and a number of specific items for each topic. The following questions seek specific proposals to address in greater detail the issues raised by those topics and items. LSC asks for comments that address these specific questions with concrete examples or proposals. LSC asks that panelists identify in the expressions of interest which of these questions they will address, and to submit as comments concrete examples or proposals for discussion. The original topics and items are also on the agenda, but these questions are meant to focus the discussion.

A. Scope of Part 1614.

Topics 1 and 2 both raise questions regarding the definition of a private attorney for purposes of Part 1614. These topics also raise questions about the purpose of the Part 1614 rule and what work meets the Part 1614 requirements. The definition of a private attorney combines elements of the private attorney definition in 45 CFR 1614.1(d), the staff attorney definition in 45 CFR 1600.1, and the attorney definition in 45 CFR 1600.1. Based on the regulations and LSC's interpretation and application of them, the current definition for private attorney can be paraphrased as follows:

A private attorney is an attorney who:

1. Provides legal assistance to eligible clients; and
2. Is authorized to practice law in the jurisdiction where assistance is rendered; and
3. Earns one half or less of her annual professional income from either:
   a. a grant from LSC; or
   b. from a recipient, subrecipient, grantee, or contractor, including:
      i. an LSC basic field program; or
      ii. a subrecipient of an LSC recipient that is a staff-model legal services program primarily providing civil legal assistance to low-income persons; and
      - receives an LSC subgrant under 45 CFR part 1627; or
      - receives a Part 1614 subgrant using non-LSC funds.

This definition is based on the attorney's income and does not consider the hours worked or the nature of the attorney's legal practice (for-profit, non-profit, public interest, government, etc.). The following questions involve the scope of this definition for the primary Part 1614 activities that constitute ''involvement of private attorneys'' in the delivery of legal services to eligible clients. These questions do not address the scope of related work, such as screening and administrative support, that may involve non-attorneys in secondary Part 1614 functions.

Topic 1:

1. Please provide specific suggestions for definitions, limits, or guidelines relating to the potential addition of law students, pre-admission law graduates, or paralegals to the scope of Part 1614 activities.

2. Are there any other categories of non-lawyers whose work should be considered for inclusion in Part 1614?

3. If you recommend changing the definition of a private attorney, then please provide specific recommendations addressing the scope of the definition and how the proposed definition relates to the purpose of the rule.

4. Please provide specific suggestions relating to the potential inclusion in Part 1614 of underemployed attorneys receiving reduced fees (e.g., in ''incubator projects'') that may be their primary professional income.

5. Please provide specific suggestions relating to the potential inclusion in Part 1614 of attorneys who are not authorized to practice law in the jurisdiction of the LSC recipient but who may provide legal information or other Part 1614 services if permitted under local bar rules.

Topic 2:

6. Should Part 1614 include the use of non-LSC funds as a subgrant to provide support to attorneys working at a staff-attorney model legal aid program that receives no LSC funds? This question specifically addresses the situation in Advisory Opinion 2009–1004. Please identify how involving attorneys at non-LSC, staff-attorney model legal aid programs relates to the purposes of Part 1614.

B. Tracking and Accounting for Part 1614 Work

Topics 2 and 3 both raise questions about how Part 1614 work should be tracked and accounted for. The Pro Bono Task Force and many panelists at the first workshop suggested that the LSC definition of cases and the related case management system requirements are not well suited for Part 1614.

1. What criteria and methods should LSC recipients use to identify and track Part 1614 services to provide sufficient information for reporting and accountability purposes about attempts to place eligible clients with private attorneys, or others, and the outcome of those efforts?

2. Please identify what criteria should apply to referral placement organizations, such as bar association programs, for them to qualify for Part 1614.

3. Please identify how LSC recipients can account for and track PAI services while not creating conflicts for the recipient regarding future representation of clients, consistent with local bar rules.

C. Support for Unscreened Work of Private Attorney Clinics

Topic 3 raises the question of LSC recipients providing support to clinics hosted by other organizations (or co-sponsored) that involve private attorneys in providing legal assistance without screening for LSC eligibility. Part 1614 eligibility for these situations involves both tracking issues (section B above) and subsidization issues. These questions specifically address Advisory Opinion 2008–1001.

1. Should LSC permit LSC recipients to obtain some credit under Part 1614 for support for these clinics if they do not screen for LSC eligibility and the clinics may provide services to both eligible and ineligible clients? Please

provide specifics about screening concerns and methods to address them.

2. Should eligibility screening in these clinics for Part 1614 be the same as regular intake screening for LSC recipients or different? If different, then please identify methods or criteria for screening.

3. Please identify methods or criteria for LSC to ensure that LSC recipients providing support to these clinics, if permitted, are not improperly subsidizing either services to ineligible individuals or impermissible activities.

4. Please identify methods or criteria to distinguish between permissible activities supporting other entities and attorneys, such as general trainings, and impermissible subsidization.

VI. Format of the September Workshop

The Workshop will include a panel discussion of the Topics for Discussion and related questions and items identified in the May 10, 2013, Notice and this Notice. Panelists will be selected to represent a diversity of opinions and perspectives.

In addition to the panel, LSC encourages observation and participation by all interested individuals and organizations. The meeting agenda will include opportunities for individuals who are not members of the panel to provide public comments in person, by webinar, or via telephone (webinar registration is required to comment by telephone). LSC plans to transcribe the meetings and make the webinar recording available on its Web site.

By September 12, 2013, LSC will post the final agenda for the September Workshop on the PAI Workshops Web page at *http://bit.ly/PAIrulemakingdetails.*

VII. Important Notes

Information received in response to this Notice of Rulemaking Workshops and Request for Expressions of Interest in Participation in the Rulemaking Workshops may be published or summarized by LSC without acknowledgement of, or permission from, you or your organization. Furthermore, your responses may be releasable to the public under the Freedom of Information Act (FOIA), 42 U.S.C. 2996d, and the LSC FOIA regulation, 45 CFR part 1619. LSC, at its discretion, may request individual commenters to elaborate on information in their written comments.

Dated: August 6, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–19383 Filed 8–9–13; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; DA 13–1635]

Wireline Competition Bureau Announces Closing of the Bureau's Cost Model Virtual Workshop

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; closing of virtual workshop.

SUMMARY: In this document, the Wireline Competition Bureau announces the closing of the Bureau's Connect America Cost Model (CAM) virtual workshop. Parties should submit any additional input regarding the model development, including any follow-up commentary to topics that have been previously posted in the virtual workshop, in WC Docket No. 10–90. The Bureau has not yet finalized and adopted a cost model, and will raise any additional questions through Public Notice.

DATES: Virtual workshop closure effective August 12, 2013.

ADDRESSES: You may submit comments, identified by WC Docket No. 10–90, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- Virtual Workshop: In addition to the usual methods for filing electronic comments, the Commission is allowing comments, reply comments, and ex parte comments in this proceeding to be filed by posting comments at *http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012.*
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Katie King, Wireline Competition Bureau at (202) 418–7491 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Wireline Competition Bureau's Public Notice in WC Docket No. 10–90; DA 13–1635, released July 24, 2013, as well as information posted online in the Wireline Competition Bureau's Virtual Workshop. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. These documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* In addition, the Virtual Workshop may be accessed via the Internet at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0724/DA-13-1635A1.pdf*

1. The Wireline Competition Bureau (Bureau) announces the closing of the Bureau's Connect America Cost Model (CAM) virtual workshop.

2. In October 2012, the Bureau announced the commencement of the virtual workshop to solicit input and facilitate discussion on topics related to the development and adoption of the forward-looking cost model for Connect America Phase II. We sought comment on 28 different topics in the virtual workshop over the course of ten months. Filings in the virtual workshop through July 17, 2013 have been submitted into the above-captioned docket.

3. The Bureau has not yet finalized and adopted a cost model. Parties should submit any additional input regarding the model development, including any follow-up commentary to topics that have been previously posted in the virtual workshop, in WC Docket No. 10–90. Any additional questions will be raised through Public Notice.

I. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Bureau prepared an Initial Regulatory Flexibility Analysis (IRFA), included as part of the *Model Design PN,* 77 FR 38804, June 29, 2012, of the possible significant economic impact on a substantial number of small entities by

the policies and rules proposed in these Public Notices and the information posted online in the Virtual Workshops. We have reviewed the IRFA and have determined that is does not need to be supplemented.

B. Paperwork Reduction Act

5. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Filing Requirements

6. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

▪ Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

▪ Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

7. *Virtual Workshop.* In addition to the usual methods for filing electronic comments, the Commission is allowing comments in this proceeding to be filed by posting comments at *http://www.fcc.gov/blog/wcb-cost-model-virtual-workshop-2012.* Persons wishing to examine the record in this proceeding are encouraged to examine the record on ECFS and the Virtual Workshop. Although Virtual Workshop commenters may choose to provide identifying information or may comment anonymously, anonymous comments will not be part of the record in this proceeding and accordingly will not be relied on by the Commission in reaching its conclusions in this rulemaking. The Commission will not rely on anonymous postings in reaching conclusions in this matter because of the difficulty in verifying the accuracy of information in anonymous postings. Should posters provide identifying information, they should be aware that although such information will not be posted on the blog, it will be publicly available for inspection upon request.

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

9. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW., Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

Federal Communications Commission.

Alexander Minard,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 2013–19236 Filed 8–9–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–AY26

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 14

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (Amendment 14), incorporating the Final Environmental Impact Statement (FEIS) and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce, and is requesting comments from the public.

DATES: Comments must be received on or before October 11, 2013.

ADDRESSES: The Council prepared an FEIS for Amendment 14 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 14, including the FEIS, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The FEIS/RIR/IRFA is accessible via the Internet at *http://www.nero.nmfs.gov.*

You may submit comments on this document, identified by NOAA-NMFS-2013-0128, by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0128,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic

Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on MSB Amendment 14 NOA.''

• *Fax:* (978) 281–9135, Attn: Aja Szumylo.

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

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195; fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The goals of Amendment 14 are to: Implement an effective program for monitoring river herring and shad incidental catch and bycatch in the MSB fisheries; and reduce the incidental catch and bycatch of river herring and shad in the MSB fisheries. The Council initially notified the public of its intent to consider the impacts of alternatives for addressing river herring and shad interactions with the Atlantic Mackerel, Squid, and Butterfish (MSB) fisheries, as well as catch shares to limit harvesting capacity in the *Illex* and longfin squid fisheries, in a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for Amendment 14 on June 9, 2010 (75 FR 32745). Based on written comments and comments received during scoping meetings held in June 2010, the Council decided to proceed with the analysis for Amendment 14 without including consideration of catch shares in the squid fisheries.

The Council conducted public hearings for Amendment 14 in April and May of 2012. Following the public comment period on the Amendment 14 DEIS that ended on June 4, 2012, the Council adopted Amendment 14 on June 14, 2012. The Council submitted Amendment 14 to NMFS for review on February 26, 2013. After making necessary revisions, the Council submitted Amendment 14 on June 3, 2013. In Amendment 14, measures recommended by the Council would:

• Require weekly vessel trip reports (VTRs) for all MSB permits, consistent with VTR provisions for other fisheries;

• Require a 48-hr pre-trip notification in order to retain, possess, or transfer more than 20,000 lb (9.07 mt) of Atlantic mackerel (mackerel) in order to facilitate observer placement;

• Require the use of vessel monitoring systems (VMS), as well as the submission of daily VMS catch reports, for limited access mackerel and longfin squid/butterfish moratorium permits to facility quota monitoring;

• Require a 6-hr pre-landing notification via VMS in order to land more than 20,000 lb (9.07 mt) of mackerel, to facilitate enforcement;

• Expand dealer reporting requirements;

• Increase observer coverage on limited access mackerel vessels using midwater and small-mesh bottom trawl, and require industry contributions of $325 per day;

• Expand vessel requirements related to at-sea observer sampling to help ensure safe sampling and improve data quality;

• Establish measures to minimize the discarding of catch before it has been made available for sampling;

• Require that the Council meet formally to review the results of the Sustainable Fisheries Coalition/University of Massachusetts Dartmouth School of Marine Science and Technology river herring and shad bycatch avoidance project, and consider the appropriateness of developing a framework adjustment to implement the catch avoidance strategies suggested in the study;

• Establish a mortality cap for river herring and shad to directly control mortality in the mackerel fishery, with caps amounts set during specifications; and

• Add river herring and shad mortality caps and time/area hotspot closures to the list of measures that can be addressed via framework adjustment.

The geographic range and vessel participation in the mackerel fishery overlap with the Atlantic herring fishery to a large extent. Some of the management measures in Amendment 14 are the same or similar to those in the New England Fishery Management Council's (NEFMC) Amendment 5 to the Atlantic Herring FMP (Amendment 5), which was partially approved by NMFS on July 18, 2013. A Notice of Availability soliciting public comments on Amendment 5 was published on April 22, 2013 (77 FR 23733), with a comment period ending June 21, 2013. The proposed rule to implement Amendment 5 (78 FR 33020) was published on June 3, 2013, with a comment period ending July 18, 2013.

The disapproved measures in Amendment 5 lacked adequate rationale or development by the NEFMC, and included the following: A dealer reporting requirement; a cap that, if achieved, would require vessels discarding catch before it had been sampled by observers (known as slippage) to return to port; and a requirement for 100-percent observer coverage on Category A and B vessels, coupled with a limited industry contribution of $325 per day toward observer costs. A summary of the comments received, and NMFS's responses to those comments, will be published in the final rule implementing Amendment 5. NMFS's concerns with similar measures in Amendment 14 will be outlined in the Amendment 14 proposed rule.

Amendment 5 contained a requirement that herring dealers must accurately weigh all fish and, if catch is not sorted by species, dealers would be required to document how they estimated relative species composition. The same requirement is proposed in Amendment 14 for MSB dealers for transactions with greater than 20,000 lb (9.07 mt) mackerel, or greater than 2,500 lb (1.13 mt) longfin squid. Dealers currently report the weight of fish, obtained by scale weights and/or volumetric estimates. Because this measure does not specify the methods dealers must use to determine weight and allows volumetric estimates, it is not expected to change dealer behavior and, therefore, is not expected to improve the accuracy of catch weights reported by dealers. Additionally, a qualitative description of how relative species composition is estimated cannot be incorporated into catch monitoring because we must use the weights reported by the dealers, regardless of the methods used to determine weights. Without standards for estimating species composition, we would be unable to evaluate the sufficiency of the information submitted. If this measure was a requirement, and dealers did not document how they estimated relative species composition, it would become a compliance issue and could affect future permit issuance. NMFS disapproved this measure in Amendment 5 because we believe that it does not comply with National Standard 7's requirement to minimize costs and avoid unnecessary duplication, and the Paperwork Reduction Act's requirement for the utility of the measure to outweigh the additional reporting and administrative burden on the dealers.

Amendment 5 contained a measure that would require limited access herring permit holders to bring all catch aboard the vessel and make it available for sampling by an observer. If catch is discarded before it has been made available to the observer, that catch is considered slippage. Amendment 5 would allow catch to be slipped only if: (1) Bringing catch aboard compromises the safety of the vessel, (2) mechanical failure prevents the catch from being brought aboard, or (3) spiny dogfish prevents the catch from being pumped aboard. But if catch is slipped, the vessel operator would be required to complete a released catch affidavit detailing why catch was slipped and the estimated amount of slipped catch. Additionally, once there have been 10 slippage events in a herring management area by vessels using a particular gear type (including midwater trawl, bottom trawl, and purse seine) and carrying an observer, vessels that subsequently slip catch in that management area, using that particular gear type and carrying an observer, would be required to return to port. Amendment 14 would prohibit slipped catch on limited access mackerel and longfin squid/butterfish moratorium trips with an observer aboard, with the same exemptions that were proposed in Amendment 5, would require a released catch affidavit to document slippage events, and would require trip termination after 10 slippage events for the entire mackerel fleet (no trip termination requirement would apply for longfin squid).

NMFS did approve the prohibition on slippage and the released catch affidavit requirement in Herring Amendment 5. However, we were concerned about the rationale for, and legality of, the slippage caps in Amendment 5, and ultimately chose to disapprove that aspect of the measure. The threshold for triggering a slippage cap (10 slippage events by area and gear type) does not have a strong supporting analysis in the EIS for Amendment 5. Once a slippage cap has been met, vessels that slip catch, even if the reason for slipping was safety or mechanical failure, would be required to return to port. This aspect of the measure has the characteristic of a sanction, inconsistently applied. Vessels may continue fishing following slippage events 1 through 10, but must return to port following the 11th slippage event, regardless of the vessel's role in the first 10 slippage events. Additionally, this measure may result in a vessel operator having to choose between trip termination and bringing catch aboard, despite a safety concern. For these reasons, NMFS determined that the slippage caps in Herring Amendment 5 were inconsistent with the Administrative Procedure Act and National Standards 2 and 10, and had to be disapproved. While Amendment 14 does not count exempted slippage events towards the slippage cap on the mackerel fishery, NMFS remains concerned about the rationale for the cap trigger, and the legality of requiring a vessel to return to port regardless of the vessel's role in the first 10 slippage events.

Finally, Amendment 5 contained a measure that would have required 100-percent observer coverage on Category A and B herring vessels. The 100-percent observer requirement was coupled with a target maximum industry contribution of $325 per day. The at-sea costs associated with an observer in the herring fishery are higher than $325 per day. The Department of Commerce (DOC) Office of General Counsel has advised that such cost-sharing would violate the Anti-Deficiency Act. Based on DOC's advice, there is no current legal mechanism to allow cost-sharing of at-sea costs between NMFS and the industry. Budget uncertainties prevent NMFS from being able to commit to paying for increased observer coverage in the herring fishery. Requiring 100-percent observer coverage would amount to an unfunded mandate. Because Amendment 5 does not identify a funding source to cover all of the increased costs of observer coverage, the measure was not sufficiently developed and was disapproved. NMFS has similar concerns about the proposed measure for increased observer coverage and industry contribution in Amendment 14.

NMFS is soliciting public comments on Amendment 14 and its incorporated documents through the end of the comment period stated in the **DATES** section of this NOA. Separate from this NOA, a proposed rule including regulations for implementing Amendment 14 will be published in the **Federal Register** for public comment, following NMFS's further evaluation under Magnuson-Stevens Act procedures. The public comment period for the proposed rule may close after the public comment period for this NOA has closed. In addition, a Final Environmental Impact Statement (FEIS), required under the National Environmental Policy Act (NEPA), supports Amendment 14, and NMFS has announced the availability of the FEIS for public review for 30 days, with comments due on September 14, 2013. Although NMFS has published three documents soliciting public comment, interested public need only comment once to be considered in NMFS's decision to approve, partially approve, or disapprove Amendment 14.

The timing of comments, given the different dates in the three notices, is important. In order to be considered in NMFS's decision to approve, partially approve, or disapprove Amendment 14, public comments must be received by NMFS on or before the last day of the comment period provided in this NOA (see **DATES**). Comments received after that date will not be considered for the decision on Amendment 14, including comments postmarked or otherwise transmitted, but not received by NMFS on or before the closing date specified in the **DATES** section of this NOA. NMFS will consider all comments received by the end of the comment period on the NOA of Amendment 14, whether specifically directed to Amendment 14, the proposed rule, or the FEIS, in its decision to approve, partially approve, or disapprove Amendment 14.

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

Dated: August 7, 2013.

Emily H. Menashes,

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

[FR Doc. 2013–19496 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 155

Monday, August 12, 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 COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting on September 10, 2013. The meeting is open to the public and the room is disabled-accessible. Public seating is limited and available on a first-come, first-served basis.

DATES: September 10, 2013, from 9:00 a.m. to 5:00 p.m. Eastern Daylight Time (EDT). Members of the public wishing to attend the meeting must notify Ryan Mulholland at the contact information below by 5:00 p.m. EDT on Friday, August 30, 2013, in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: *ryan.mulholland@trade.gov.* This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC was re-chartered on June 18, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries.

The September 10, 2013 meeting of the RE&EEAC will consist of presentations from four subcommittee teams—Finance, U.S. Competitiveness, Trade Policy, and Trade Promotion—on each subcommittee's work thus far, and, particularly, a presentation on potential topics for future recommendations. Additionally, the RE&EEAC will receive presentations from representatives from the Overseas Private Investment Corporation and the Export-Import Bank of the United States on the financing for RE&EE exports.

A limited amount of time, from 3:00 p.m.–3:30 p.m., will be available for pertinent brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to five minutes per person. Individuals wishing to reserve speaking time during the meeting must contact Mr. Mulholland and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. EDT on Friday, August 30, 2013. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to bring at least 20 copies of their oral comments for distribution to the participants and public at the meeting.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, Attention: Ryan Mulholland, Office of Energy and Environmental Industries, U.S. Department of Commerce, Mail Stop: 4053, 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. EDT on Friday, August 30, 2013, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Man K. Cho,

Acting, Director, Office of Energy and Environmental Industries.

[FR Doc. 2013–19426 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Secretarial Infrastructure Business Development Mission to Mexico November 18–23, 2013

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

United States Secretary of Commerce Penny Pritzker will lead a senior-executive Business Development Mission to Mexico from November 18–23, 2013. This business development mission will promote U.S. exports to Mexico by helping export-ready U.S. companies launch or increase their business in a number of key industry sectors including: Advanced manufacturing, information and communications technology (ICT) goods and services, and health IT goods and services and medical devices. The mission will make stops in Mexico City and Monterrey.

Participating firms will gain market information, make business and government contacts, solidify business strategies, and/or advance specific projects. In each of these targeted sectors, participating U.S. companies will meet with prescreened local partners, agents, distributors, representatives, and licensees. The agenda will also include meetings with high-level national and local government officials, networking opportunities, country briefings, and seminars.

The delegation will be composed of representatives of 20–25 U.S. firms in the mission's target sectors. Representatives of the United States Trade and Development Agency (USTDA), the Export-Import Bank of the United States (Ex-Im) and the Overseas Private Investment Corporation (OPIC) will be invited to participate to provide information and counseling regarding their suite of programs and services in Mexico.

Commercial Setting

Overview

Mexico is the United States' second-largest export market (after Canada) and third-largest trading partner (after Canada and China). In fact, the United States exports more to Mexico than to Brazil, Russia, India and China (BRIC) combined. With a World Bank Ease of Doing Business rank more favorable than that of any of the BRIC countries, this fast growing market, right on our doorstep, offers a wealth of opportunities for U.S. companies. Twenty-two U.S. states depend on Mexico as their first or second destination for exports and more than $1.25 billion in goods and services are traded between the United States and Mexico every day, supporting millions of jobs in both countries. Mexico and the United States together with Canada comprise one of the most competitive and successful regional economic platforms in the world.

To further elevate and strengthen this dynamic bilateral commercial and economic relationship, President Obama and President Peña Nieto established a High Level Economic Dialogue (HLED). The HLED, which will be led at the cabinet level, is envisioned as a flexible platform intended to advance strategic economic and commercial priorities central to promoting mutual economic growth, job creation and global competitiveness.

Mexico's 2012 real GDP growth rate of 3.9% is expected to continue to climb in the coming years as labor, financial, education, telecom and energy reforms are implemented by the Mexican government.

Mexico is the most populous Spanish-speaking country in the world with a population of 115 million, over half of whom are members of the upper and middle class. With a shared Western and Hispanic culture, U.S. producers find it easier to market and sell their services and products in Mexico than markets with different cultures. This may account for the fact that more than 18,000 U.S. companies have operations in Mexico, investing $150 billion in Mexico since 2000 and more than 54,000 U.S. companies currently export goods to Mexico.

Mexico City

Mexico City is one of the largest cities in the world with over 20 million people. It is the political capital and financial center of Mexico. Mexico City ranks 8th in terms of GDP globally with more than a third of the total Mexican economy concentrated here.

The size of Mexico City's economy is $315 billion, compared to $1.1 trillion for New York City and $575 billion for Chicago. Mexico City is the wealthiest city in Latin America, with a GDP per capita of $25,258 and is home to the Mexican Stock Exchange.

Mexico City is also a manufacturing and distribution powerhouse and is centrally located near major industrial areas including Toluca, Puebla and Queretaro. These industrial areas are responsible for the production of automobiles and automotive products, agricultural products, food processing, metals and machinery, paper products, chemicals and aeronautics.

Monterrey

Monterrey is the third largest city in Mexico and the capital of the state of Nuevo León. Despite having only 4% of Mexico's population, the Nuevo León economy generates over 8% of the country's total GDP. It is the commercial, industrial, educational, and transportation hub of northern Mexico with GDP per capita almost twice that of the national average. There are over 2,600 international companies operating in Nuevo León—1,600 from the United States. Within a two-hour drive to the U.S. border, the Monterrey business community maintains strong business and cultural affinity for the United States and for U.S. products and services. Ranked by the OECD as the most productive state in Mexico, Nuevo León offers a business climate very open to both U.S. trade and investment.

Industry Sectors

Advanced Manufacturing

''Advanced manufacturing'' is a broad term that encompasses a variety of sectors, products and technologies. Generally speaking, advanced manufacturing is taken to mean the production of high value goods with complex specifications that create demand for both raw materials and intermediary components, as well as financial services, transportation, software and the like. Mexico boasts many of the most developed manufacturing sectors in Latin America, and exports more manufactured goods than the rest of Latin America combined. Manufacturing accounts for one third of Mexico's GDP. Mexico has established production chains in many sectors, and has systems, infrastructure, labor, and an established supplier base to support continued growth in advanced manufacturing. Advanced manufacturing is also an area of particular interest to the Mexican government.

The United States has been Mexico's largest supplier of machinery and equipment for many years, with potential for continued, solid growth, and for companies participating in the trade mission, immediate market results. We see the best opportunities in plastic-injection molding and metal-mechanics, used by the electrical and electronics, aerospace, automotive, and consumer durables industries.

Information and Communications Technology (ICT)

ICT development is one of the core objectives of Mexican President Peña Nieto's Administration and improved competition in telecommunications and information technologies will drive demand for core network and other infrastructure solutions.

Telecommunications Equipment and Services

The recently enacted telecommunications reform includes three components that will create numerous opportunities for U.S. ICT companies: Universal access to telecom services, accelerated competition, and strengthening of the telecom regulator. Projects stemming directly from the reform such as the mandated development of a national trunk network using the recaptured 700 MHz band, along with others resulting from enhanced competition, will generate demand for telecommunications infrastructure products and services. Greater broadband penetration, the development of a national mobile 4G network, a new L and Ku band satellite system for national security and civil communications, and government programs to promote digital literacy will in turn fuel demand for a wide array of telecommunications equipment and services. Telecom service providers will also see increased opportunities to enter the Mexican market as caps on foreign investment are removed from fixed telephony and satellite communications and as competition is enhanced in the wireless segment.

IT Products and Services

The main opportunities for IT solutions (products and services) are in those sectors that are intensifying the use of IT, including: Healthcare, transportation, security, manufacturing, energy, retail and financial services. Both public and private organizations are good targets of for these opportunities.

E-commerce between organizations and companies, either business to business (B2B) or government to business (G2B), has been developing much faster than e-commerce with consumers (B2C). Companies and the Mexican Government are investing heavily in their IT infrastructure to promote e-commerce between clients, suppliers, government, and individuals. Given that this market will grow in the future, there are great opportunities for suppliers of specialized and segmented solutions based on economic activity. The biggest market is enterprise solutions to help companies integrate and automate their communications within their organizations as well as with business partners (clients and suppliers).

Government is the largest consumer of ICT in Mexico and is responsible for approximately 33% of the sales of large technology companies in the country. Opportunities in the public sector for eGovernment solutions and other technologies have been further enhanced by the Peña Nieto Administration's focus on ICT. A division within the Office of the President is coordinating the development of a Mexican National Digital Strategy and Digital Government Program to align government ICT at federal, state, and municipal levels, as well as to enhance the government's digital interface with citizens in order to improve efficiency and transparency. Some of the strongest programs lie in the public safety, health, education and transportation sectors and include citizen access, digital platforms for procedures and services, asset management, database integration, and other IT services. Furthermore, government efforts—including potential policy initiatives—to improve digital literacy and increase the penetration of ICT at all levels of society and the economy, are originating programs to increase the population's access to technology and communications services, such as equipping schools in remote locations with tablets and computers.

In the private sector, the IT services market continues to show great opportunities in all types and sizes of organizations. Mexico is an attractive market for U.S. technology products in the IT services industry and is also developing strong IT clusters that offer software development, call center, data center, high-tech manufacturing and engineering services. Alongside a strong economy, these trends create demand and partnership opportunities for U.S. companies offering business and data management, data center, business intelligence and business process solutions.

Health IT and Medical Devices

The Mexican healthcare sector offers excellent opportunities for both Health IT and Medical Devices in both the public and private sectors.

Health IT

The Mexican Health IT sector is an emerging market as healthcare institutions have begun identifying, seeking out and implementing technologies to become more efficient and competitive. Currently, the most popular IT applications include electronic health records (EHR), telemedicine, patient control, electronic filing, supplies inventory control, pharmacy inventory and services management, and security systems. Potential clients for IT in Mexico's healthcare sector are mostly large public and private hospitals with resources to purchase sophisticated technologies to automate patient services, administrative processes and supplies control systems.

In the public sector there are 1,578 hospitals of which, only 310 have more than 120 beds. In the private sector, of the 3,140 hospitals, only 80 have over 50 beds. Most of these hospitals offer highly specialized healthcare services and are located in medium and large Mexican cities. There are also some medium-sized private hospitals that offer specialty services and focus on high income, insured patients.

Medical Devices

U.S. medical products are highly regarded in Mexico due to their high quality, after sales service, and price point compared to competing products of similar quality. Consequently, U.S. medical equipment and instruments have a competitive advantage and are in high demand in Mexico.

In 2012, total imports of medical equipment, instruments and other medical devices reached $4.3 billion. Of these imports 48%, or $2 billion, were of U.S. origin. With the clarification and pronouncement of regulations for medical technologies, Mexico is expected to become an even more attractive market for U.S. companies.

Other Products and Services

The foregoing analysis of export opportunities in Mexico is not intended to be exhaustive, but illustrative of the many opportunities available to U.S. businesses. Applications from companies selling products or services within the scope of this mission will be considered and evaluated by the United States Department of Commerce. Companies whose products or services do not fit the scope of the mission may contact their local United States Export Assistance Center (USEAC) to learn about other business development missions and export promotion services that may provide more targeted export opportunities. Companies may call 1–800–872–8723, or visit the Web site: *http://www.export.gov* to obtain such information.

Mission Goals

This mission will demonstrate the United States' commitment to a sustained economic partnership with Mexico. The mission's purpose is to support the business development goals of U.S. firms as they construct a firm foundation for future business in Mexico and specifically aims to:

- Assist in identifying potential partners and strategies for U.S. companies to gain access to the Mexican market for the target industry products and services.
- Confirm U.S. government support for the promotion of U.S. exports to Mexico and activities of U.S. business in Mexico, including advocacy for major projects, and provide access to senior Mexican government decision makers.
- Listen to the needs, suggestions and experience of individual participants so as to shape appropriate U.S. government positions regarding U.S. business interests in Mexico.
- Organize private and focused events with local business and association leaders capable of becoming partners and clients for U.S. firms as they develop their business in Mexico.

Mission Scenario

The mission will stop in Mexico City and Monterrey, Mexico. In each city, participants will meet with pre-screened potential agents, distributors, and representatives, as well as other business partners and government officials. They will also attend market briefings by United States Embassy officials, as well as networking events offering further opportunities to speak with local business and industry decision-makers.

PROPOSED TIME TABLE

Monday, November 18, 2013	Mexico City	Orientation. U.S. Government Trade Finance Programs Briefing. Commercial Opportunity Overview. Welcome Dinner.
Tuesday, November 19, 2013	Mexico City	Industry Briefings/Roundtable Discussions. Individual Company Business Appointments. Government Meetings. Networking Reception.
Wednesday, November 20, 2013	Mexico City	Industry Briefings/Roundtable Discussions. Individual Company Business Appointments. Government Meetings.
	Monterrey	Travel to Monterrey. Working Dinner.
Thursday, November 21, 2013	Monterrey	Commercial Opportunity Overview. Industry Briefings/Roundtable Discussions. Individual Company Business Appointments. Government Meetings. Networking Reception.
Friday, November 22, 2013	Monterrey	Government Meetings. Individual Company Business Appointments. Government Meetings. Wrap-up Discussion. Closing Dinner.

Participation Requirements

All parties interested in participating in the Secretarial Business Development Mission to Mexico must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Approximately 20–25 companies will be selected to participate in the mission from the applicant pool. U.S. companies doing business in Mexico, as well as U.S. companies seeking to enter the Mexican market for the first time, may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The fee schedule for the mission is below:

- $9,600 for large firms
- $8,000 for a small or medium-sized enterprises (SMEs) [1]
- $2,500 each additional firm representative (large firm or SME)

The cost of the flight from Mexico City to Monterrey is included in the participation fee. Expenses for all other air travel, lodging, some meals, and incidentals will be the responsibility of each mission participant.

Conditions of Participation

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

- Certify that the goods and/or services it seeks to export through the mission are either produced in the United States, or, if not, contain at least 51% U.S. content. If the applicant is unable to make this certification, the applicant must explain the nature of the goods and/or services to be promoted and business opportunities to be pursued through participation on the mission. The applicant must further specify how the promotion and pursuit of those business opportunities will further the mission goals identified above, especially how those business opportunities expand U.S. exports or otherwise benefit the U.S. economy.
- Certify that the export of the products and services that it wishes to export through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified to the Department of Commerce for its evaluation any business pending before the Department of Commerce that may present the appearance of a conflict of interest;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

Selection Criteria for Participation: Selection will be based on the following criteria, listed in decreasing order of importance:

- Suitability of a company's products or services to the Mexican market and the likelihood of a participating company's increased exports to or business interests in the target markets as a result of this mission;
- Demonstrated export experience in the Mexico and/or other foreign markets or explanation of export-readiness;
- Consistency of company's products or services with the scope and desired outcome of the mission's goals;
- Current or pending major project participation; and
- Rank/seniority of the designated company representative.

Additional factors, such as diversity of company size, type, location, and demographics, may also be considered during the review process.

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

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

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** (*http://www.gpoaccess.gov/fr*), posting on ITA's business development mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment will begin immediately and conclude no later than Friday, September 13, 2013. The Department of Commerce will evaluate applications and inform applicants of selection decisions as soon as they are made. Applications received after the September 13th deadline will be considered only if space and scheduling constraints permit.

How to Apply:

Applications can be completed online or downloaded from the business development mission Web site (*http://export.gov/MexicoMission2013*). You may also request an application by contacting the Office of Business Liaison.

Contacts:

General Information and Applications: The Office of Business Liaison, 1401 Constitution Avenue NW., Room 5062, Washington, DC 20230, Tel: 202–482–1360, Fax: 202–482–4054, Email: *BusinessLiaison@doc.gov*.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–19391 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; 2013 NOAA Engagement Survey Tool

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 11, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Sami Grimes, Director of Planning and Evaluation, NOAA National Sea Grant College Program, 301–734–1073 or *sami.grimes@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision and extension of a current information collection. NOAA supplies the nation with information, products and services that are essential public goods used in public and private sectors, science institutions and households around the world. Because NOAA's information, products and services are important to both the nation as a whole and to the daily lives of U.S. citizens, NOAA's Science Advisory Board (SAB) has identified a need for more effective two-way communication between its programs and the customers and clients it serves. This survey instrument will be used by the National Sea Grant Program to obtain information used to assess NOAA's accessibility, responsiveness and respect for partners. These parameters are three of the seven parameters included in the Kellogg Engagement Test, which the SAB recommended NOAA use for assessing engagement with constituents. One objective of the survey is to collect responses to provide NOAA Sea Grant with information and feedback from its constituents that will lead to greater emphasis placed on the needs of NOAA Sea Grant partners, techniques to improve the products and services, and general improvement in the accessibility and responsiveness of NOAA Sea Grant to constituents.

Revision: The survey will be conducted by the Sea Grant Program rather than the Office of Education and the Gulf of Mexico Regional Collaboration Team, as it was originally.

II. Method of Collection

Primarily, respondents will be asked to complete the survey online through the web-based survey tool ''*Survey Monkey*'' (*www.surveymonkey.com*). Alternatively, a print version of the survey will be made available upon request, which can be returned by mail or facsimile.

III. Data

OMB Control Number: 0648–0615.

Form Number: None.

Type of Review: Regular submission (revision and extension of a current information collection).

Affected Public: Non-profit institutions; Federal, State or local government; business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 750.

Estimated Total Annual Cost to Public: $50 in record keeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: August 6, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–19408 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; South Pacific Tuna Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 11, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Tom Graham, (808) 944–2219 or *tom.graham@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of United States (U.S.) purse seine vessels fishing within a large region of the western and central Pacific Ocean, which is governed by the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America. The Treaty, along with its annexes, schedules and implementing agreements, was signed in Port Moresby, Papua New Guinea, in 1987. This collection of information is required to meet U.S. obligations under the Treaty.

The Treaty authorizes U.S. tuna vessels to fish within fishing zones of a large region of the Pacific Ocean. The South Pacific Tuna Act of 1988 (16 U.S.C. 973–973r) and U.S. implementing regulations (50 CFR part 300, Subpart D) authorize the collection of information from participants in the Treaty fishery. Vessel operators who wish to participate in the Treaty Fishery must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in participating in the Treaty fishery. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each Pacific island state's exclusive economic zone for fair disbursement of Treaty monies. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

II. Method of Collection

All forms are to be submitted in hard copy, via mail.

III. Data

OMB Control Number: 0648–0218.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 40.

Estimated Time Per Response: License application, 15 minutes; registration application, 45 minutes; catch report, 1 hour; and unloading logsheet, 30 minutes.

Estimated Total Annual Burden Hours: 408.

Estimated Total Annual Cost to Public: $122,202 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: August 6, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–19410 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC802

New England Fishery Management Council; Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The New England Fishery Management Council (Council) will hold public meetings of two of its advisory bodies, the ABC Control Rule Working Group (ABC WG) and Electronic Monitoring Working Group (EM WG).

DATES: The first meeting of the ABC Control Rule Working Group will be on Tuesday, September 3, 2013. The meeting will be held at the Doubletree by Hilton in Danvers, MA and it will start at 10 a.m. Additional meetings may be held between August 15, 2013 and January 31, 2014. Specific information about the dates, times and places for the meetings will be posted on the Council's Web site, *http://nefmc.org/.*

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director,

New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council has established these working groups to develop background information and approaches to problems and issues to be considered by the Council and its committees. The working groups will not make any final decisions about the selection of approaches or alternatives that might be adopted by the Council.

The purpose of the ABC Control Rule Working Group is to prepare a work plan on how the Council should proceed in developing acceptable biological catch (ABC) control rules that incorporate the Council's risk tolerance into the process for setting ABCs. The work plan will enable the Council to approve a process for developing the risk policy as a Council priority.

The purpose of the Electronic Monitoring Working Group is to identify barriers or necessary steps to the approval by NMFS of Northeast Multispecies (Groundfish) sector operations plans that rely on electronic monitoring to achieve the compliance and catch attribution requirements for groundfish sectors.

Special Accommodations

The meetings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 7, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–19446 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC792

Western Pacific Fisheries; Approval of a Marine Conservation Plan for Pacific Insular Areas; Western Pacific Sustainable Fisheries Fund

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a marine conservation plan for Pacific Insular Areas other than American Samoa, Guam, and the Northern Mariana Islands.

DATES: This agency decision is effective from August 1, 2013, through July 31, 2016.

ADDRESSES: Copies of the marine conservation plan, identified by NOAA–NMFS–2013–0126, are available from *www.regulations.gov*, or the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–944–2108.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, that is, in the EEZ around the Pacific remote island areas (PRIA). The PRIA are Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, and Palmyra Atoll. Before entering into a PIAFA, the Council must develop a 3-year Marine Conservation Plan (MCP) providing details on uses for any funds collected by the Secretary under the PIAFA.

The Magnuson-Stevens Act requires that payments received under a PIAFA, and any funds or contributions received in support of conservation and management objectives for the PRIA, be deposited into the Western Pacific Sustainable Fisheries Fund (Fund) for use by the Council. Additionally, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act for violations by foreign vessels occurring within the EEZ off any PRIA are also deposited into the Fund for use by the Council.

An MCP must be consistent with the Council's fishery ecosystem plans, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects. The Council, at its 157th meeting held June 26–28, 2013, reviewed and approved this MCP and recommended its submission to the Secretary for approval.

The MCP contains five conservation and management objectives, and identifies major task areas for planned activities, as follows:

Objective 1. Support quality research and obtain the most complete scientific information available to assess and manage fisheries within an ecosystem approach.

a. Support cooperative research on U.S. purse seine vessels fishing on fish aggregation devices in the PRIA.

b. Support tagging studies in the PRIA to provide better understanding of pelagic species.

c. Support collection and analysis of life history characteristics of federally managed species through bio-sampling.

Objective 2. Conduct education and outreach to foster good stewardship principles and broad and direct public participation in the Council decision-making process by supporting education and outreach activities related to sustainable fisheries management of pelagic fisheries in the PRIA.

Objective 3. Promote regional cooperation to manage domestic and international fisheries, by participating in international fishery policy development in Pacific Regional Fishery Management Organizations.

Objective 4. Encourage development of technologies and methods to achieve the most effective level of monitoring, control, and surveillance, and to ensure safety at sea.

a. Support pilot programs to test new technologies for information gathering, in coordination with federal, state, and industry representatives.

b. Support observer programs or other monitoring efforts that are adequate to monitor the harvest, bycatch, and compliance of foreign fishing vessels that fish under a PIAFA in the PRIA.

c. Participate in Pacific-wide vessel monitoring system consultations.

Objective 5. Support activities that promote western Pacific community demonstration projects and the western Pacific community development program.

Section 204(e)(7)(C) of the Magnuson-Stevens Act authorizes the Council to use monies deposited into the Fund to meet conservation and management objectives in the State of Hawaii, consistent with the Fishery Ecosystem Plan for the Hawaii Archipelago. The MCP includes an appendix describing these objectives. At the 157th meeting, the Council recommended amendments to the appendix relating to fisheries research.

The MCP also outlines a process by which the Council's Executive

Committee could revisit the project ranking to adapt to changing management needs.

This notice announces that NMFS has determined that the PRIA MCP satisfies the requirements of the Magnuson-Stevens Act and approves the MCP for the 3-year period from August 1, 2013, through July 31, 2016.

Dated: August 7, 2013.

Emily H. Menashes,

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

[FR Doc. 2013–19499 Filed 8–9–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of Air Force

Intent To Prepare an Environmental Impact Statement for the Gulf Regional Airspace Strategic Initiative (GRASI) Landscape Initiative

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of Intent.

SUMMARY: The Air Force is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS). The Gulf Regional Airspace Strategic Initiative (GRASI) Landscape Initiative (GLI) is a U.S Air Force-led partnership with the State of Florida and other state and federal agencies to expand the capacity of the region to safely host military test and training operations.

Under the GLI EIS, the Air Force's Proposed Action is to utilize Blackwater River State Forest (BRSF) and Tate's Hell State Forest (THSF) for establishing helicopter landing and drop zones, airstrips, and a number of different land and air training activities which currently occur within the interstitial (areas between designated test/training sites) areas of the Eglin Air Force Base (AFB) Range. The Air Force is also proposing to establish up to 12 radar, telemetry, and training emitter sites throughout northwest Florida. The emitter sites would support development of an integrated air defense system, which would provide unique, viable, and robust air training.

Scoping: In order to effectively define the full range of issues to be evaluated in the EIS, the Air Force will determine the scope (i.e. what will be covered and in what detail) by soliciting comments from interested state and federal agencies and interested members of the public through the **Federal Register** and various media in the local communities near the Proposed Action. The Air Force will also hold a series of scoping meetings to further solicit input regarding the scope of the proposed action and any reasonable alternatives.

DATES: Scoping meetings will be held in the local communities near the state forests. The scheduled dates, times, locations and addresses for the scoping meetings will be published in local media a minimum of 15 days prior to the scoping meetings. The Air Force intends to hold scoping meetings in the following communities on the following dates:

August 27, 2013: Milton Community Center, Gracie Room, 5629 Byrom St., Milton, Florida

August 28, 2013: Blountstown Civic Center, 17773 Ne Pear St., Blountstown, Florida

August 29, 2013: Apalachicola Community Center, 1 Bay Ave, Apalachicola, Florida

Scoping comments can be submitted to the mailing address below or via the GRASI GLI EIS Web site (*grasieis.leidoseemg.com*) by the date indicated. Comments will be accepted at any time during the environmental impact analysis process. However, to ensure the Air Force has sufficient time to consider public input in the preparation of the Draft EIS, comments should be submitted to the Web site or the address listed below by September 9, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Spaits, Eglin AFB Public Affairs Office, 96 TW/PA, 101 West D Avenue, Suite 110, Eglin AFB, FL 32542–5499, (850) 882–2836 *spaitsm@eglin.af.mil* September 9, 2013.

Henry Williams Jr,

DAF, Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2013–19468 Filed 8–9–13; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0102]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; NAEP Wave 2 (TEL and Assessment Feedback) Under the National Assessment of Education Progress (NAEP) 2014–2016 System Clearance

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new Generic information collection to an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 11, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0102 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: NAEP Wave 2 (TEL and Assessment Feedback) under the National Assessment of Education

Progress (NAEP) 2014–2016 System Clearance.

OMB Control Number: 1850–0790.

Type of Review: New Generic information collection to an existing collection of information.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 23,661.

Total Estimated Number of Annual Burden Hours: 15,612.

Abstract: The National Assessment of Educational Progress (NAEP) is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, and the arts. In the current legislation that reauthorized NAEP (20 U.S.C. § 9622), Congress again mandated the collection of national education survey data through a national assessment program. This 2014 Wave 2 submittal contains the grade 8 student core and Technology and Engineering Literacy (TEL) survey questions; the grade 8 school TEL survey questions (School Characteristics and Policies (SCP), TEL, and Charter School); and Assessment Feedback Surveys.

Dated: August 6, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–19388 Filed 8–9–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0106]

Agency Information Collection Activities; Comment Request; Evaluation of the Early Warning and Intervention Monitoring System

AGENCY: Institute of Education Sciences/ National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 11, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0106 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Evaluation of the Early Warning and Intervention Monitoring System.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,589.

Total Estimated Number of Annual Burden Hours: 4,899.

Abstract: The proposed study is a two-year randomized controlled trial (RCT) to examine the impact of implementing an early warning system on school processes and student outcomes. The project responds to a need expressed by members of the REL Midwest's Ohio Dropout Prevention Alliance for clear information about the efficacy of early warning systems. Despite the strong foundational research on the use of early indicators to identify students who are at risk of not graduating and the increasingly widespread implementation of early warning systems by states, districts and schools to date there have been no rigorous studies testing the impact of early warning systems on student outcomes such as staying in school, progressing in school and graduating. There also is very little information on the impact of adopting an early warning system on school level processes, such as how schools allocate their limited resources to prevent dropout and how early warning systems may affect school data culture.

Dated: August 6, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–19389 Filed 8–9–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Fusion Energy Sciences Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of Renewal

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, (Pub. L. 92–463), and in accordance with Title 41 of the Code of Federal Regulations, Section 102–3.65, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Fusion Energy Sciences Advisory Committee will be renewed for a two-year period beginning on August 2, 2013.

The Committee will provide advice to the Office of Science (DOE), on long-range plans, priorities, and strategies for advancing plasma science, fusion science and fusion technology—the knowledge base needed for an economically and environmentally attractive fusion energy source.

Additionally, the renewal of the Fusion Energy Sciences Advisory Committee has been determined to be essential to conduct business of the Department of Energy and to be in the public interest in connection with the

performance of duties imposed upon the Department of Energy, by law and agreement. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, adhering to the rules and regulations in implementation of that Act.

FOR FURTHER INFORMATION CONTACT: Edmund J. Synakowski at (301) 903–4941.

Issued in Washington, DC, on August 5, 2013.

Carol A. Matthews,

Committee Management Officer.

[FR Doc. 2013–19473 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Limited Public Interest Waiver Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Limited Waiver.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a determination of inapplicability (unreasonable cost waiver) of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) to the California Energy Commission, recipient of EECBG grant EE0000905, for the installation of a heating, ventilation, and air conditioning (HVAC) system at the City of La Cañada Flintridge City Hall building.

This waiver applies only to this project.

DATES: *Effective Date:* September 12, 2012.

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Weatherization and Intergovernmental Program, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287–1553, *buyamerican@ee.doe.gov,* Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of the Recovery Act, section 1605(b)(3), the head of a Federal department or agency may issue a ''determination of inapplicability'' (a waiver of the Buy American provisions) if the application of section 1605 would represent an 'unreasonable cost'. The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01E, dated April 25, 2011, for EERE Recovery Act projects.

Pursuant to this delegation, the Assistant Secretary has determined that application of section 1605 restrictions represents an 'unreasonable cost' for the project described herein.

Specifically, this unreasonable cost determination waives the Buy American requirements to the California Energy Commission, recipient of EECBG grant EE0000905, for the installation of a heating, ventilation, and air conditioning (HVAC) system at the at the City of La Cañada Flintridge City Hall building.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for the items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability or unreasonable cost determinations.

The NIST MEP has 59 regional centers with substantial knowledge of, and connections to, the domestic manufacturing sector. MEP uses their regional centers to 'scout' for current or potential manufacturers of the product(s) submitted in a waiver request. In the course of this interagency collaboration, MEP has been able to find exact or partial matches for manufactured goods that EERE grantees had been unable to locate. As a result, in those cases, EERE was able to work with the grantees to procure American-made products rather than granting a waiver.

Upon receipt of completed waiver requests for the product in the current waiver, EERE reviewed the information provided and submitted the relevant technical information to the NIST MEP. The MEP then used their network of nationwide centers to scout for domestic manufacturers.

In addition to the MEP collaboration outlined above, the EERE Buy American Team worked with labor unions, trade associations and other manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for the HVAC components contained in this waiver. EERE also conducted significant amounts of independent research to supplement MEP's scouting efforts.

As a result of EERE's efforts and MEP's scouting process, it was determined that if the described HVAC system was manufactured domestically, it will increase the total project cost by more than 25%.

The subject HVAC Replacement Project entails the replacement of eight (8) package rooftop units (gasheat/electric cool) at the City of La Cañada Flintridge City Hall building. Units are in the range of 2½ to 5 tons in cooling capacity. New package units shall be equipped with air-side economizers and new roof curbs. The City solicited bid proposals for the project through a public bid process.

Contract drawings and specifications were created based on a Carrier design (Model 48ES Series) which at the time of document preparation was believed to be manufactured in the United States. A ''Product Bulletin'' (dated July 26, 2010) from Carrier indicated that the Carrier unit (Model 48ES) was indeed manufactured in America not long ago. Specifically, the subject HVAC unit (48ES) was manufactured at Carrier's plant in Tyler, TX, before recently moving its operation to Mexico.

The primary reason that Carrier (Model 48ES) was used as the basis of design for this project was because the existing units presently serving the City Hall building are also made by Carrier. In an effort to reduce project complexity and installation costs, it was understood that the proposed units shall have equal (or near equal) dimensions as the existing units. The sure way this would be accomplished is through use of new Carrier units. While other manufacturers may have equal performance characteristics, dimensional data may be significantly different. This includes but is not limited to (a) Unit base dimensions/footprint, (b) unit height, (c) supply/return duct openings and dimensions, (d) electrical and natural gas line connection locations and clearances, all of which could impact the project's complexity and costs. The grant recipient provided a mechanical unit schedule (from the Contract Drawings) in the application for a waiver, which includes a comparison of existing and proposed HVAC unit dimensions.

City and Contractor then conducted a survey of the market to find HVAC Packaged Units that meet both the technical specs and the Buy American requirements. Four manufacturers were identified by the City, one was

identified by MEP. Accordingly, the City asked the Contractor to provide a price proposal for a change order that would accommodate the domestic units.

In order to accommodate the domestic unit significant work would need to be done to the roof and ductwork. This work would include:

''equipment curbs will be re-leveled using sloped 4x lumber to match the original rooftop duct work bottom layout and be attached to the building structure. 4 of the units will need to be set back to allow for the hookup and transition to the existing duct work. The roof portion from where the existing equipment curb was will be properly re-roofed. Some of the existing roof ductwork will be demolished and disposed of properly to allow for the hook up of new duct. All 8 units will get new rooftop duct transitions, duct, fittings and duct supports to accommodate the termination from the existing roof duct work to the new HVAC units and economizers. All utilities will be extended to terminate on the new equipment. The existing condensate system will be reconfigured to terminate to the new equipment. A/C #3 will have to have the existing stub ups for the high & low voltage relocated from the underside to accommodate the new equipment curb location and roofed in on completion.'' (Contractor's estimate, April 24, 2012)

The total cost of this additional work would be approximately $29,770.00. The total cost of the manufactured goods would remain the same, $52,350.00. The additional cost represents a 56.9% increase in total project costs.

Section 176.110 of Title 2 of the Code of Federal Regulations, entitled ''Evaluating proposals of foreign iron, steel, and/or manufactured goods'', states that if ''the award official receives a request for an exception based on the cost of certain domestic iron, steel, and/or manufactured goods being unreasonable, in accordance with § 176.80, then the award official shall apply evaluation factors to the proposal to use such foreign iron, steel, and/or manufactured goods.''

Per that section, the total evaluated cost = project cost estimate + (.25 × project cost estimate). The total cost of the project including the foreign manufactured HVAC is $52,350. The total evaluated cost is $52,350 + (.25 × $52,350) or $65,437.50

The minimum cost for the project with US products is $82,120, a cost increase of 56%. In light of the foregoing, and under the authority of section 1605(b)(3) of Public Law No. 111–5 and the Re-delegation Order dated April 25, 2011, with respect to Recovery Act projects funded by EERE, on October 24, 2011, the Acting Assistant Secretary issued a determination of inapplicability (unreasonable cost waiver) of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) to the California Energy Commission, recipient of EECBG grant EE0000905, for the installation of a heating, ventilation, and air conditioning (HVAC) system at the at the City of La Cañada Flintridge City Hall building. This waiver applies only to this project.

This waiver determination was made pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies only to EERE projects carried out under the Recovery Act; and only to this project specifically, waiver requests, even for the same or similar items, will be handled individually, because individual factors apply to each project.

Authority: Public Law 111–5, section 1605.

Issued in Washington, DC on September 12, 2012.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

Editorial Note: This document was received at the Office of the Federal Register August 7, 2013.

[FR Doc. 2013–19477 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Amended Limited Waivers.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects limiting the waiver issued February 11, 2010 to plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming.

DATES: *Effective Date:* 01/31/2013.

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586–7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of Recovery Act, Public Law 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a ''determination of inapplicability'' (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (''nonavailability''). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01F, dated October 31, 2012.

On February 11, 2010, The Assistant Secretary issued a nonavailability waiver for fluorescent electronic ballasts.

As with all waivers, the Assistant Secretary reserved the right to revisit and amend this determination based on any changes in the manufacturing landscape, such as the entry into the market of new domestic manufacturers. In this case, domestic manufacturers have retooled manufacturing lines and increased manufacturing capacity to the United States, reducing costs associated with producing dimmable fluorescent electronic ballasts and complete dimming systems including controls, decreasing the price and broadening the scope of domestically manufactured systems available for purchase.

The remaining items covered by the February 2010 Waiver (Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming) continue to be covered by the February 11, 2010 waiver and remain subject to the specifications and conditions of that waiver.

In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before March 31, 2013.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before March 31, 2013 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before March 31, 2013; (3) commencing a bidding process on or before March 31, 2013; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before March 31,

2013 and the order for the goods is placed on or before March 31, 2013; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before March 31, 2013.

EERE hereby provides notice that on January 31, 2013, an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) was issued for EERE-funded projects utilizing dimmable florescent electronic ballasts.

This amendment modifies the nonavailability waiver issued on February 11, 2010 for florescent electronic ballasts. As a result of the amendment, the following items listed in the February 2010 waiver items remain waived: Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111–5, section 1605.

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

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

Editorial Note: This document was received at the Office of the Federal Register August 7, 2013.

[FR Doc. 2013–19488 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Limited Waivers.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605 of the Recovery Act under the authority of Section 1605(b)(2), (iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality), with respect to Recovery Act projects funded by EERE for (1) Energy-efficient impeller (N-impeller) to retrofit existing Flygt pumps, and (2) Expansion Module Assembly to repair existing Johnson Controls Lab and Hood Fume Interface with Phoenix Controls Hood (where utilization of an American made module assembly would require replacement of the existing system).

DATES: *Effective Date:* 07/18/2012.

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586–7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a ''determination of inapplicability'' (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (''nonavailability''). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01E, dated April 25, 2011. Pursuant to this delegation the Assistant Secretary, EERE, has concluded that: (1) Energy-efficient impellers (N-impeller) to retrofit existing Flygt pumps; (2) Expansion module assemblies to repair existing Johnson Controls lab and hood fume interface with Phoenix Controls hood (where utilization of an American made module assembly would require replacement of the existing system); (3) magnetic ballasts for HID retrofits; and (4) direct line voltage, color-changing architectural LED flood lighting fixtures, color-changing architectural LED cove lighting products, white LED line voltage architectural cove lighting fixtures, exterior, LED color-changing direct view lighting fixtures, and multicolor DMX–512 LED wash and array lights for architectural lighting, are not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The above items, when used on eligible EERE Recovery Act-funded projects, qualify for the ''nonavailability'' waiver determination.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for the items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability determinations.

The MEP has 59 regional centers with substantial knowledge of, and connections to, the domestic manufacturing sector. MEP uses their regional centers to 'scout' for current or potential manufacturers of the product(s) submitted in a waiver request. In the course of this interagency collaboration, MEP has been able to find exact or partial matches for manufactured goods that EERE grantees had been unable to locate. As a result, in those cases, EERE was able to work with the grantees to procure American-made products rather than granting a waiver.

The EERE Buy American Coordinator worked with manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for each item contained in this waiver. EERE also conducted significant amounts of independent research to supplement these scouting efforts. EERE's research efforts confirmed that the goods included in this waiver are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The nonavailability determination is also informed by the inquiries and petitions to EERE from recipients of EERE Recovery Act funds, and from suppliers, distributors, retailers and trade associations—all stating that their individual efforts to locate domestic manufacturers for the items have been unsuccessful.

Specific technical information for the manufactured goods included in this non-availability determination is detailed below:

Energy-efficient impeller (N-impeller) to retrofit existing Flygt pumps. The impeller was specifically designed to fit and be compatible with the existing electric submersible pumps only available from the existing pump's manufacturer. The components are a cast iron N-technology, self-cleaning

solids-handling pump impeller and cast iron N-technology pump impeller insert ring. The impeller is used to upgrade the performance of the existing solids-handling pumps resulting in superior non-clog operations and delivering sustained high efficiency, resulting in long-term, lower cost and energy efficient operation. Utilization of an American made N-Impeller would require replacement of the entire existing system.

Expansion module assemblies to repair existing Johnson Controls lab and hood fume interface with Phoenix Controls hood. The components were specifically designed to fit and be compatible with the existing hood fume system, utilization of an American made module assembly would require replacement of the entire existing system.

Magnetic ballasts for HID retrofits. Although electronic ballasts are widely available from U.S. manufacturers, a U.S. manufacturer of magnetic ballasts was not identified through a thorough search by EERE, MEP and several trade groups.

Direct line voltage, color-changing architectural LED flood lighting fixtures, color-changing architectural LED cove lighting products, white LED line voltage architectural cove lighting fixtures, exterior, LED color-changing direct view lighting fixtures; and multicolor DMX–512 LED wash and array lights for architectural lighting.

The specific types of LED fixtures, used in architectural lighting, are not available from domestic manufacturers. MEP and EERE identified a number of U.S. LED manufacturers, but none that produce items for this application.

In light of the foregoing, and under the authority of section 1605(b)(2) of Public Law 111–5 and Redelegation Order 00–002–01E, with respect to Recovery Act projects funded by EERE, I hereby issue a ''determination of inapplicability'' (a waiver under the Recovery Act Buy American provision) for: (1) Energy-efficient impellers (N-impeller) to retrofit existing Flygt pumps; (2) Expansion module assemblies to repair existing Johnson Controls lab and hood fume interface with Phoenix Controls hood (where utilization of an American made module assembly would require replacement of the existing system); (3) magnetic ballasts for HID retrofits; and (4) direct line voltage, color-changing architectural LED flood lighting fixtures, color-changing architectural LED cove lighting products, white LED line voltage architectural cove lighting fixtures, exterior, LED color-changing direct view lighting fixtures, and multicolor DMX–512 LED wash and array lights for architectural lighting.

Having established a proper justification based on domestic nonavailability, EERE hereby provides notice that on July 18, 2012, four (4) nationwide categorical waiver of section 1605 of the Recovery Act was issued as detailed *supra.* This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111–5, section 1605.

Issued in Washington, DC on July 18, 2012.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

Editorial Note: This document was received at the Office of the Federal Register August 7, 2013.

[FR Doc. 2013–19487 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Limited Waivers.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting a nationwide limited waiver of the Buy American requirements of section 1605 of the Recovery Act under the authority of Section 1605(b)(2), (iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality), with respect to small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) to be utilized in Recovery Act projects funded by EERE.

DATES: Effective Date: 6/14/2013.

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 287–1553, Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a ''determination of inapplicability'' (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (''nonavailability''). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01F, dated October 31, 2012. Pursuant to this delegation the Acting Assistant Secretary, EERE, has concluded that: small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) are not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The above items, utilized in Recovery Act projects funded by EERE, qualify for the ''nonavailability'' waiver determination at this time.

EERE has developed a robust process to ascertain in a systematic and expedient manner whether or not there is domestic manufacturing capacity for items submitted for a waiver of the Recovery Act Buy American provision. This process involves a close collaboration with the United States Department of Commerce National Institute of Standards and Technology (NIST) Manufacturing Extension Partnership (MEP), in order to scour the domestic manufacturing landscape in search of producers before making any nonavailability determinations.

In addition to the MEP collaboration outlined above, the EERE Buy American Coordinator worked with other manufacturing stakeholders to scout for domestic manufacturing capacity or an equivalent product for each item contained in this waiver.

The nonavailability determination is also informed by the inquiries and petitions to EERE from recipients of EERE Recovery Act funds, and from suppliers, distributors, retailers and trade associations—all stating that their individual efforts to locate domestic manufacturers for these items have been unsuccessful.

Having established a proper justification based on domestic nonavailability, EERE hereby provides notice that on February 15, 2013, a nationwide categorical waiver of section 1605 of the Recovery Act was issued for small-horsepower (HP) vertical hollow shaft (VHS) electric motors (less than 40 HP) to be utilized in Recovery Act projects funded by EERE. This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111–5, section 1605.

Issued in Washington, DC on June 14, 2013.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2013–19490 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Nationwide Categorical Waivers Under the American Recovery and Reinvestment Act of 2009 (Recovery Act)

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of Amended Limited Waivers.

SUMMARY: The U.S. Department of Energy (DOE) is hereby granting an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects for LED tube lights to replace T8/other 4 foot fluorescents.

DATES: *Effective Date:* November 6, 2012.

FOR FURTHER INFORMATION CONTACT: Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586–7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE–2K, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: Under the authority of Recovery Act, Pub. L. 111–5, section 1605(b)(2), the head of a Federal department or agency may issue a ''determination of inapplicability'' (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (''nonavailability''). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00–002.01E, dated April 25, 2011.

On September 30, 2010, The Assistant Secretary issued a nonavailability waiver for LED tube lights to replace T8/other 4 foot fluorescents.

As with all waivers, the Assistant Secretary reserved the right to revisit and amend this determination based on any changes in the manufacturing landscape, such as the entry into the market of new domestic manufacturers. In this case, domestic manufacturers have moved manufacturing capacity to the United States, broadening the scope of domestically manufactured LED lamps available for purchase.

The remaining items covered by the September 30, 2010 Waiver (motorized automatic two (2) wing revolving doors; self-contained photovoltaic LED area lighting systems; ultrasonic directional sensors and DC300 facility controllers for a parking guidance system; load management ripple control receivers for an existing load management system) continue to be covered by the September 30, 2010 waiver and remain subject to the specifications and conditions of that waiver.

In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before November 30, 2012.

Substantial steps to commit funds would include, but are not limited to, (1) Issuing a Request for Proposals (RFP) on or before November 30, 2012 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before November 30, 2012; (3) commencing a bidding process on or before November 30, 2012; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before November 30, 2012 and the order for the goods is placed on or before November 30, 2012; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before November 30, 2012.

EERE hereby provides notice that on November 6, 2012, an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects for LED tube lights to replace T8/other 4 foot fluorescents.

This amendment withdraws the nonavailability waiver issued on September 30, 2010 for LED tube lights to replace T8/other 4 foot fluorescents. This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Public Law 111–5, section 1605.

Issued in Washington, DC on November 20, 2012.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

Editorial Note: This document was received at the Office of the Federal Register August 7, 2013.

[FR Doc. 2013–19476 Filed 8–9–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9846–6]

Proposed Cercla Administrative Cost Recovery Settlement; MassDOT, MassDOT Route 1 Right-of-Way Site, Chelsea, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with Section 122(h)(1) of the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), concerning the MassDOT Route 1 Right-of-Way Site in Chelsea, Massachusetts with the following Settling Party: Massachusetts Department of Transportation, Highway Division. The

settlement requires the Settling Party to: (1) Pay to EPA the Principal Amount of $175,000.00 within thirty (30) days after the Effective Date of the agreement; (2) If additional response costs are incurred, Settling Party will pay such costs not to exceed 15% of the Principal Amount; and (3) Settling Party to provide EPA and its representatives and contractors access at all reasonable times to the Site, or such other real property, to conduct any activity relating to response actions. The settlement includes a covenant not to sue pursuant to Sections 106 and 107(a), relating to the Removal Action, and protection from contribution actions or claims as provided by Section 113. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Untied States will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 5 Post Office Square, Boston, MA 02109–3912.

DATES: Comments must be submitted by September 11, 2013.

ADDRESSES: Comments should be addressed to Ruthann Sherman, Senior Enforcement Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (OES04–3), Boston, MA 02109–3912 (Telephone No. 617–918–1886) and should refer to: In re: MassDOT Route 1 Right-of-Way Site, U.S. EPA Docket No.01–2013–0031.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Ruthann Sherman, Senior Enforcement Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (OES04–3), Boston, MA 02109–3912 (Telephone No. 617–918–1886); Email (*Sherman.ruthann@epa.gov*).

Dated: July 31, 2013.

James T. Owens III,

Director, Office of Site Remediation and Restoration.

[FR Doc. 2013–19484 Filed 8–9–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 2013–11]

Filing Dates for the Massachusetts Special Elections in the 5th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Massachusetts has scheduled special elections on October 15, 2013, and December 10, 2013, to fill the U.S. House of Representatives seat vacated by Senator Edward J. Markey.

Committees required to file reports in connection with the Special Primary Election on October 15, 2013, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and the Special General Election on December 10, 2013, shall file a 12-day Pre-Primary Report, 12-day Pre-General Report, and Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free: (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Massachusetts Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on October 3, 2013; a 12-day Pre-General Report on November 28, 2013; and a Post-General Report on January 21, 2014. (See charts below for the closing date for each report.)

All principal campaign committees of candidates participating only in the Special Primary Election shall file a 12-day Pre-Primary Report on October 3, 2013. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semi-annual basis in 2013 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Massachusetts Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Massachusetts Special Primary or General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Massachusetts Special Elections may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $17,100 during the special election reporting periods (see charts below for closing date of each period). 11 CFR 104.22(a)(5)(v) and (b).

CALENDAR OF REPORTING DATES FOR MASSACHUSETTS SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight filing mailing deadline deadline	Filing deadline
Quarterly Filing Committees Involved in Only the Special Primary (10/15/13) Must File			
Pre-Primary	09/25/13	09/30/13	10/03/13
October Quarterly	09/30/13	10/15/13	10/15/13
Semi-Annual Filing Committees Involved in Only the Special Primary (10/15/13) Must File			
Pre-Primary	09/25/13	09/30/13	10/03/13
Year-End	12/31/13	01/31/14	01/31/14

CALENDAR OF REPORTING DATES FOR MASSACHUSETTS SPECIAL ELECTIONS—Continued

Report	Close of books [1]	Reg./cert. & overnight filing mailing deadline deadline	Filing deadline
Quarterly Filing Committees Involved in Both the Special Primary (10/15/13) and Special General (12/10/13) Must File			
Pre-Primary	09/25/13	09/30/13	10/03/13
October Quarterly	09/30/13	10/15/13	10/15/13
Pre-General	11/20/13	11/25/13	[2] 11/28/13
Post-General	12/31/13	01/21/14	01/21/14
Year-End	WAIVED		
Semi-Annual Filing Committees Involved in Both the Special Primary (10/15/13) and Special General (12/10/13) Must File			
Pre-Primary	09/25/13	09/30/13	10/03/13
Pre-General	11/20/13	11/25/13	[2] 11/28/13
Post-General	12/31/13	01/21/14	01/21/14
Year-End	WAIVED		
Quarterly Filing Committees Involved in Only the Special General (12/10/13) Must File			
Pre-General	11/20/13	11/25/13	[2] 11/28/13
Post-General	12/31/13	01/21/14	01/21/14
Year-End	WAIVED		
Semi-Annual Filing Committees Involved in Only the Special General (12/10/13) Must File			
Pre-General	11/20/13	11/25/13	[2] 11/28/13
Post-General	12/31/13	01/21/14	01/21/14
Year-End	WAIVED		

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: August 6, 2013.

On behalf of the Commission.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2013–19377 Filed 8–9–13; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

CCP Enterprise, LC (NVO & OFF), 3950 S 700 E, Suite 101, Salt Lake City, UT 84107, Officers: Rachel A. Kingston, Manager (QI), Elijah E. Kingston, Manager, Application Type: New NVO & OFF License.

DMS America, L.L.C. (NVO & OFF), 7025 NW 52nd Street, Miami, FL 33166, Officers: Eduardo R. de Almeida, Executive Manager (QI), Fernando Arruda, Chief Executive Manager, Application Type: QI Change.

D. Martin LLC (OFF), 2915 Quail Run Drive, Humble, TX 77396, Officer: Dorsille Martin, Managing Member (QI), Application Type: New OFF License.

Global Customs Services, LLC (NVO & OFF), 21 Fadem Road, Unit 14, Springfield, NJ 07081, Officers: Morten Olesen, President (QI), Vibeke Olesen, Secretary, Application Type: New NVO & OFF License.

Harold Kass—World Wide Moving, Inc dba HK Worldwide Moving, Inc (OFF), 3912 W. McLean Avenue, Chicago, IL 60647, Officer: Sylvie Tovy, President (QI), Application Type: New OFF License.

JR Express Solutions Corp (NVO & OFF), 5085 NW 7th Street, Unit 1202, Miami, FL 33126, Officer: Jorge L. Roa, President (QI), Application Type: NVO & OFF License.

Kesco Logistics, Inc. (NVO & OFF), 20 E. Sunrise Highway, Suite 308, Valley Stream, NY 11581, Officers: Geoffrey Tice, President (QI), Pul aka Cyndia Chan, Secretary, Application Type: Add OFF Service.

KTL USA, LLC (NVO), 17 Hilliard Avenue, Edgewater, NJ 07020, Officers: Tufan Duygun, Manager (QI), Ozisik Serhat, Member, Application Type: Add Trade Name Daimon Logistics USA.

Logistics International Parcel Shipping Transport LLC (NVO), 391 Kent Avenue, Elk Grove, IL 60007, Officers: Marilou G. Pedres, Operation Manager (QI), Jroel G. Pedres, President, Application Type: Add Trade Name Lips Transport LLC.

Matthew's Auto Transportation LLC (OFF), 16 Guenever Drive, New

Castle, DE 19720, Officer: Carlos E. Valdiviezo, President (QI), Application Type: New OFF License.

Miragrown Logistics Corporation (NVO), 2370 West Carson Street, Suite 130, Torrance, CA 90501, Officers: Marianne Thai, Secretary (QI), Zhimin Wei, President, Application Type: New NVO License.

NFI Global, L.L.C. (NVO & OFF), 1515 Burnt Mill Road, Cherry Hill, NJ 08003, Officers: Carter Buck, Director (QI), Sidney R. Brown, President, Application Type: QI Change.

Seafair USA, LLC (NVO & OFF), 10813 NW 30th Street, Suite 102, Miami, FL 33172, Officers: Eduardo Mazzitelli, Vice President (QI), Thomas Schoett, President, Application Type: QI Change.

Stratford Group Inc. (OFF), 7912 Los Robles Court,Jacksonville, FL 32256, Officers: Russell F. Palmer, President (QI), Rosalind J. Palmer, Vice President, Application Type: New OFF License.

Supply Chain Shipping LLC (OFF), 4607 44th Street SE., Grand Rapids, MI 49512, Officers: Peter G. Gonzales, Vice President (QI), James Ward, COO, Application Type: QI Change.

Target Shipping Inc. (NVO), 123 N Union Avenue, Suite 101, Cranford, NJ 07016, Officers: Tal Weiss, President (QI), Felicia Nash, Secretary, Application Type: Add OFF Service.

Woodmere CHB, Inc. dba MW Transport (OFF), 10620 S La Cienega Blvd., Unit D, Inglewood, CA 90304, Officers: Michael J. Wasserberg, President (QI), Ilanit Wasserberg, Vice President, Application Type: New OFF License.

Zhejiang Sunmarr International Transportation Co., Ltd. (NVO), 14F, Lvdu World Trade Plaza, No. 819 Shixin Middle Rd., Xiaoshan District, Hangzhou, China, Officers: Ya Liu, Deputy General Manager (QI), Jian P. Feng, General Manager, Application Type: New NVO License.

By the Commission.

Dated: August 6, 2013.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–19418 Filed 8–9–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 017123F.

Name: Express Freight International, Inc.

Address: 2027 Williams Street, San Leandro, CA 94577.

Date Reissued: May 24, 2013.

James A. Nussbaumer,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 2013–19413 Filed 8–9–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 18706N.

Name: Epic International Transport, LLC.

Address: 5001 Airport Plaza Drive, Suite 220, Long Beach, CA 90815.

Date Revoked: June 19, 2013.

Reason: Voluntary Surrender of License.

License No.: 022760F.

Name: RDD Freight International, (LA) Inc.

Address: 18311 Railroad Street, City of Industry, CA 91748.

Date Revoked: July 5, 2013.

Reason: Failed to maintain a valid bond.

James A. Nussbaumer,

Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 2013–19419 Filed 8–9–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before October 11, 2013.

ADDRESSES: You may submit comments, identified by FR Y–9, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer, Shagufta Ahmed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://*

www.federalreserve.gov/apps/reportforms/review.aspx or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—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.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Revision, Without Extension, of the Following Report

Report title: Financial Statements for Holding Companies.[1]

Agency form number: FR Y–9C.

OMB control number: 7100–0128.

Frequency: Quarterly.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), and securities holding companies (SHCs) (collectively, ''holding companies'' (HCs)).

Estimated average hours per response: Non-advanced approaches HCs: 48.84 hours, and advanced approaches HCs: 50.09.

Estimated annual reporting hours: 222,770 hours

Number of respondents: 1,140.

General description of report: This information collection is mandatory for BHCs (12 U.S.C. 12 U.S.C. 1844(c)(1)(A)). Additionally, 12 U.S.C. 1467a(b)(2)(A) and 1850a(c)(1)(A), respectively, authorize the Federal Reserve to require that SLHCs and supervised SHCs file the FR Y–9C with the Federal Reserve. Confidential treatment is not routinely given to the financial data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. §§ 522(b)(4), (b)(6), and (b)(8)).

Abstract: The FR Y–9C consists of standardized financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036) filed by commercial banks and savings associations. The FR Y–9C collects consolidated data from HCs. The FR Y–9C is filed by top-tier HCs (under certain circumstances, a lower-tier HC may act as the top tier of the organization for purposes of regulatory reporting) with total consolidated assets of $500 million or more. (Under certain circumstances defined in the General Instructions, BHCs under $500 million may be required to file the FR Y–9C.) The Federal Reserve proposes revisions to the FR Y–9C consistent with the regulatory capital rules approved by the Board on July 2, 2013 (revised regulatory capital rules).[2]

Current Actions: The Federal Reserve proposes to split the current Schedule HC–R, Regulatory Capital, on the FR Y–9C into two parts: Part I, which would collect information on regulatory capital components and ratios, and Part II, which would collect information on risk-weighted assets. For report dates in 2014, Part I of proposed Schedule HC–R would be designated as Parts I.A and I.B. Part I.A would include data items 1 through 33 of current Schedule HC–R. Part I.B would include the revisions consistent with the revised regulatory capital rules. Part II would include data items 34 through 62 and Memorandum items 1 through 10 of current Schedule HC–R. In March 2015, Part I.A would be removed and Part I.B would be re-designated as Part I.

For the March 31, 2014, and March 31, 2015, report dates, as applicable, institutions may provide reasonable estimates for any new or revised FR Y–9C data items initially required to be reported as of the dates for which the requested information is not readily available. The specific wording of the captions for the revised FR Y–9C data items discussed in this proposal and the numbering of these data items should be regarded as preliminary.

The Federal Reserve would modify the proposed revisions to the FR Y–9C and FR Y–9SP reports for consistency with any revisions to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036) for implementation in 2014 and 2015 or because of technical revisions or corrections to the revised regulatory capital rules related to the new definition of capital, as appropriate.

Proposed Revisions—FR Y–9C

The Federal Reserve proposes changes to the FR Y–9C reporting requirements consistent with the revised regulatory capital rules. The current Schedule HC–R, Regulatory Capital, collects information on regulatory capital components and ratios, as well as risk-weighted assets. The Federal Reserve proposes to split the current Schedule HC–R into Part I, which would collect information on regulatory capital components and ratios, and Part II, which would collect information on risk-weighted assets. For report dates in 2014, Part I of proposed Schedule HC–R would be designated as Parts I.A and I.B. Part I.A would include data items 1 through 33 of current Schedule HC–R. Part I.B would include the revisions consistent with the revised regulatory capital rules. Part II would include data items 34 through 62 and Memorandum items 1 through 10 of current Schedule HC–R. Starting in March 2015, Part I.A would be removed and Part I.B would

[1] This family of reports also contains the following mandatory reports, which are not being revised: the Parent Company Only Financial Statements for Large Bank Holding Companies (FR Y–9LP), the Financial Statements for Employee Stock Ownership Plan Bank Holding Companies (FR Y–9ES), and the Supplement to the Consolidated Financial Statements for Bank Holding Companies (FR Y–9CS).

[2] On July 2, 2013, the Board approved the revised regulatory capital rules that were proposed on August 30, 2012. On July 9, 2013 the OCC approved the revised regulatory capital rules and the FDIC issued an interim final rule to approve the revised regulatory capital rules. *See http://www.federalreserve.gov/bcreg20130702a.pdf* (Board); *http://www.occ.gov/news-issuances/news-releases/2013/2013-110a.pdf* (OCC); *http://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_a_res.pdf* (FDIC). *See also* 77 **Federal Register** 52888, 52909, 52958 (August 30, 2012).

be re-designated as Part I and data items 34–62 would be renumbered.

In Schedule HC–R, Part I.A (data items 1–33), an institution reports tier 1 capital, tier 2 capital, total regulatory capital, and its regulatory capital ratios (regulatory capital components and ratios portion).

In Schedule HC–R, Part II (data items 34–62), an institution reports its risk-weighted assets (risk-weighted assets portion). Schedule HC–R, Part II also includes Memoranda items 1 through 10, in which an institution reports supplemental regulatory capital information.[3]

The Federal Reserve proposes to add Part I.B to Schedule HC–R to provide a more detailed breakdown of the regulatory capital elements, including deductions and adjustments, consistent with the revised regulatory capital rules. HCs subject to the revised regulatory capital rules would be required to calculate and report regulatory capital using a new definition of capital. Proposed Schedule HC–R, Part I.B is discussed in more detail below.

Bank Holding Companies (BHCs): Advanced approaches BHCs would begin reporting on proposed Schedule HC–R, Part I.B, starting on March 31, 2014, applying the revised regulatory capital rules. At that time, these respondents would no longer be required to complete Schedule HC–R, Part I.A. On March 31, 2015, FR Y–9C respondents that are not subject to the advanced approaches rule would no longer report Schedule HC–R, Part I.A and would begin reporting the data items on proposed Schedule HC–R, Part I.B (re-designated as Part I), applying the revised regulatory capital rules.

SLHCs: Prior to the approval of the revised regulatory capital rules, SLHCs were not subject to consolidated regulatory capital requirements and not required to file Schedule HC–R. Under the revised regulatory capital rules, top-tier SLHCs that are not substantially engaged in insurance or commercial activities (covered SLHCs) are subject to consolidated regulatory capital requirements effective January 1, 2015. Covered SLHCs would begin reporting on the proposed Schedule HC–R, Part I.B, starting on March 31, 2015.

A top-tier SLHC is deemed to be substantially engaged in insurance activities (insurance SLHC) if (i) the top-tier SLHC is an insurance underwriting company;[4] or (ii) as of June 30 of the previous calendar year, it held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk). For purposes of determining the 25 percent threshold, the SLHC must calculate its total consolidated assets in accordance with generally accepted accounting principles (GAAP), or if the SLHC does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the SLHC may estimate its total consolidated assets, subject to review and adjustment by the Federal Reserve. Thus, insurance SLHCs are not required to complete Schedule HC–R, even if they complete other schedules of FR Y–9C.[5]

A top-tier SLHC is deemed to be substantially engaged in commercial activities (commercial SLHC) if (i) the top-tier SLHC is a grandfathered unitary SLHC as defined in section 10(c)(9)(A) of HOLA and (ii) as of June 30 of the previous calendar year, it derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis (as calculated under GAAP) from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1842(k)). This exclusion from the revised regulatory capital rules is similar to the current regulatory reporting exemption for SLHCs substantially engaged in commercial activities and is designed to capture those SLHCs that would likely be subject to a future intermediate HCs regulation of the Federal Reserve.

2. Report Title: Parent Company Only Financial Statements for Small Holding Companies.

Agency form number: FR Y–9SP.

OMB control number: 7100–0128.

Frequency: Semiannually, as of the last calendar day of June and December.

Reporters: BHCs, SLHCs and SHCs with total consolidated assets of less than $500 million (small BHCs, small SLHCs and small SHCs).

Estimated annual reporting hours: 49,443.

Estimated average hours per response: BHCs: 5.40 hours, SLHCs: 14.20 hours; One-time implementation: 500 hours.

Number of respondents: 4,094.

General description of report: This information collection is mandatory for BHCs [12 U.S.C. 1844(c)(1)(A).] Additionally, 12 U.S.C. 1467a(b)(2)(A) and 1850a(c)(1)(A), respectively, authorize the Federal Reserve to require that SLHCs and supervised SHCs file the FR Y–9SP with the Federal Reserve. Confidential treatment is not routinely given to the financial data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)).

Abstract: The FR Y–9SP is a parent company only financial statement filed by HCs with total consolidated assets of less than $500 million. This form is a simplified or abbreviated version of the more extensive parent company only financial statement for large HCs (FR Y–9LP). This report is designed to obtain basic balance sheet and income information for the parent company, information on intangible assets, and information on intercompany transactions. The Federal Reserve proposes several revisions to the FR Y–9SP consistent with the regulatory capital rules approved by the Board on July 2, 2013 (revised regulatory capital rules).[6]

Current actions: On the FR Y–9SP, the Federal Reserve proposes to add a new Schedule SC–R, Regulatory Capital Components and Ratios, to collect consolidated regulatory capital data from small SLHCs subject to the revised

[3] The Federal Reserve expects to publish at a later date a request for comment on a separate proposal to revise the risk-weighted assets portion of Schedule HC–R to incorporate the standardized approach for calculating risk-weighted assets under the revised regulatory capital rules. The revisions to the risk-weighted assets portion of Schedule HC–R would take effect March 31, 2015. The Federal Reserve is proposing changes to Schedule HC–R in two stages to allow interested parties to better understand the proposed revisions and focus their comments on areas of particular interest. Therefore, for report dates in 2014, all FR Y–9C filers would continue to report risk-weighted assets in the portion of Schedule HC–R that contains existing data items 34 through 62 and Memorandum items 1 through 10 of current Schedule HC–R, but this portion of the schedule would be designated Part II and the data items would be renumbered beginning with item 1.

[4] Insurance underwriting company means an insurance company as defined in section 201 of the Dodd-Frank Act (12 U.S.C. 5381) that engages in insurance underwriting activities.

[5] Under the current reporting requirements, SLHCs are exempt from filing the FR Y–9C if: (1) as calculated annually as of June 30th, using the assets reported as of June 30th, more than 50 percent of the assets of the SLHC are derived from the business of insurance on an enterprise-wide basis; and (2) the SLHC does not submit reports to the Securities and Exchange Commission (SEC) pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Regulatory capital requirements for SLHCs substantially engaged in insurance or commercial activities will be finalized at a later date.

[6] On July 2, 2013, the Board approved the revised regulatory capital rules that were proposed on August 30, 2012. On July 9, 2013 the OCC approved the revised regulatory capital rules and the FDIC issued an interim final rule to approve the revised regulatory capital rules. *See http://www.federalreserve.gov/bcreg20130702a.pdf* (Board); *http://www.occ.gov/news-issuances/news-releases/2013/2013-110a.pdf* (OCC); *http://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_a_res.pdf* (FDIC). *See also* 77 **Federal Register** 52888, 52909, 52958 (August 30, 2012).

regulatory capital rules. Schedule HC–R, Part I.B, of the FR Y–9C and Schedule SC–R of the FR Y–9SP would collect the same data items, except proposed Schedule HC–R, Part I.B, would collect additional data from HCs subject to the advanced approaches risk-based capital rules (advanced approaches HCs).[7]

HCs subject to the revised regulatory capital rules would be required to calculate and report regulatory capital using a new definition of capital. For the June 30, 2015, report date, institutions may provide reasonable estimates for any new or revised FR Y–9SP data items initially required to be reported as of that date for which the requested information is not readily available. The specific wording of the captions for the revised FR Y–9SP data items discussed in this proposal and the numbering of these data items should be regarded as preliminary.

Proposed FR Y–9SP Revisions

The Federal Reserve proposes changes to the FR Y–9SP reporting requirements consistent with the revised regulatory capital rules, which apply to covered SLHCs with total consolidated assets of less than $500 million (small covered SLHCs). Under current regulatory reporting requirements, small SLHCs submit the FR Y–9SP semiannually. The Federal Reserve proposes to revise the FR Y–9SP by implementing new Schedule SC–R, Regulatory Capital Components and Ratios, to collect consolidated regulatory capital data from small covered SLHCs. Schedule SC–R would collect regulatory capital data from small covered SLHCs and therefore, eliminate the need for these institutions to file a consolidated FR Y–9C report. Small covered SLHCs would apply the revised regulatory capital rules to report their regulatory capital data on proposed Schedule SC–R starting on June 30, 2015. Small BHCs that file FR Y–9SP would not be affected by this proposal and they would not be required to complete proposed Schedule SC–R.

The following table summarizes the proposed reporting criteria for FR Y–9C and FR Y–9SP respondents.

Respondents	2014	2015
FR Y–9C respondents		
Non-advanced approaches BHCs.	• Complete the current Schedule HC–R, Part I.A and Part II;. • Do not complete proposed Schedule HC–R, Part I.B	• Current Schedule HC–R, Part I.A is removed and Part I.B is re-designated as Part I; • Complete the proposed Schedule HC–R, Part I.B (re-designated as Part I in 2015) and Part II; • Schedule HC–R Part II includes the revised and re-numbered risk-weighted assets portion of the template.
Advanced approaches BHCs	• Do not complete Schedule HC–R, Part I.A (items 1 through 33);. • Complete current Schedule HC–R, Part II ..... • Complete proposed Schedule HC–R, Part I.B (items 1 through 48).	
Covered SLHCs other than small covered SLHCs.	Do not complete Schedule HC–R.	
FR Y–9SP respondents		
.		
Small BHCs	No change	No change.
Small covered SLHCs	Do not complete proposed Schedule SC–R	Complete proposed Schedule SC–R.

Discussion of Proposed Schedules HC–R and SC–R

This section describes the proposed revisions to FR Y–9C Schedule HC–R, Part I.B (to be re-designated as Part I in 2015) and FR Y–9SP Schedule SC–R (collectively, the proposed schedules) to revise the data collections consistent with the revised regulatory capital rules. The proposed schedules would contain the same data items, except the proposed Schedule HC–R, Part I.B would collect additional data from advanced approaches HCs. As specified in the revised regulatory capital rules and the corresponding instructions for proposed Schedule HC–R, Part I.B, advanced approaches HCs that file the FR Y–9C would report certain line items only after these institutions complete the parallel run process and receive notification from the Federal Reserve pursuant to section 121(d) of subpart E of the revised regulatory capital rules.

The regulatory capital portion of the proposed schedules would collect data on the following regulatory capital components and ratios: (A) Common equity tier 1 capital; (B) common equity tier 1 capital adjustments and deductions; (C) additional tier 1 capital; (D) tier 2 capital; (E) total assets for the leverage ratio; (F) capital ratios; and (G) capital buffer. A brief description of each of these sections and the corresponding data items is provided below. The proposed reporting instructions provide guidance on how to calculate and report items subject to the transition provisions under section 300 of the revised regulatory capital rules.

A. Proposed Schedules HC–R, Part I.B and SC–R Items 1 Through 5: Common Equity Tier 1 Capital

Proposed line items 1 through 5 would collect information to determine the new regulatory capital component, common equity tier 1 capital. The proposed data items align with the elements of common equity tier 1 capital under the revised definition of capital, including (item 1) common stock plus related surplus (net of treasury stock and unearned employee stock ownership plan shares), (item 2)

[7] An advanced approaches banking organization as defined in the revised regulatory capital rules (i) has consolidated total assets on its most recent year-end regulatory report equal to $250 billion or more; (ii) has consolidated total on-balance sheet foreign exposure on its most recent year-end regulatory report equal to $10 billion or more; (iii) is a subsidiary of a depository institution that uses the advanced approaches pursuant to subpart E of 12 CFR part 3 (OCC), 12 CFR part 217 (Federal Reserve), or 12 CFR part 325 (FDIC) to calculate its total risk-weighted assets; (iv) is a subsidiary of a bank holding company or savings and loan holding company that uses the advanced approaches pursuant to 12 CFR part 217 to calculate its total risk-weighted assets; or (v) elects to use the advanced approaches to calculate its total risk-weighted assets.

retained earnings, (item 3) accumulated other comprehensive income (AOCI), and (item 4) common equity tier 1 minority interest includable in common equity tier 1 capital.[8] As explained in section 21 of the revised regulatory capital rules, an institution may include a limited amount of common equity tier 1 minority interest of a consolidated subsidiary that is a depository institution or a foreign bank in its common equity tier 1 capital. Line item 5 collects the sum of items 1 through 4 to determine common equity tier 1 capital before adjustments and deductions.

For purposes of reporting line item 3, AOCI, an institution that is not subject to the advanced approaches rule may make a one-time election to opt-out of the requirement to include most of the components of AOCI in common equity tier 1 capital (AOCI opt-out election). An institution that makes an AOCI opt-out election must report ''Yes'' in line item 3(a) and report the amounts in line items 9(a), 9(b), 9(c), 9(d) and 9(e). An institution that is not an advanced approaches institution would make this election when it completes Schedule HC–R for March 31, 2015, or Schedule SC–R for June 30, 2015, as applicable. If an institution makes an AOCI opt-out election, the transition provisions for AOCI under section 300 of the revised regulatory capital rules would not apply to the reporting of AOCI in line item 3.

All advanced approaches institutions and all other HCs that choose not to make the AOCI opt-out election must report ''No'' in line item 3(a) and complete line item 9(f). In addition, such institutions must report AOCI in item 3 subject to the transition provisions, as described in section 300 of the revised regulatory capital rules and the corresponding instructions.

B. Proposed Schedules HC–R, Part I.B and SC–R Items 6 Through 19: Common Equity Tier 1 Capital: Adjustments and Deductions

Proposed line items 6 through 18 reflect adjustments and deductions to common equity tier 1 capital, as described in section 22 of the revised regulatory capital rules. Institutions must refer to the revised regulatory capital rules to determine under which conditions deferred tax liabilities (DTLs) may be netted against assets subject to deduction. An institution would calculate and report the following adjustments and deductions, as described below, which would be summed in line item 18 and deducted from common equity tier 1 capital in line item 19.

Schedules HC–R, Part I.B and SC–R item 6: LESS: Goodwill net of associated deferred tax liabilities (DTLs): Goodwill net of associated DTLs is reported and deducted from common equity tier 1 capital.

Schedules HC–R, Part I.B and SC–R item 7: LESS: Intangible assets (other than goodwill and mortgage servicing assets (MSAs)), net of associated DTLs: Intangible assets, other than goodwill and MSAs, net of associated DTLs, must be deducted from common equity tier 1 capital.

Schedules HC–R, Part I.B and SC–R item 8: LESS: Deferred tax assets (DTAs) that arise from operating loss and tax credit carryforwards, net of any related valuation allowances and net of DTLs: An institution must deduct DTAs that arise from operating loss and tax credit carryforwards, net of any related valuation allowances and net of DTLs, from common equity tier 1 elements.[9]

Schedules HC–R, Part I.B and SC–R item 9: AOCI-related adjustments: An institution that makes an AOCI opt-out election by reporting ''1'' for Yes in line item 3(a), would adjust its common equity tier 1 capital by reporting the amount of specified AOCI components in line items 9(a), 9(b), 9(c), 9(d) and 9(e), that is, net unrealized gains (losses) on available-for-sale (AFS) securities; net unrealized loss on AFS preferred stock classified as an equity security under GAAP and AFS equity exposures; accumulated net gains (losses) on cash flow hedges; amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans; and net unrealized gains (losses) on held-to-maturity securities that are included in AOCI.

An institution that does not make an AOCI opt-out election by reporting ''0'' for No and advanced approaches respondents would report in line item 9(f), any accumulated net gain (loss) on cash flow hedges included in AOCI, net of applicable tax effects, that relate to the hedging of items not recognized at fair value on the balance sheet.

Schedules HC–R, Part I.B and SC–R item 10: Other deductions from (additions to) common equity tier 1 capital before threshold-based deductions: Under the revised regulatory capital rules, institutions must make the following deductions from or additions to common equity tier 1 capital:

Schedules HC–R, Part I.B and SC–R item 10(a): LESS: Unrealized net gain (loss) related to changes in the fair value of liabilities that are due to changes in own credit risk: An institution would report the amount of unrealized net gain (loss) related to changes in the fair value of liabilities that are due to changes in its own credit risk. Advanced approaches HCs would include the credit spread premium over the risk free rate for derivatives that are liabilities.

Schedules HC–R, Part I.B and SC–R item 10(b): LESS: All other deductions from (additions to) common equity tier 1 capital before threshold-based deductions: An institution would report in line item 10.b the total of the following deductions and additions:

(1) Gain-on-sale associated with a securitization exposure: An institution must deduct from common equity tier 1 capital any after-tax gain-on-sale associated with a securitization exposure. Gain-on-sale means an increase in the equity capital of the institution resulting from the consummation or issuance of a securitization (other than an increase in equity capital resulting from the institution's receipt of cash in connection with the securitization).

(2) Defined benefit pension fund assets net of associated DTLs: Defined benefit pension fund assets, net of any associated DTLs, must be deducted from common equity tier 1 capital. (This discussion does not pertain to defined benefit pension fund net assets owned by depository institutions.)

(3) Investments in own regulatory capital instruments: To avoid the double-counting of regulatory capital, an institution must deduct any investments in its own common equity tier 1, own additional tier 1, and own tier 2 capital instruments from its common equity tier 1, additional tier 1, and tier 2 capital elements, respectively. Any common equity tier 1, additional tier 1, or tier 2 capital instrument issued by the institution which the institution could be contractually obligated to purchase must be deducted from its common equity tier 1, additional tier 1, or tier 2 capital, respectively. If an institution already deducts its investment in its own shares (for example, treasury stock) from its common equity tier 1 capital, it does not need to make this deduction twice.

(4) Reciprocal cross holdings in the capital instruments of financial institutions: A reciprocal cross holding results from a formal or informal

[8] Under current GAAP, minority interests are referred to as noncontrolling interests. In this regard, on the FR Y–9C balance sheet (Schedule HC), such interests are labeled ''Noncontrolling (minority) interests in consolidated subsidiaries.''

[9] DTAs arising from temporary differences that the banking organization could realize through net operating loss carrybacks are not subject to deduction and instead receive a 100 percent risk weight.

arrangement between two financial institutions to swap, exchange, or otherwise intend to hold each other's capital instruments. Institutions must deduct reciprocal holdings of capital instruments of other financial institutions in certain circumstances. The deduction is made by using the corresponding deduction approach as described in section 22(c) of the revised regulatory capital rules. The corresponding deduction approach requires the institution to make the deduction from the tier of capital for which the instrument would qualify. However, if the institution does not have a sufficient amount of the tier of capital to effect the required deduction, the shortfall must be deducted from the next higher (that is, more subordinated) component of regulatory capital. For example, if an institution is required to deduct a certain amount of regulatory capital from additional tier 1 capital and it does not have sufficient additional tier 1 capital to effectuate the deduction, then the amount of the deduction in excess of the available additional tier 1 capital must be made from common equity tier 1 capital.

(5) Equity investments in financial subsidiaries: An institution must deduct the aggregate amount of its outstanding equity investment, including retained earnings, in its financial subsidiaries and may not consolidate the assets and liabilities of a financial subsidiary with those of the parent institution.

(6) Advanced approaches HCs: After an advanced approaches HC completes its parallel run process, it would include expected credit losses that exceed its eligible credit reserves in this line item.

Schedules HC–R, Part I.B and SC–R item 11: LESS: Non-significant investments in the capital of unconsolidated financial institutions in the form of common stock that exceed the 10 percent threshold for non-significant investments: Non-significant investments in the capital of unconsolidated financial institutions are investments where an institution owns 10 percent or less of the issued and outstanding common shares of an unconsolidated financial institution. An institution must deduct the amount of the non-significant investments that are above the 10 percent threshold for non-significant investments (calculated as described in section 22(c)(4) of the revised regulatory capital rules and in the reporting instructions for this line item), applying the corresponding deduction approach.

Schedules HC–R, Part I.B and SC–R item 12: Subtotal: An institution would report the amount in item 5 less the amounts in items 6 through 11. The amount reported in this item is used to calculate the common equity tier 1 capital deduction thresholds that are used for reporting items 13, 14, 15, and 16.

Schedules HC–R, Part I.B and SC–R items 13 through16: Items subject to the 10 and 15 percent common equity tier 1 capital threshold deductions: An institution must report the amount of each of the following items that individually exceed the 10 percent common equity tier 1 capital deduction threshold (that is, 10 percent of the amount reported in line item 12). These items are referred to as items subject to the threshold deductions in section 22(d) of the revised regulatory capital rules and include: (1) Significant investments in the capital of financial institutions in the form of common stock, net of associated DTLs; (2) MSAs, net of associated DTLs; and (3) DTAs arising from temporary differences that could not be realized through net operating loss carrybacks, net of any related valuation allowances and net of DTLs.

The aggregate amount of the items subject to the threshold deductions (that are not deducted in line items 13, 14, and 15) is not permitted to exceed 15 percent of an institution's common equity tier 1 capital. The aggregate amount in excess of the 15 percent threshold, if any, calculated in accordance with section 22(d)(2) of the revised regulatory capital rules and the corresponding line item instructions, must be deducted in line item 16.

Schedules HC–R, Part I.B and SC–R item 17: LESS: Deductions applied to common equity tier 1 capital due to insufficient amount of additional tier 1 capital and tier 2 capital to cover deductions: If an institution does not have a sufficient amount of additional tier 1 capital and tier 2 capital to cover deductions, then the shortfall must be reported in this line item.

Schedules HC–R, Part I.B and SC–R items 18 and19: An institution would summarize total adjustments and deductions in line item 18 and deduct that amount from its common equity tier 1 capital before adjustments and deductions to determine its common equity tier 1 capital, which would be reported in line item 19

C. Proposed Schedules HC–R, Part I.B and SC–R Items 20 Through 25: Additional Tier 1 Capital, and Item 26, Tier 1 Capital

Proposed Schedules HC–R, Part I.B and SC–R line items 20 through 25 would require reporting of additional tier 1 capital elements. As defined in the revised regulatory capital rules, additional tier 1 capital is the sum of: (Item 20) additional tier 1 capital instruments that satisfy the eligibility criteria described in section 20 of the revised regulatory capital rules, plus related surplus, (item 21) non-qualifying capital instruments subject to phase out from additional tier 1 capital, and (item 22) tier 1 minority interest that is not included in an institution's common equity tier 1 capital, less (item 24) applicable deductions.

Line item 26 collects data on the institution's tier 1 capital, calculated as the sum of (item 19) common equity tier 1 capital and (item 25) additional tier 1 capital.

D. Proposed Schedules HC–R, Part I.B and SC–R Items 27 Through 34: Tier 2 Capital, and Item 35: Total Capital

Proposed Schedules HC–R, Part I.B and SC–R line items 27 through 34 would require reporting of tier 2 capital elements. As defined in the revised regulatory capital rules, tier 2 capital is the sum of: (Item 27) tier 2 capital instruments that satisfy the eligibility criteria described in section 20 of the revised regulatory capital rules, plus related surplus; (item 28) non-qualifying capital instruments subject to phase out from tier 2 capital; (item 29) total capital minority interest not included in an institution's tier 1 capital; (HC–R item 30(a), SC–R item 30) allowance for loan and lease losses (ALLL) includable in tier 2 capital or, for advanced approaches HCs, (HC–R item 30(b)) eligible credit reserves includable in tier 2 capital; and (item 31) unrealized gains on AFS preferred stock classified as an equity security under GAAP and AFS equity exposures includable in tier 2 capital, less (item 33) tier 2 capital deductions.

As noted above, advanced approaches HCs would report line items 30(b) (eligible credit reserves includable in tier 2 capital); 32(b) (tier 2 capital before deductions); 34(b) (tier 2 capital); and 35(b) (total capital) on the proposed Schedule HC–R only after these institutions conduct a satisfactory parallel run.

Line item 35(a) would collect data information on an institution's total capital, which is the sum of (item 26) tier 1 capital and (item 34) tier 2 capital.

E. Proposed Schedules HC–R, Part I.B and SC–R Items 36 Through 39: Total Assets for the Leverage Ratio

Institutions would report total assets for the leverage ratio denominator in line item 39, calculated as: (Item 36) average total consolidated assets, less (item 37) deductions from common

equity tier 1 capital and additional tier 1 capital, and less (item 38) other deductions from (additions to) assets for leverage ratio purposes, as described under sections 22(a), (c), and (d) of the revised regulatory capital rules.

F. Proposed Schedules HC–R, Part I.B and SC–R Items 40 Through 45: Total Risk-Weighted Assets and Capital Ratios

Proposed Schedules HC–R, Part I.B and SC–R line item 40 would collect data on an institution's risk-weighted assets. Proposed Schedules HC–R, Part I.B and SC–R line items 41 through 45 would collect data on the following regulatory capital ratios: (Item 41) common equity tier 1 ratio; (item 42) tier 1 capital ratio; (item 43) total capital ratio; (item 44) tier 1 leverage ratio; and, for advanced approaches HCs, (item 45), supplementary leverage ratio, all calculated as described in section 10 of the revised regulatory capital rules. Item 45 would not apply to Schedule SC–R.[10]

Advanced approaches HCs would report line items 40 through 43 on the proposed Schedule HC–R, Part I.B as follows.

- During the reporting periods in 2014, these institutions would continue applying Appendix A of the general risk-based capital rules [11] to report their total risk-weighted assets in line item 40(a), which would serve as the denominator of the ratios reported in line items 41 through 43 (Column A).
- Starting on March 31, 2015, these institutions would apply the standardized approach, described in subpart D of the revised regulatory capital rules, to report their risk-weighted assets in line item 40(a) and the regulatory capital ratios in line items 41 through 43. As discussed, these institutions would report their total risk-weighted assets (item 40(b)) and regulatory capital ratios (items 41 through 43, Column B) using the advanced approaches rule after they conduct a satisfactory parallel run.
- In addition, starting on March 31, 2015, these institutions would report a supplementary leverage ratio in item 45, as described in section 10 of the revised regulatory capital rules.

G. Proposed Schedules HC–R, Part I.B and SC–R Items 46 Through 48: Capital Buffer

Under section 11 of the revised regulatory capital rules, institutions must hold sufficient common equity tier 1 capital to avoid limitations on distributions and discretionary bonus payments. An institution's (item 46(a)) capital conservation buffer is the lowest of the following measures: (1) The institution's common equity tier 1 capital ratio minus the applicable minimum (4 percent in 2014, 4.5 percent in 2015 and thereafter); (2) the institution's tier 1 capital ratio minus the applicable minimum (5.5 percent in 2014 6 percent in 2015 and thereafter); and (3) the institution's total capital ratio minus 8 percent. Advanced approaches HCs must make additional calculations (item 46(b)) to account for all the applicable buffers, as described in section 11 of the revised regulatory capital rules. Item 46(b) would not apply to Schedule SC–R. If an institution's capital buffer is less than or equal to applicable minimum capital conservation buffer (or in the case of an advanced approaches HC, the applicable minimum capital conservation buffer plus any other applicable capital buffers), then it must report (item 47) eligible retained income and (item 48) distributions and discretionary bonus payments to executive officers, as described in section 11 of the revised regulatory capital rules.

Board of Governors of the Federal Reserve System, August 5, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–19357 Filed 8–9–13; 8:45 am]

BILLING CODE 6210–01–P

[10] During the reporting periods in 2014, FR Y–9C filers would continue applying the general risk-based capital rules to report their total risk-weighted assets in line item 40.a of Part I of Schedule HC–R (as currently reported in item 62 of the risk-weighted assets portion of Schedule HC–R). The amount in line item 40 would serve as the denominator of the risk-based capital ratios reported in line items 41 through 44 (Column A). Effective March 31, 2015, FR Y–9C filers would apply the standardized approach, described in subpart D of the revised regulatory capital rules, to report their risk-weighted assets in line item 40.a and the risk-based capital ratios in line items 41 through 44 (Column A) of the regulatory capital ratios portion of Schedule HC–R.

[11] The Federal Reserve's general risk-based capital rules are at 12 CFR parts 208 and 225, appendix A.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health

AGENCY: Office of the Surgeon General of the United States Public Health Service, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), notice is hereby given that a meeting is scheduled to be held for the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health (the ''Advisory Group''). The meeting will be open to the public. Information about the Advisory Group and the agenda for this meeting can be obtained by accessing the following Web site: *http://www.surgeongeneral.gov/initiatives/prevention/advisorygrp/index.html.*

DATES: The meeting will be held on September 26–27, 2013. Exact start and end times will be published closer to the meeting date at: *http://www.surgeongeneral.gov/initiatives/prevention/advisorygrp/index.html.*

ADDRESSES: 200 Independence Ave. SW., Room 505A, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Office of the Surgeon General, 200 Independence Ave. SW; Hubert H. Humphrey Building, Room 701H; Washington, DC 20201; 202–205–9517; *prevention.council@hhs.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Group is a non-discretionary Federal advisory committee that was initially established under Executive Order 13544, dated June 1, 2012, to comply with the statutes under Section 4001 of the Patient Protection and Affordable Care Act, Public Law 111–148. The Advisory Group was established to assist in carrying out the mission of the National Prevention, Health Promotion, and Public Health Council (the Council). The Advisory Group provides recommendations and advice to the Council. Under Executive Order 13591, dated November 23, 2011, operation of the Advisory Group was terminated on September 30, 2012. On December 7, 2012, President Obama issued Executive Order 13631 to re-establish the Advisory Group. The Advisory Group is authorized to operate until September 30, 2013.

It is authorized for the Advisory Group to consist of not more than 25 non-federal members. The Advisory Group currently has 22 members who were appointed by the President. The membership includes a diverse group of licensed health professionals, including integrative health practitioners who have expertise in (1) Worksite health promotion; (2) community services, including community health centers; (3) preventive medicine; (4) health coaching; (5) public health education; (6) geriatrics; and (7) rehabilitation medicine.

Public attendance at the meeting is limited to the space available. Members of the public who wish to attend must

register by 12:00 p.m. EST on September 16, 2013. Individuals should register for public attendance at *prevention.council@hhs.gov* by providing your full name and affiliation. Individuals who plan to attend the meeting and need special assistance and/or accommodations, i.e., sign language interpretation or other reasonable accommodations, should indicate so when they register. The public will have the opportunity to provide comments to the Advisory Group on September 27, 2013; public comment will be limited to 3 minutes per speaker. Registration through the designated contact for the public comment session is also required. Any member of the public who wishes to have printed materials distributed to the Advisory Group for this scheduled meeting should submit material to the designated point of contact no later than 12:00 p.m. EST on September 16, 2013.

Dated: July 22, 2013.

Corinne M. Graffunder,

Designated Federal Officer, Advisory Group on Prevention, Health Promotion, and Integrative and Public Health, Office of the Surgeon General.

[FR Doc. 2013–19370 Filed 8–9–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Interstate Administrative Subpoena.

OMB No.: 0970–0152.

Description: Section 452(a)(11) of the Social Security Act requires the Secretary of the Department of Health and Human Services to promulgate a form for administrative subpoenas to be used in State child support enforcement programs to collect information for use in the establishment, modification and enforcement of child support orders in interstate cases. Section 454(9)(E) of the Social Security Act requires each State to cooperate with any other State in using the federal form for issuance of administrative subpoenas in interstate child support cases. Tribal IV–D agencies are not required to use this form but may choose to do so. OMB approval of this form is expiring in February 2014 and the Administration for Children and Families is requesting an extension of this form.

Respondents: State, local or Tribal agencies administering a child support enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Administrative Subpoena	53,488	1	0.50	26,744

Estimated Total Annual Burden Hours: 26,744

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–19453 Filed 8–9–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Notice of Interstate Lien.

OMB No.: 0970–0153.

Description: Section 452(a)(11) of the Social Security Act requires the Secretary of Health and Human Services to promulgate a form for imposition of liens to be used by the State child support enforcement (Title IV–D) agencies in interstate cases. Section 454(9)(E) of the Social Security Act requires each State to cooperate with any other State in using the Federal form for imposition of liens in interstate child support cases. Tribal IV–D agencies are not required to use this form but may choose to do so.

Respondents: State, local or Tribal agencies administering a child support enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Notice of Lien	1,876,922	1	0.25	469,231

Estimated Total Annual Burden Hours: 469,231.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,*

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–19452 Filed 8–9–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-day Comment Request: Outcomes Evaluation of the National Cancer Institute (NCI) Cancer Prevention Fellowship Program (CPFP)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, contact: Jessica Faupel-Badger, Ph.D., MPH, Cancer Prevention Fellowship Program, National Cancer Institute, 9609 Medical Center Drive, Room 2W136 MSC 9712, Bethesda, Maryland 20892–9712 or call non-toll-free number 240–276–5650 or Email your request, including your address to: *badgerje@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Outcomes Evaluation of the National Cancer Institute Cancer Prevention Fellowship Program (CPFP), 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute's (NCI) Cancer Prevention Fellowship Program (CPFP) mission is to train early career scientists from diverse disciplines to become outstanding independent researchers and leaders. This postdoctoral program conducted on-site at NCI has been in existence for over 25 years and has approximately 200 alumni. The current study focuses on the implementation of a new survey instrument to capture career outcomes from CPFP alumni and two comparison groups, CPFP applicants and NCI F32 awardees. With the diversity of disciplines represented by CPFP alumni, the results of this evaluation will be of broad interest to the biomedical research training community.

OMB approval is requested for one year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 299.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
CPFP Alumni	200	1	25/60	83
CPFP Applicants	283	1	20/60	94
F32 Awardees	367	1	20/60	122

Dated: August 5, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2013–19425 Filed 8–9–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel ZHD1 DRG–D (40).

Date: August 13, 2013.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference).

Contact Person: Sherry L. Dupere, Ph.D., Director, Division of Scientific Review, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: *August 6, 2013.*

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19375 Filed 8–9–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms underlying Epilepsy.

Date: August 26, 2013.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Diabetes and Obesity.

Date: August 29, 2013.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846- 93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 6, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19373 Filed 8–9–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Randomized Trial on Medication Adherence Intervention in Primary Care.

Date: September 9, 2013.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Keary A Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: August 6, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–19374 Filed 8–9–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
New Mexico:					
Bernalillo (FEMA Docket No.: B–1317).	City of Albuquerque (13–06–1053P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	600 2nd Street Northwest, Albuquerque, NM 87102.	June 17, 2013	350002
Bernalillo (FEMA Docket No.: B–1317).	Unincorporated areas of Bernalillo County (13–06–1053P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County, 2400 Broadway Southeast, Albuquerque, NM 87102.	June 17, 2013	350001
San Juan (FEMA Docket No.: B–1313).	City of Bloomfield (12–06–0882P).	Mr. David Fuqua, Manager, City of Bloomfield, 915 North 1st Street, Bloomfield, NM 87413.	915 North 1st Street, Bloomfield, NM 87413.	June 10, 2013	350066
San Juan (FEMA Docket No.: B–1313).	Unincorporated areas of San Juan County (12–06–0882P).	Mr. Kim Carpenter, County Executive Officer, San Juan County, 100 South Oliver Drive, Aztec, NM 87410.	San Juan County Floodplain Management Office, 209 South Oliver Drive, Aztec, NM 87410.	June 10, 2013	350064
Oklahoma:					
Comanche (FEMA Docket No.: B–1317).	City of Lawton (11–06–3356P).	The Honorable Fred L. Fitch, Mayor, City of Lawton, 212 Southwest 9th Street, Lawton, OK 73501.	City Hall, 212 Southwest 9th Street, Lawton, OK 73501.	May 30, 2013	400049
Texas:					
Harris (FEMA Docket No.: B–1317).	Unincorporated areas of Harris County (12–06–2602P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77002.	May 31, 2013	480287
Tarrant (FEMA Docket No.: B–1324).	City of Fort Worth (12–06–1459P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	May 20, 2013	480596

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Tarrant (FEMA Docket No.: B–1316).	City of Fort Worth (12–06–3052P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	June 14, 2013	480596
Tarrant (FEMA Docket No.: B–1324).	City of Westworth Village (12–06–1459P).	The Honorable Tony Yeager, Mayor, City of Westworth Village, 311 Burton Hill Road, Westworth Village, TX 76114.	City Hall, 311 Burton Hall Road, Westworth Village, TX 76114.	May 20, 2013	480616
Virginia:					
Culpeper (FEMA Docket No.: B–1316).	Town of Culpeper (12–03–0844P).	Mr. Christopher D. Hively, Acting Manager, Town of Culpeper, 400 South Main Street, Suite 101, Culpeper, VA 22701.	Town Manager's Office, 400 South Main Street, Suite 101, Culpeper, VA 22701.	June 10, 2013	510042
Loudoun (FEMA Docket No.: B–1316).	Town of Leesburg (13–03–0417P).	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	June 27, 2013	510091

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19394 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of January 16, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.* The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

Community	Community map repository address
Tuscaloosa County, Alabama, and Incorporated Areas	
Docket No.: FEMA–B–1267	
City of Northport	City Hall, 3500 McFarland Boulevard, Northport, AL 35476.
City of Tuscaloosa	City Hall, 2201 University Boulevard, Tuscaloosa, AL 35401.

Community	Community map repository address
Town of Brookwood	Town Hall, 15689 Highway 216, Brookwood, AL 35444.
Town of Coaling	Town Hall, 11281 Stephens Loop Road, Coaling, AL 35449.
Town of Coker	Town Hall, 11549 Eisenhower Drive, Coker, AL 35452.
Town of Lake View	Town Hall, 21289 Phyllis Drive, Lake View, AL 35111.
Town of Moundville	Town Hall, 410 Market Street, Moundville, AL 35474.
Town of Vance	Town Hall, 18336 Highway 11 North, Vance, AL 35490.
Town of Woodstock	Town Hall, 28513 Highway 5, Woodstock, AL 35188.
Unincorporated Areas of Tuscaloosa County	Tuscaloosa County Public Works Department, 2810 35th Street, Tuscaloosa, AL 35401.
Yuma County, Arizona, and Incorporated Areas	
Docket No.: FEMA–B–1266	
City of Yuma	Community Planning Department, 1 City Plaza, Yuma, AZ 85364.
Town of Wellton	Town Hall, 28634 Oakland Avenue, Wellton, AZ 85356.
Unincorporated Areas of Yuma County	Yuma County Department of Development Services, 2351 West 26th Street, Yuma, AZ 85364.
Franklin County, Indiana, and Incorporated Areas	
Docket No.: FEMA–B–1272	
Town of Brookville	Franklin County Government Center, Area Planning Office, 1010 Franklin Avenue, Brookville, IN 47012.
Town of Cedar Grove	Franklin County Government Center, Area Planning Office, 1010 Franklin Avenue, Brookville, IN 47012.
Unincorporated Areas of Franklin County	Franklin County Government Center, Area Planning Office, 1010 Franklin Avenue, Brookville, IN 47012.
Miami County, Kansas, and Incorporated Areas	
Docket No.: FEMA–B–1270	
City of Fontana	City Hall, 204 East North Street, Fontana, KS 66026.
City of Louisburg	City Hall, 5 South Peoria Street, Suite 105, Louisburg, KS 66053.
City of Osawatomie	City Hall, 439 Main Street, Osawatomie, KS 66064.
City of Paola	City Hall, 19 East Peoria Street, Paola, KS 66071.
Unincorporated Areas of Miami County	Miami County Administration Building, 201 South Pearl Street, Suite 201, Paola, KS 66071.
Orangeburg County, South Carolina, and Incorporated Areas	
Docket No.: FEMA–B–1242 and B–1267	
City of Orangeburg	Building Inspection Division, 152 Market Street, Orangeburg, SC 29116.
Town of Bowman	Town Hall, 100 Reeseville Road, Bowman, SC 29018.
Town of Branchville	Town Office, 7644 Freedom Road, Branchville, SC 29432.
Town of Elloree	Town Hall, 2719 Cleveland Street, Elloree, SC 29047.
Town of Eutawville	Town Hall, 419 Porcher Avenue, Eutawville, SC 29048.
Town of Holly Hill	Town Hall, 8807 Old State Road, Holly Hill, SC 29059.
Town of Norway	Town Hall, 8438 Savannah Highway, Norway, SC 29113.
Town of Rowesville	Town Hall, 129 Rowes Pump Drive, Rowesville, SC 29133.
Town of Springfield	Town Hall, 1505 Georgia Street, Springfield, SC 29146.
Unincorporated Areas of Orangeburg County	County Administration Building, 1437 Amelia Street, Orangeburg, SC 29116.
Sheridan County, Wyoming, and Incorporated Areas	
Docket No.: FEMA–B–1263 and B–1276	
City of Sheridan	Department of Public Works, 55 Grinnell Plaza, 3rd Floor, Sheridan, WY 82801.
Town of Clearmont	Sheridan County Public Works Office (Planning and Engineering), 224 South Main Street, Suite B8, Sheridan, WY 82801.
Town of Dayton	Public Works, 608 Broadway, Dayton, WY 82836.
Town of Ranchester	145 Coffeen Street, Ranchester, WY 82839.
Unincorporated Areas of Sheridan County	Sheridan County Public Works Office (Planning and Engineering), 224 South Main Street, Suite B8, Sheridan, WY 82801.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19436 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of January 8, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.* The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

Community	Community map repository address
Russell County, Alabama, and Incorporated Areas Docket No.: FEMA–B–1275	
City of Phenix City	City Hall, 601 12th Street, Phenix City AL 36867.
Unincorporated Areas of Russell County	Russell County Courthouse, 501 14th Street, Phenix City, AL 36867.
Kendall County, Illinois, and Incorporated Areas Docket No.: FEMA–B–1282	
City of Joliet	City Hall, 150 West Jefferson Street, Joliet, IL 60432.
City of Yorkville	City Hall, 800 Game Farm Road, Yorkville, IL 60560.
Unincorporated Areas of Kendall County	Kendall County Planning, Building and Zoning Office, 111 West Fox Street, Yorkville, IL 60560.
Village of Montgomery	Village Hall, 200 North River Street, Montgomery, IL 60538.
Village of Plattville	Kendall County Planning, Building, and Zoning Office, 111 West Fox Road, Yorkville, IL 60560.
White County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1270	
City of Monticello	White County Government Center, 110 North Main Street, Monticello, IN 47960.
Town of Brookston	White County Government Center, 110 North Main Street, Monticello, IN 47960.
Town of Monon	White County Government Center, 110 North Main Street, Monticello, IN 47960.
Unincorporated Areas of White County	White County Government Center, 110 North Main Street, Monticello, IN 47960.
Jefferson County, New York (All Jurisdictions) Docket No.: FEMA–B–1267	
Town of LeRay	LeRay Municipal Offices, 8650 LeRay Street, Evans Mills, NY 13637.

Community	Community map repository address
Village of Black River	Village Office, 107 Jefferson Place, Black River, NY 13612.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19432 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1341]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Pennsylvania:						
Montgomery.	Township of Whitpain (12–03–1849P).	The Honorable Joseph J. Palmer, Chairman, Township of Whitpain Board of Supervisors, 960 Wentz Road, Blue Bell, PA 19422.	Whitpain Township Building, 960 Wentz Road, Blue Bell, PA 19422.	*http://www.rampp-team.com/lomrs.htm.*	August 12, 2013	420713
Texas:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Bell	City of Killeen (13–06–0268P).	The Honorable Daniel A. Corbin, Mayor, City of Killeen, P.O. Box 1329, Killeen, TX 76540.	City Hall, 101 North College Street, Killeen, TX 76541.	*http://www.rampp-team.com/lomrs.htm.*	September 9, 2013.	480031
Bell	City of Killeen (13–06–2244P).	The Honorable Daniel A. Corbin, Mayor, City of Killeen, P.O. Box 1329, Killeen, TX 76540.	City Hall, 101 North College Street, Killeen, TX 75641.	*http://www.rampp-team.com/lomrs.htm.*	October 7, 2013	480031
Bexar	City of San Antonio (13–06–0967P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Municipal Plaza, 114 West Commerce, 7th Floor, San Antonio, TX 78205.	*http://www.rampp-team.com/lomrs.htm.*	October 7, 2013	480045
Bexar	Unincorporated areas of Bexar County (13–06–2069P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.rampp-team.com/lomrs.htm.*	October 7, 2013	480035
Dallas	City of Garland (13–06–0314P).	The Honorable Ronald Jones, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	800 Main Street, Garland, TX 75040.	*http://www.rampp-team.com/lomrs.htm.*	October 7, 2013	485471
Dallas	City of Sachse (13–06–0314P).	The Honorable Mike Felix, Mayor, City of Sachse, 3815 Sachse Road, Building B, Sachse, TX 75048.	Community Development Department, 5560 Highway 78, Sachse, TX 75048.	*http://www.rampp-team.com/lomrs.htm.*	October 7, 2013	480186
Dallas	Town of Highland Park (13–06–1142P).	The Honorable Joel T. Williams, III, Mayor, Town of Highland Park, 4700 Drexel Drive, Dallas, TX 75205.	Public Works Department, 4700 Drexel Drive, Highland Park, TX 75205.	*http://www.rampp-team.com/lomrs.htm.*	September 27, 2013.	480178
Dallas	Town of Highland Park (12–06–3367P).	The Honorable Joel T. Williams, III Mayor, Town of Highland Park, 4700 Drexel Drive, Dallas, TX 75205.	Public Works Department, 4700 Drexel Drive, Highland Park, TX 75205.	*http://www.rampp-team.com/lomrs.htm.*	October 11, 2013	480178
Johnson	City of Burleson (12–06–1425P).	The Honorable Ken Shetter, Mayor, City of Burleson, 141 West Renfro Street, Burleson, TX 760280.	City Hall, 141 West Renfro Street, Burleson, TX 76028.	*http://www.rampp-team.com/lomrs.htm.*	October 3, 2013	485459
Tarrant	City of Keller (13–06–0279P).	The Honorable Pat McGrail, Mayor, City of Keller, 1100 Bear Creek Parkway, Keller, TX 76248.	City Hall, 1100 Bear Creek Parkway, Keller, TX 76248.	*http://www.rampp-team.com/lomrs.htm.*	August 12, 2013	480602

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19440 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood

hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Jefferson (FEMA Docket No.: B–1308).	City of Bessemer (12–04–6774P).	The Honorable Kenneth E. Gulley, Mayor, City of Bessemer, 1800 3rd Avenue North, Bessemer, AL 35020.	City Hall, Engineering Department, 1800 3rd Avenue North, Bessemer, AL 35020.	May 23, 2013	010115
Shelby (FEMA Docket No.: B–1298).	City of Alabaster (13–04–0812P).	The Honorable Marty Handlon, Mayor, City of Alabaster, City Hall, 201 1st Street North, Alabaster, AL 35007.	Building Safety Department, 200 Depot Street, Alabaster, AL 35007.	May 1, 2013	010192
Tuscaloosa (FEMA Docket No.: B–1298).	City of Tuscaloosa (12–04–4271P).	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, 2201 University Boulevard, Tuscaloosa, AL 35401.	Engineering Department, 2201 University Boulevard, Tuscaloosa, AL 35401.	May 10, 2013	010203
Arizona:					
Cochise (FEMA Docket No.: B–1308).	City of Sierra Vista (12–09–2774P).	The Honorable Rick Mueller, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	Planning and Zoning Department, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	May 20, 2013	040017
California:					
Contra Costa (FEMA Docket No.: B–1314).	City of Pittsburg (12–09–2983P).	The Honorable Ben Johnson, Mayor, City of Pittsburg, 65 Civic Avenue, Pittsburg, CA 94565.	City Hall, Engineering Records Section, 65 Civic Avenue, Pittsburg, CA 94565.	May 6, 2013	060033
Riverside (FEMA Docket No.: B–1298).	City of Corona (12–09–1650P).	The Honorable Jason Scott, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	Public Works Department, 400 South Vicentia Avenue, Corona, CA 92882.	May 3, 2013	060250
Riverside (FEMA Docket No.: B–1298).	City of Indian Wells (12–09–3142P).	The Honorable Douglas H. Hanson, Mayor, City of Indian Wells, 44–950 Eldorado Drive, Indian Wells, CA 92210.	City Hall, 44–950 Eldorado Drive, Indian Wells, CA 92210.	May 2, 2013	060254
Riverside (FEMA Docket No.: B–1308).	City of Murrieta (12–09–0685P).	The Honorable Rick Gibbs, Mayor, City of Murrieta, 24601 Jefferson Avenue, Murrieta, CA 92562.	Public Works and Engineering Department, 26442 Beckman County, Murrieta, CA 92562.	May 24, 2013	060751
Riverside (FEMA Docket No.: B–1298).	City of Norco (12–09–1650P).	The Honorable Kathy Azevedo, Mayor, City of Norco, 2870 Clark Avenue, Norco, CA 92860.	City Hall, 2870 Clark Avenue, Norco, CA 92860.	May 3, 2013	060256
Riverside (FEMA Docket No.: B–1308).	City of Temecula (12–09–0685P).	The Honorable Michael S. Naggar, Mayor, City of Temecula, 41000 Main Street, Temecula, CA 92590.	City Hall, 43200 Business Park Drive, Temecula, CA 92590.	May 24, 2013	060742
San Bernardino (FEMA Docket No.: B–1298).	City of Victorville (12–09–2880P).	The Honorable Jim Cox, Mayor, City of Victorville, P.O. Box 5001, Victorville, CA 92393.	City Hall, Planning Department, 14343 Civic Drive, Victorville, CA 92393.	May 3, 2013	065068
Santa Clara (FEMA Docket No.: B–1308).	City of Milpitas (13–09–0070P).	The Honorable Jose Esteves, Mayor, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035.	Engineering Division, 455 East Calaveras Boulevard, Milpitas, CA 95035.	May 24, 2013	060344
Colorado:					
Jefferson (FEMA Docket No.: B–1314).	Unincorporated areas Jefferson County (12–08–0863P).	The Honorable Donald Rosier, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Golden, CO 80419.	June 28, 2013	080087
Larimer (FEMA Docket No.: B–1286).	City of Fort Collins (12–08–0677P).	The Honorable Karen Weitkunat, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80521.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	February 28, 2013	080102
Larimer (FEMA Docket No.: B–1286).	Unincorporated areas of Larimer County (12–08–0677P).	The Honorable Lew Gaiter III, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Engineering Department, 200 West Oak Street, Fort Collins, CO 80521.	February 28, 2013	080101
Mesa (FEMA Docket No.: B–1298).	Unincorporated areas of Mesa County (12–08–0541P).	The Honorable Craig J. Meis, Chairman, Mesa County Board of Commissioners, P.O. Box 20000, Grand Junction, CO 81502.	Mesa County Combined Services Department, 200 South Spruce Street, Grand Junction, CO 81501.	May 2, 2013	080115

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Weld (FEMA Docket No.: B–1308).	Unincorporated areas of Weld County (12–08–0745P).	The Honorable Sean Conway, Chairman, Weld County Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Public Works Department, 1111 H Street, Greeley, CO 80632.	May 3, 2013	080266
Florida:					
Alachua (FEMA Docket No.: B–1308).	City of Gainesville (12–04–7870P).	The Honorable Craig Lowe, Mayor, City of Gainesville, 200 East University Avenue, Gainesville, FL 32601.	Public Works Department, 306 Northeast 6th Avenue, Gainesville, FL 32601.	May 24, 2013	125107
Collier (FEMA Docket No.: B–1298).	City of Marco Island (12–04–5498P).	The Honorable Joseph R. Batte, Chairman, Marco Island City Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	Planning Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	May 3, 2013	120426
Lee (FEMA Docket No.: B–1298).	Unincorporated areas of Lee County (12–04–7939P).	The Honorable Cecil L. Pendergrass, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, FL 33902.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	May 3, 2013	125124
Orange (FEMA Docket No.: B–1298).	City of Orlando (12–04–4951P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services Department, 400 South Orange Avenue, Orlando, FL 32801.	May 3, 2013	120186
Orange (FEMA Docket No.: B–1308).	City of Orlando (13–04–0278P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services Department, 400 South Orange Avenue, Orlando, FL 32801.	May 24, 2013	120186
Georgia:					
Hall (FEMA Docket No.: B–1308).	Town of Braselton (12–04–5040P).	The Honorable Bill Orr, Mayor, Town of Braselton, P.O. Box 306, Braselton, GA 30517.	Town Hall, 4982 Highway 53, Braselton, GA 30517.	May 20, 2013	130343
Hall (FEMA Docket No.: B–1308).	Unincorporated areas of Hall County (12–04–5040P).	The Honorable Tom Oliver, Chairman, Hall County Board of Commissioners, P.O. Drawer 1435, Gainesville, GA 30503.	Hall County Engineering Department, 300 Green Street, Gainesville, GA 30503.	May 20, 2013	130466
Iowa:					
Dubuque (FEMA Docket No.: B–1308).	City of Dubuque (12–07–2232P).	The Honorable Roy D. Buol, Mayor, City of Dubuque, 50 West 13th Street, Dubuque, IA 52001.	City Hall, 50 West 13th Street, Dubuque, IA 52001.	May 31, 2013	195180
Kentucky:					
Anderson (FEMA Docket No.: B–1298).	City of Lawrenceburg (12–04–1822P).	The Honorable Edwinna Baker, Mayor, City of Lawrenceburg, P.O. Box 290, Lawrenceburg, KY 40342.	Codes Enforcement Department, 100 North Main Street, Lawrenceburg, KY 40342.	May 8, 2013	210003
South Carolina:					
Anderson (FEMA Docket No.: B–1308).	Unincorporated areas of Anderson County (11–04–7512P).	The Honorable Thomas F. Allen, Chairman, Anderson County Council, P.O. Box 8002, Anderson, SC 29622.	Anderson County Courthouse, 101 South Main Street, Anderson, SC 29624.	May 10, 2013	450013
Tennessee:					
Cocke (FEMA Docket No.: B–1308).	City of Newport (13–04–0214P).	The Honorable Connie Ball, Mayor, City of Newport, 300 East Main Street, Newport, TN 37821.	Planning and Zoning Department, 300 East Main Street, Newport, TN 37821.	May 31, 2013	475440
Cocke (FEMA Docket No.: B–1308).	Unincorporated areas of Cocke County (13–04–0214P).	The Honorable Vaughn Moore, Mayor, Cocke County, 360 East Main Street, Newport, TN 37821.	Cocke County Property Assessor's Office, 360 East Main Street, Newport, TN 37821.	May 31, 2013	470033

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19437 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1344]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new

buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before November 12, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1344, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

I. Non-watershed-based studies:

Community	Community map repository address
City of Chesapeake, Virginia (Independent City)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Chesapeake	Planning Department, 306 Cedar Road, 2nd Floor, Chesapeake, VA 23322.
City of Newport News, Virginia (Independent City)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Newport News	Department of Engineering, 2400 Washington Avenue, Newport News, VA 23607.
Chambers County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Anahuac	City Hall, 501 Miller Street, Anahuac, TX 77514.
City of Baytown	City Hall, 2401 Market Street, Baytown, TX 77522.
City of Beach City	Community Building, 12723 Farm to Market 2354, Beach City, TX 77523.
City of Cove	City Hall, 7911 Cove Road, Cove, TX 77523.
City of Mont Belvieu	City Hall, 11607 Eagle Drive, Mont Belvieu, TX 77580.
City of Old River-Winfree	City Hall, 4818 North Farm to Market 565 Road, Old River-Winfree, TX 77523.
Unincorporated Areas of Chambers County	Chambers County Emergency Management Department, 404 Washington Avenue, Anahuac, TX 77514.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 26, 2013.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–19430 Filed 8–9–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2013–0005; OMB Control Number 1014–0017: 134E1700D2 EEEE500000 ET1SF0000.DAQ000]

Information Collection Activities: Safety and Environmental Management Systems (SEMS); Proposed Collection; Comment Request

ACTION: 60-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), Bureau of Safety and Environmental Enforcement (BSEE) is inviting comments on a collection of information that we will resubmit to the Office of Management and Budget (OMB) for review and approval. The resubmission of this information collection request (ICR) is necessary to include a form that we developed to clarify and facilitate submission of certain paperwork requirements in the regulations under subpart S, Safety and Environmental Management Systems (SEMS). The new form is BSEE–0130 and entails no additional information collection burden to that already approved by OMB for the SEMS regulations.

DATE: You must submit comments by October 11, 2013.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the Search box, enter BSEE–2013–0005 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *cheryl.blundon@bsee.gov.* Mail or hand-carry comments to the Department of the Interior; BSEE; Regulations and Standards Branch; Attention: Cheryl Blundon; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0017 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607 to obtain a copy, at no cost, of the regulation and the form that requires the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, subpart S, Safety and Environmental Management Systems (SEMS).

Forms: BSEE–0130 and BSEE–0131.

OMB Control Number: 1014–0017.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 et seq., and 43 U.S.C. 1801 et seq.), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations necessary for the administration of the leasing provisions of that Act related to mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. These responsibilities are among those delegated to BSEE.

In addition to the general rulemaking authority of the OCSLA at 43 U.S.C. 1334, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. Because the Secretary has delegated some of the authority under FOGRMA to BSEE, 30 U.S.C. 1751 is included as additional authority for these requirements.

Regulations governing Safety and Environmental Management Systems (SEMS) are covered in 30 CFR 250, subpart S. We require the operator (a lessee, the owner or holder of operating rights, or the designated operator) to integrate a comprehensive SEMS program into the management of their OCS operations, thereby providing for the prevention of waste and conservation of natural resources of the Outer Continental Shelf. Some, but not all of the requirements in a SEMS consists of Ultimate Work Authority (UWA) to address who is in charge of a mobile offshore drilling unit (MODU) and who has the final word during an emergency event. Self-audits are required to ensure that the operator maintains responsibility for the implementation of their SEMS. The operator must hire an Audit Service Provider (ASP) to conduct audits, thereby avoiding any potential conflicts of interest, and the ASP, in turn, must be accredited by a BSEE-approved accreditor. We hold the operator accountable for the overall safety of the offshore facility, including ensuring that all contractors and subcontractors have safety policies and procedures in place that support the implementation of the operator's SEMS program and align with the principles of managing safety set forth in API RP 75.

Regulations at 30 CFR 250, subpart S, implement these statutory requirements and we consider the information to be critical for us to monitor industry's operations record of safety and environmental management of the OCS. The Subpart S regulations hold the operator accountable for the overall safety of the offshore facility, including ensuring that all employees, contractors, and subcontractors have safety policies and procedures in place that support the implementation of the operator's SEMS program and align with the principles of managing safety. The SEMS program describes management commitment to safety and the environment, as well as policies and procedures to assure safety and environmental protection while conducting OCS operations (including those operations conducted by all personnel on the facility). The BSEE will use the information obtained by submittals and observed via SEMS audits to ensure that operations on the OCS are conducted safely, as they pertain to both human and environmental factors, and in accordance with BSEE regulations, as well as industry practices. The UWA and other recordkeeping will be reviewed diligently by BSEE during inspections/audits, etc., to ensure that industry is correctly implementing the documentation and that the

requirements are being followed properly.

Subsequent to the approval of the information collection requirements in the final 30 CFR 250, Subpart S regulations, BSEE developed a new form that respondents must use to submit certain information collection requirements under § 250.1922. This form entails no additional burden as it only clarifies and facilitates the submission of the currently approved information collection requirements to which the form pertains. This resubmitted information collection request (ICR) is revised to only include the new Form BSEE–0130, *SEMS Accreditation Body Application.* No burden hours have been changed from the currently OMB approved collection. The information on BSEE–0130 consists of name, address, etc., accreditation information such as member of what accreditation forum, peer review info, and description of how you comply with the Subpart S regulatory requirements. We ask for what type of accreditation service they are providing, as well as any electronic accreditation information for public use. There is also a fraud statement and a list of documents that should be submitted with the application. We use the information obtained to determine suitability for approval as an accreditation body. The form is included at the end of this document for your comment and review.

Currently, form BSEE–0131, *Performance Measures Data* is submitted to BSEE. The information on BSEE–0131 includes company identification, number of company/contractor injuries and/or illnesses suffered, company/contractor hours worked, EPA National Pollutant Discharge Elimination System (NPDES) permit noncompliances, and oil spill volumes for spills less than 1 barrel. All pieces of information are reported annually as collected during 1 calendar year and the information broken out quarterly. The information is used to develop industry average incident rates that help to describe how well the offshore oil and gas industry is performing. Using the produced data allows BSEE to better focus our regulatory and research programs on areas where the performance measures indicate that operators are having difficulty meeting our expectations. The BSEE will be more effective in leveraging resources by redirecting research efforts, promoting appropriate regulatory initiatives, and shifting inspection program emphasis based on performance results.

The BSEE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection;* and 30 CFR part 252, *OCS Oil and Gas Information Program.* No items of a sensitive nature are collected. Responses are required to obtain or retain a benefit and they are mandatory.

Frequency: On occasion.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 651,728 hours and continues to remain the same in this request. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart S	Reporting and recordkeeping requirement	Hour burden
1900–1933	High Activity Operator: Have a SEMS program, and maintain all documentation and records pertaining to your SEMS program, according to API RP 75, ISO 17011 in their entirety, the COS–2–01, 03, and 04 documents as listed in § 250.198, and all the requirements as detailed in 30 CFR 250, Subpart S. Make your SEMS available to BSEE upon request.	22,364.
1900–1933	Moderate Activity Operator: Have a SEMS program, and maintain all documentation and records pertaining to your SEMS program, according to API RP 75, the three COS documents in their entirety, and all the requirements as detailed in 30 CFR 250, Subpart S. Make your SEMS available to BSEE upon request.	4,921.
1900–1933	Low Activity Operator: Have a SEMS program, and maintain all documentation and records pertaining to your SEMS program, according to API RP 75, the three COS documents in their entirety, and all the requirements as detailed in 30 CFR 250, Subpart S. Make your SEMS available to BSEE upon request.	1,027.
1900(b); 1928(d), (e); 1929.	Submit Form BSEE–0131. Maintain a contractor employee injury/illness log in the operation area, retain for 2 years, and make available to BSEE upon request (this requirement is included in the form burden). Inform contractors of hazards.	10.
1911(b)	Immediate supervisor must conduct a JSA, sign the JSA, and ensure all personnel participating sign the JSA. The individual designated as being in charge of facility approves and signs all JSAs before job starts. NOTE: If activity is repeated, the 1stsigned JSA is allowed.	11 mins.*
1920(a), (b); 1921	ASP audit for High Activity Operator	$60,000 audit.
	ASP audit for Moderate Activity Operator	$30,000 audit.
	ASP audit for Low Activity Operator	$12,000 audit.
	NOTE: An audit once every 3 years.	
1920	Notify BSEE with audit schedule 30 days prior to conducting your audit	1.
1920(c); 1925	Submit to BSEE after completed audit, an audit report of findings and conclusions, including deficiencies and required supporting information/documentation.	3.
1920(d); 1925(b)	Submit/resubmit a copy of your CAP that will address deficiencies identified in audit	4.
1922—Form BSEE–0130.	Organization requests approval for AB; submits documentation for assessing, approving, maintaining, and withdrawing accreditation of ASP.	16.
1922	Make available to BSEE upon request, conflict of interest procedures	15 mins.
1924(b)	Make available to BSEE upon request, evaluation documentation and supporting information relating to your SEMS.	2.
1924(c)	Explain and demonstrate your SEMS during site visit if required; provide evidence supporting your SEMS implementation.	8.

Citation 30 CFR 250 subpart S	Reporting and recordkeeping requirement	Hour burden
1925(a)	Pay for all costs associated with BSEE directed ASP audit approximately 10 percent per operator per category: 1 required audit for high operator ($60,000 per audit × 1 audit = $60,000); 4 required audits for moderate operator ($30,000 per audit × 4 audits = $120,000; and 8 required audits for low operator ($12,000 per audit per 8 audits = $96,000) = 13 required audits per year.	13 BSEE directed ASP audits—for a total of $276,000.
1928	(1) Document and keep all SEMS audits for 6 years (at least 2 full audit cycles) at an onshore location. (2) JSAs must have documented results in writing and kept onsite for 30 days or until release of the MODU; retain records for 2 years. (3) All MOC records (API RP Sec 4) must be documented, dated, and retained for 2 years. (4) SWA documentation must be kept onsite for 30 days; retain records for 2 years. (5) Documentation of employee participation must be retained for 2 years. (6) All documentation included in this requirement must be made available to BSEE upon request.	5. 2 hrs/mo × 12 mos/yr = 24 hrs. 30 mins.
1930(c)	Document decision to resume SWA activities	8.
1933(a)	Personnel reports unsafe practices and/or health violations. Burden covered under 30 CFR 250, Subpart A, 1014–0022.	0.
1933(c)	Post notice where personnel can view their rights for reporting unsafe practices	15 mins.

*We calculated operators conducting six JSAs a day (3 JSAs for each 12 hour shift). Some contractors may perform none for a particular day, whereas others may conduct more than six per day. This estimate is an average.

Estimated reporting and recordkeeping non-hour cost burden:

The currently OMB approved non-hour cost burdens total $1,250,000 and for this request the burden remains the same. We have identified four non-hour cost burdens:

§ 250.1925(a)—Pay for all costs associated with a BSEE directed audit due to deficiencies,

§ 250.1920(a)—ASP audits for High, Moderate, and Low Activity Operator (3 separate fees).

We have not identified any other non-hour cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

The form BSEE–0130 is as follows:

U.S. Department of the Interior

Bureau of Safety and Environmental Enforcement

OMB Control Number 1014–xxxx

OMB Approved Expiration Date: xx/xx/xxxx

SEMS Accreditation Body Application

Under 30 CFR 250.1922, organizations requesting approval as an accreditation body must submit this application to BSEE that describes the process for assessing an audit service provider (ASP) for accreditation and approving, maintaining, and withdrawing the accreditation of an ASP. Requests for approval must be sent to DOI/BSEE, ATTN: Chief, Office of Offshore Regulatory Programs, 381 Elden Street, HE–3314, Herndon, VA 20170.

Name _____
Address _____
City/State/Zip _____
E-Mail _____
Phone _____

Accreditation Information

Member of International Accreditation Forum (IAF)? Yes/No

(If Yes, attach associated documentation)

_____

Most Recent Peer Review?

(Attach associated documentation)

_____

Describe how your accreditation process meets the requirements of section 6, requirement for accreditation of audit services providers performing SEMS audits and Certification of Deepwater Operations (COS–0204, or its equivalent, attach any documents necessary to support your case).

_____
_____
_____
_____
_____

What is the scope of accreditation service that you provide?

(Attach associated documentation)

SEMS Audits
ISO 140000
API Spec Q1
Other (specify)

_____

BSEE Form **BSEE–0130** (Mo/Year)
Page 1 of 2

Do you have a Web site that is set up to load and display accreditation applicant names, final dispositions, expiration dates, and scope of accreditation? Yes/No If yes, provide URL _____

CERTIFICATION

I certify that the information submitted on and with this form is complete and accurate to the best of my knowledge. I understand that making a false statement may subject me to criminal penalties under 18 U.S.C. 1001.
Name and Title: _____

Date: _____

Submission

Include the following documents (as applicable) with your application:

1 Statement of Qualifications
2 State Certificate of Incorporation, Partnership or other legal entity
3 Charter or Articles of Incorporation
4 By-Laws
5 List of Board of Directors, Trustees, and/or Key Personnel
6 Most recent financial audit report
7 Current financial statements, Profit and Loss, or Statement of Activities
8 Description of Quality Management System
9 Description of process for determining whether to accredit an applicant
10 Any peer review reports or audits of compliance with ISO 9000, ISO 17011, or similar standards
11 Any other relevant certificates or business registrations
12 Official policies regarding: Impartiality, Confidentiality and Privacy, Conflict of Interest, and Records Management
13 Certificates of General Liability, Directors and Officers, Malpractice, or other insurance and bonding
14 Description of or official policy and procedures for handling complaints

PAPERWORK REDUCTION ACT STATEMENT: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires us to inform you that this information is collected to implement the various safety and environmental provisions of the OCS Lands Act. We use the information to determine suitability for approval as an accreditation body. Responses are to obtain and/or retain a benefit and mandatory (43 U.S.C. 1334). Proprietary data are covered under 30 CFR 250.197. 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. Public reporting burden of this form is estimated to average 16 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Bureau of Safety and Environmental Enforcement, 381 Elden Street, Herndon, VA 20170.

BSEE Form **BSEE–0130** (Mo/Year) Page 2 of 2

Public Comment Procedures: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 6, 2013.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2013–19416 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2013–0004; OMB Control Number 1014–0004: 134E1700D2 EEEE500000 ET1SF0000.DAQ000]

Information Collection Activities: Oil and Gas Well-Completion Operations; Proposed Collection; Comment Request

ACTION: 60-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), Bureau of Safety and Environmental Enforcement (BSEE) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns renewal to the paperwork requirements in the regulations under Subpart E, *Oil and Gas Well-Completion Operations.*

DATE: You must submit comments by October 11, 2013.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the Search box, enter BSEE–2013–0004 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nicole.mason@bsee.gov.* Mail or hand-carry comments to the Department of the Interior; BSEE; Regulations and Standards Branch; Attention: Nicole Mason; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0004 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Nicole Mason, Regulations and Standards Branch at (703) 787–1605 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart E, Oil and Gas Well-Completion Operations.

OMB Control Number: 1014–0004.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of the Act related to the mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop mineral resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.'' These authorities and responsibilities are among those delegated to BSEE to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection (IC) request addresses the regulations at 30 CFR 250, Subpart E, Oil and Gas Well-Completion Operations, and any associated supplementary Notices to Lessees and Operators (NTLs) intended to provide clarification, description, or explanation of these regulations.

In addition to the general rulemaking authority of the OCSLA at 43 U.S.C. 1334, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore

operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. Because the Secretary has delegated some of the authority under FOGRMA to BSEE, 30 U.S.C. 1751 is included as additional authority for these requirements.

Regulations at 30 CFR part 250 implement these statutory requirements. We use the information to ensure that planned well-completion operations will protect personnel and natural resources. They use the analysis and evaluation results in the decision to approve, disapprove, or require modification to the proposed well-completion operations. Specifically, BSEE uses the information to ensure: (a) Compliance with personnel safety training requirements; (b) crown block safety device is operating and can be expected to function to avoid accidents; (c) proposed operation of the annular preventer is technically correct and provides adequate protection for personnel, property, and natural resources; (d) well-completion operations are conducted on well casings that are structurally competent; and (e) sustained casing pressures are within acceptable limits.

The BSEE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection;* and 30 CFR part 252, *OCS Oil and Gas Information Program.* No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Responses are generally weekly, monthly, annually, and vary by section.

Description of Respondents: Potential respondents comprise Federal OCS oil, gas, and sulphur lessees and holders of pipeline rights-of-way.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 46,859 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 Subpart E and related NTLs	Reporting and recordkeeping requirements	Hour burden
	Requests	
502	Request an exception to shutting in producible wells before moving a well-completion rig or related equipment.	5
512	Request establishment, amendment, or cancellation of well-completion field rules.	10
500–531	General departure and alternative compliance requests not specifically covered elsewhere in Subpart E regulations.	2
	Records	
506	Record dates and times of well-completion operations safety meetings	0.5
511	Record results of traveling-block safety device in operations log	1
514(d)	Request approval from the District Manager to displace kill-weight fluids to an underbalanced state; submit detailed written procedures with your APM.	2
515(e)(2)(ii)	Allow BSEE access to witness testing, inspections, and information verification. Notify District Manager at least 72 hours prior to shearing ram tests.	0.25
517(a)	Record all your BOP test pressures	0.75
517(c), (i)	Record time, date, and results of all pressure tests, crew drills, actuations, and inspections of the BOP in driller's report.	5
517(d)(8)	Function test ROV interventions on your subsea BOP stack; document all test results; make available to BSEE upon request.	10
517(d)(8)(ii) & (iii)	Notify District Manager at least 72 hours prior to stump/initial test on seafloor; document all test results and make them available to BSEE upon request.	0.25
517(d)(9)	Function test autoshear and deadman on your subsea BOP stack during stump test; document all test results; make available to BSEE upon request.	
517(e)	Record reason for postponing BOP test in driller's report	0.5
517(g)(l)	Document the procedures used for BOP inspections; record results; maintain records for 2 years; make available to BSEE upon request.	7 days × 12 hrs/day = 84
517(g)(2)	Request alternative method to inspect a marine riser	0
517(h)	Document the procedures used for BOP maintenance; record results; maintain records for 2 years; make available to BSEE upon request.	1
517(i)(1)–(3)	Record BOP test pressure on pressure charts; onsite rep certify and sign/date reports; document sequential order of BOP/auxiliary testing, pressure, and duration of each test.	2
	Submittals	
505; 513; 516(a); 526	Submit Forms BSEE–0123, BSEE–0123S, BSEE–0124, and BSEE–0125 and all accompanying information to conduct well-completion operations; request written approval.	0
515	Submit a description of your BOP and its components; schematic drawings; independent third-party verification and all supporting information (evidence showing appropriate licenses, has expertise/experience necessary to perform required verifications, etc) with your APM.	15

Citation 30 CFR 250 Subpart E and related NTLs	Reporting and recordkeeping requirements	Hour burden
517(d)(8), (9)	Submit test procedures with your APM for approval and relevant supporting data.	0
518(b), NTL	Submit results of casing pressure testing, callipering, and other evaluations; notify BSEE if sustained casing pressure is observed on a well.	4
526(a); 527	Submit notification of corrective action	1.5
526(a); 530(a)	Submit a corrective action plan; notify BSEE after completion of corrected action within 30 days.	11
526(b); 528	Submit a casing pressure request; any additional information as needed	9
530(b)	Submit the casing pressure diagnostic test data within 14 days	1
Post/Retain		
514(c)	Post the number of stands of drill pipe/collars that may be pulled and equivalent well-control fluid volume.	0.5
517(i)(6)	Retain all records including pressure charts, driller's report, referenced documents pertaining to BOP tests, actuations, and inspections at the facility for duration of the activity.	1.5
517(i)(7)	After completion of well, retain all records for 2 two years at location conveniently available to BSEE.	2
524	Retain records of casing pressure and diagnostic tests for 2 years or until the well is abandoned.	1

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified no non-hour cost burdens associated with this collection of information

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

BSEE Information Collection Clearance Officer: Cheryl Blundon (703) 787–1607.

Dated: August 2, 2013.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2013–19424 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2013–0006; OMB Control Number 1014–0001: [134E1700D2 EEEE500000 ET1SF0000.DAQ000]

Information Collection Activities: Oil and Gas Well-Workover Operations; Proposed Collection; Comment Request

ACTION: 60-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), Bureau of Safety and Environmental Enforcement (BSEE) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns renewal to the paperwork requirements in the regulations under Subpart F, *Oil and Gas Well-Workover Operations.*

DATE: You must submit comments by October 11, 2013.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the Search box, enter BSEE–2013–0006 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nicole.mason@bsee.gov.* Mail or hand-carry comments to the Department of the Interior; BSEE; Regulations and Standards Branch;

Attention: Nicole Mason; 381 Elden Street HE3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0001 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Nicole Mason, Regulations and Standards Branch at (703) 787–1605 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 250, Subpart F, Oil and Gas Well-Workover Operations.

OMB Control Number: 1014–0001.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of the Act related to the mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop mineral resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.'' These authorities and responsibilities are among those delegated to BSEE to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection (IC) request addresses the regulations at 30 CFR 250, subpart F, Oil and Gas Well-Workover Operations, and any associated supplementary Notices to Lessees and Operators (NTLs) intended to provide clarification, description, or explanation of these regulations.

In addition to the general rulemaking authority of the OCSLA at 43 U.S.C. 1334, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. Because the Secretary has delegated some of the authority under FOGRMA to BSEE, 30 U.S.C. 1751 is included as additional authority for these requirements.

Regulations at 30 CFR part 250 implement these statutory requirements. Specifically, BSEE uses the information collected to:

- Review log entries of crew meetings to verify that safety procedures have been properly reviewed.
- Review well-workover procedures relating to hydrogen sulfide (H_2S) to ensure the safety of the crew in the event of encountering H_2S.
- Review well-workover diagrams and procedures to ensure the safety of well-workover operations.
- Verify that the crown block safety device is operating and can be expected to function and avoid accidents.
- Verify that the proposed operation of the annular preventer is technically correct and will provide adequate protection for personnel, property, and natural resources.
- Verify the reasons for postponing blowout preventer (BOP) tests, verify the state of readiness of the equipment and ascertain that the equipment meets safety standards and requirements, ensure that BOP tests have been conducted in the manner and frequency to promote personnel safety and protect natural resources. Specific testing information must be recorded to verify that the proper test procedures were followed.
- Assure that the well-workover operations are conducted on well casing that is structurally competent.

The BSEE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection;* and 30 CFR part 252, *OCS Oil and Gas Information Program.* No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion, weekly, monthly, annually, and varies by section.

Description of Respondents: Potential respondents include Federal OCS oil, gas, and sulphur lessees and holders of pipeline rights-of-way.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 41,413 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250, subpart F	Reporting requirement	Hour burden
	Request	
602	Request exceptions prior to moving well-workover equipment	1
605; 613; 616(a), (f)(4); 617(d).	Request approval to begin subsea well-workover operations; submit Forms BSEE–0124 (include, if required, alternate procedures and equipment; stump test procedures plan) and BSEE–0125; and all supporting documentation.	0
612	Request establishment/amendment/cancellation of field well-workover rules	5
614(d)	Request approval from the District Manager to displace kill-weight fluids to an underbalanced state; submit detailed written procedures with your APM.	2
617(a)	Request exception to rated working pressure of the BOP equipment; request exception to annular-type BOP testing.	1.5

Citation 30 CFR 250, subpart F	Reporting requirement	Hour burden
618(a)(2)	Request approval to use alternative method to inspect a marine riser	0
600–620	General departure and alternative compliance requests not specifically covered elsewhere in Subpart F regulations.	
Posting		
614(b)	Post number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and equivalent well-control fluid volume.	0.25
Submittals/Notifications		
602	Notify BSEE of any rig movement within Gulf of Mexico (Form BSEE–0144)	0
615	Submit a description of your BOP and its components; schematic drawings; independent third party verification and all supporting information (evidence showing appropriate licenses, has expertise/experience necessary to perform required verifications, etc) with your APM.	15
615(e)(2)(ii)	Allow BSEE access to witness testing, inspections, and information verification. Notify District Manager at least 72 hours prior to shearing ram tests.	0.25
617(h)(1)(ii)	Notify District Manager at least 72 hours prior to stump/initial test on seafloor	0.25
619; NTL	Notify BSEE if sustained casing pressure is observed on a well	1
619(b)	Submit results of pressure test, caliper, or otherwise evaluate tubing & wellhead equipment casing (every 30 days during prolonged operations); request written approval.	4
Record/Document		
606	Instruct crew members in safety requirements of operations to be performed; document meetings; make available to BSEE for review.	1
611	Document results of traveling-block safety device in the operations log	1
617(b)(2)	Record reason for postponing BOP system tests in operations log	0.5
617(f); 618(a)(1)	Record test pressures during BOP and coiled tubing tests for well-workovers on a pressure chart or with a digital recorder; certify the information is correct.	2
617(g); 618(a)(1);	Record time, date, and results of all pressure tests, actuations, inspections, and crew drills of the BOP system components and risers in the operations log during well-workovers; retain records for 2 years; make available to BSEE.	4
617(h)(l)*	Document all test results of your ROV intervention functions including how you test each ROV function; submit test procedures with your APM for District Manager approval; make available to BSEE upon request.	10
617(h)(2)*	Document all autoshear and deadman test results; submit test procedures with your APM for District Manager approval; make available to BSEE upon request.	0.5
618(a)	Document the procedures used for BOP inspections; record results; maintain records for 2 years; make available to BSEE upon request.	7 days × 12 hrs/day = 84
618(b)	Document the procedures used for BOP maintenance; record results; maintain records for 2 years; make available to BSEE upon request.	1

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified no non-hour cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

BSEE Information Collection Clearance Officer: Cheryl Blundon (703) 787–1607.

Dated: August 2, 2013.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2013–19423 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2013–N174 40120–1112–0000–F2]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below, by September 11, 2013.

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: David Dell, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: David Dell, Permit Coordinator, telephone 404–679–7313; facsimile 404–678–7081.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or send them via electronic mail (email) to: permitsR4ES@fws.gov. Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to the Fish and Wildlife Service office listed above (see **ADDRESSES**).

Before including your address, telephone number, email address, or other personal identifying information in your comments, 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit Application Number: TE05601B

Applicant: Ross Scott, Naples, Florida.

The applicant requests authorization to take red-cockaded woodpeckers (*Picoides borealis*) for the purpose of installing artificial cavity inserts, drilling cavities and advanced starts, and monitoring, handling, banding, and translocating red-cockaded woodpeckers. These activities will be conducted throughout the range of the species in Florida, Alabama, Arkansas, Georgia, North Carolina, South Carolina, Kentucky, Tennessee, Mississippi, and Louisiana.

Permit Application Number: TE18225A

Applicant: CH2M Hill, Atlanta, Georgia.

The applicant requests authorization to take endangered fish species while conducting listed species monitoring activities. These activities will be conducted in the Georgia segment of the Chattahoochee River Basin.

Permit Application Number: TE079863

Applicant: Michael Gangloff, Boone, North Carolina.

The applicant requests authorization to amend his permit to take (capture, handle, conduct tissue sampling, release, and collect dead shells for identification) eight additional species of freshwater mussels for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of these species: Alabama pearlshell (*Margaritifera marrianae*), Choctaw bean (*Villosa/Obovaria choctawensis*), Escambia pigtoe (*Fusconaia escambia*), fuzzy pigtoe (*Pleurobema strodeanum*), round ebonyshell (*Fusconaia rotulata*), Southern kidneyshell (*Ptychobranchus jonesi*), Southern sandshell (*Hamiota australis*), and tapered pigtoe (*Fusconaia burkei*).

Permit Application Number: TE12156B

Applicant: Arkansas Department of Environmental Quality, Little Rock, Arkansas.

The applicant is requesting authorization to perform normal fisheries and macroinvertebrate biomonitoring activities in streams/rivers of Arkansas that currently host the following federally listed species: yellowcheek darter (*Etheostoma moorei*), Arkansas darter (*Etheostoma cragini*), Arkansas River shiner (*Notropis girardi*), leopard darter (*Percina pantherina*), pallid sturgeon (*Scaphirhynchus albus*).

Permit Application Number: TE136808

Applicant: Loggerhead Marine Life Center, Charles A. Manire, Juno Beach, Florida.

The applicant requests authorization to take (receive, hold, rehabilitate, release, euthanize) the Kemp's Ridley sea turtle (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and olive ridley sea turtle (*Lepidochelys olivacea*) while providing medical treatment and rehabilitation services. The proposed activities would occur at the Loggerhead Marine Life Center, Juno Beach, Florida.

Permit Application Number: TE069280

Applicant: Alabama Department of Transportation, Montgomery, Alabama.

The applicant requests authorization to take Alabama beach mouse (*Peromyscus polionotus ammobates*) for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of the species in Alabama.

Permit Application Number: TE11866B

Applicant: USDA Forest Service, Columbia, South Carolina.

The applicant requests authorization to take American chaffseed (*Schwalbea americana*) seeds for the purpose of improving greenhouse cultivation methods and reintroduction techniques. These activities will be conducted in the

Francis Marion and Sumter National Forests, in South Carolina.

Permit Application Number: TE05089B

Applicant: Apogee Environmental & Archaeological, Whitesburg, Kentucky.

The applicant requests authorization to take (capture, handle, conduct tissue sampling, and release) 42 species of freshwater mussels for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of each species:

Alabama lamp pearl mussel (*Lampsilis virescens*), Altamaha spinymussel (*Elliptio spinosa*), Appalachian monkeyface mussel (*Quadrula sparsa*), birdwing pearly mussel (*Lemiox rimosus*), clubshell pearly mussel (*Pleurobema clava*), cracking pearly mussel (*Hemistena lata*), Cumberland bean mussel (*Villosa trabalis*), Cumberland monkeyface mussel (*Quadrula intermedia*), Curtis' pearly mussel (*Epioblasma curtisi*), Dromedary pearly mussel (*Dromus dromas*), dwarf wedgemussel (*Alasmidonta heterodon*), fanshell (*Cyprogenia stegaria*), fat three-ridge (*Amblema neislerii*), fat pocketbook mussel (*Potamilus capax*), green-blossom pearly mussel (*Epioblasma torulosa gubernaculum*), Higgins' eye mussel (*Lampsilis higginsii*), James spinymussel (*Pleurobema collina*), littlewing pearly mussel (*Pegias fabula*), Neosho mucket (*Lampsilis rafinesqueana*), Nicklin's pearly mussel (*Unio nickliniana*), Northern riffleshell (*Epioblasma torulosa rangiana*), orange-footed pimpleback mussel (*Plethobasus cooperianus*), oyster mussel (*Epioblasma capsaeformis*), pale lilliput pearly mussel (*Toxolasma cylindrellus*), pinkmucket mussel (*Lampsilis orbiculata orbiculata*), purple cat's paw (*Epioblasma obliquata obliquata*), purple bankclimber (*Elliptoideus sloatianus*), rabbitsfoot (*Quadrula cylindrica*), rayed bean mussel (*Villosa fabalis*), ring pink mussel (*Obovaria retusa*), rough pigtoe mussel (*Pleurobema plenum*), scaleshell mussel (*Leptodea leptodon*), slab-side pearly mussel (*Lexingtonia dolabelloides*), sheepnose (*Plethobasus cyphyus*), Tampico pearly mussel (*Unio tampicoensis tecomatensis*), Tar River spinymussel (*Elliptio steinstansana*), tubercled-blossom pearly mussel (*Epioblasma torulosa torulosa*), turgid-blossom pearly mussel (*Epioblasma turgidula*), white cat's paw mussel (*Epioblasma sulcata perobliqua*), white wartyback mussel (*Plethobasus cicatricosus*), winged mapleleaf mussel (*Quadrula fragosa*), yellow-blossom pearl mussel (*Epioblasma florentina*).

Permit Application Number: TE237535

Applicant: Bok Tower Gardens, Lake Wales, Florida.

The applicant requests authorization to take scrub lupine (*Lupinus aridorum*) for the purpose of seed harvesting, germ plasm storage, and germination research in Polk County, Florida.

Permit Application Number: TE812344

Applicant: Pennington and Associates, Inc., Cookeville, Tennessee.

The applicant requests authorization to take (capture, handle, conduct tissue sampling, and release) 18 species of freshwater fish, 1 species of freshwater crayfish, 2 species of freshwater snails, and 43 species of freshwater mussels for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts. These activities will be conducted throughout the range of each species: Cumberland elktoe (*Alasmidonta atropurpurea*), Appalachian elktoe (*Alasmidonta raveneliana*), Anthony's riversnail (*Athearnia anthonyi*), blue shiner (*Cyprinella caerulea*), birdwing pearly mussel (*Lemiox rimosus*), spectaclecase (*Cumberlandia monodonta*), fanshell (*Cyprogenia stegaria*), Cumberlandian combshell (*Epioblasma brevidens*), oyster mussel (*Epioblasma capsaeformis*), upland combshell (*Epioblasma metastriata*), purple cat paw pearly mussel (*Epioblasma obliquata obliquata*), Southern acornshell (*Epioblasma othcaloogensis*), brown-blossom pearl mussel (*Epioblasma walkeri*), slackwater darter (*Etheostoma boschungi*), bluemask darter (*Etheostoma (doration) sp.*), duskytail darter (*Etheostoma percnurum*), snuffbox mussel (*Epioblasma triquetra*), boulder darter (*Etheostoma wapiti*), Cumberland darter (*Etheostoma susanae*), fine-rayed pigtoe mussel (*Fusconaia cuneolus*), shiny pigtoe mussel (*Fusconaia edgariana*), cracking pearly mussel (*Hemistena lata*), slender chub (*Erimystax cahni*), spotfin chub (*Erimonax monachus*), kidneyshell (*Ptychobranchus species*), finelined pocketbook (*Lampsilis altilis*), pinkmucket mussel (*Lampsilis orbiculata*), Alabama lamp pearl mussel (*Lampsilis virescens*), slab-side pearly mussel (*Lexingtonia dolabelloides*), scaleshell mussel (*Leptodea leptodon*), alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), yellowfin madtom (*Noturus flavipinnis*), Pygmy madtom (*Noturus stanauli*), smoky madtom (*Noturus baileyi*), Chucky madtom (*Noturus crypticus*), palezone shiner (*Notropis albizonatus*), ring pink mussel (*Obovaria retusa*), Nashville crayfish (*Orconectes shoupi*), sheepnose (*Plethobasus cyphyus*), littlewing pearly mussel (*Pegias fabula*), amber darter (*Percina antesella*), Conasauga logperch (*Percina jenkinsi*), snail darter (*Percina tanasi*), blackside dace (*Phoxinus cumberlandensis*), dace (*Phoxinus species*), white wartyback mussel (*Plethobasus cicatricosus*), clubshell pearly mussel (*Pleurobema clava*), orange-footed pimpleback mussel (*Plethobasus cooperianus*), ovate clubshell (*Pleurobema perovatum*), Southern pigtoe (*Pleurobema georgianum*), Cumberland pigtoe (*Pleurobema gibberum*), Georgia pigtoe (*Pleurobema hanleyianum*), rough pigtoe mussel (*Pleurobema plenum*), triangular kidneyshell (*Ptychobranchus greenii*), royal marstonia (*Pyrgulopsis ogmorhaphe*), rough rabbitsfoot (*Quadrula cylindrica strigillata*), winged mapleleaf mussel (*Quadrula fragosa*), Cumberland monkeyface mussel (*Quadrula intermedia*), Appalachian monkeyface mussel (*Quadrula sparsa*), pale lilliput pearly mussel (*Toxolasma cylindrellus*), rayed bean mussel (*Villosa fabalis*), purple bean mussel (*Villosa perpurpurea*), Cumberland bean mussel (*Villosa trabalis*).

Dated: August 5, 2013.

Mike Oetker,

Acting Regional Director.

[FR Doc. 2013–19439 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N159; FXES11130600000D2–123–FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by September 11, 2013.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request hard copies or a CD–ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE–XXXXXX).

- *Email: permitsR6ES@fws.gov*. Please refer to the respective permit number (e.g., Permit No. TE–XXXXXX) in the subject line of the message.
- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225.
- *In-Person Drop-off, Viewing, or Pickup:* Call (303) 236–4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator, Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following applications. Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number: TE–09941B

Applicant: Bellini Environmental Consulting, Midway, UT.

The applicant requests a permit to conduct presence/absence surveys through trap (take) and release of the Southwestern willow flycatcher (*Empidonax traillii extimus*) for the purpose of enhancing the species' survival.

Permit Application Number: TE–045150

Applicant: Department of Biology, University of Nebraska at Kearney, Kearney, NE.

The applicant requests a permit to increase the take of teneral (soft-bodied) American burying beetle *(Nicrophorus americanus)* from the current authorization of 10 individuals to a total of 20 individuals through trap (take) for propagation for the purpose of enhancing the species' survival.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: July 30, 2013.

Michael G. Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2013–19163 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L14200000–BJ0000–LXSITRST0000]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey; New York.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: The survey was requested by the Bureau of Indian Affairs.

The land surveyed is:

Cattaraugus County, New York

The dependent resurvey of portions of the boundary of the Allegany Indian Reservation and was accepted June 20, 2013.

We will place copies of the plat we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against a survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plats until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: August 1, 2013.

John Sroufe,

Acting Chief Cadastral Surveyor.

[FR Doc. 2013–19435 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13409; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: State Historical Society of Wisconsin, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Historical Society of Wisconsin has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the State Historical Society of Wisconsin. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the State Historical Society of Wisconsin at the address in this notice by September 11, 2013.

ADDRESSES: Jennifer Kolb, Wisconsin Historical Museum, 30 North Carroll Street, Madison, WI 53703, telephone (608) 261–2461, email *Jennifer.Kolb@wisconsinhistory.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the State Historical Society of Wisconsin, Madison, WI. The human remains were removed from Outagamie County, WI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the State Historical Society of Wisconsin professional staff in consultation with representatives of the Forest County Potawatomi Community, Wisconsin; Ho-Chunk Nation of Wisconsin; and the Menominee Indian Tribe of Wisconsin.

History and Description of the Remains

In about 1943, human remains representing, at minimum, one individual were removed from the Shiocton Burial Ground at the Wolf River site in Outagamie County, WI, by Robert Hall, Robert Link, and Warren Witty. The human remains were donated to the State Historical Society of Wisconsin in 1956. The human remains were determined to be those of an adult age 25–40, possible male. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the State Historical Society of Wisconsin

Officials of the State Historical Society of Wisconsin have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Menominee Indian Tribe of Wisconsin.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Menominee Indian Tribe of Wisconsin.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jennifer Kolb, Wisconsin Historical Museum, 30 North Carroll Street, Madison, WI 53703, telephone (608) 261–2461, email *Jennifer.Kolb@wisconsinhistory.org,* by September 11, 2013. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Menominee Indian Tribe of Wisconsin may proceed.

The State Historical Society of Wisconsin is responsible for notifying the Forest County Potawatomi Community, Wisconsin; Ho-Chunk Nation of Wisconsin; and the Menominee Indian Tribe of Wisconsin that this notice has been published.

Dated: June 27, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–19382 Filed 8–9–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–13556; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 13, 2013. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 27, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 18, 2013.

Alexandra Lord,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

ALASKA

Matanuska-Susitna Borough-Census Area

Sutton Community Hall, Jonesville Rd., Sutton, 13000617

CONNECTICUT

New London County

Merrill, James, House, 107 Water St., Stonington, 13000618

DISTRICT OF COLUMBIA

District of Columbia

District of Columbia War Memorial, Independence Ave. between 17th & 23rd Sts. SW., Washington, 13000619

Scriven, BG George P., House, 1300 New Hampshire Ave., NW., Washington, 13000620

KANSAS

Ford County

Junction of the Santa Fe Trail Wet and Dry Routes (Santa Fe Trail MPS) Address Restricted, Fort Dodge, 13000652

Grant County

Santa Fe Trail—Grant County Trail Segment 2 (Santa Fe Trail MPS), Address Restricted, Ulysses, 13000653

Hodgeman County

Duncan's Crossing on the Fort Hays—Fort Dodge Road (Santa Fe Trail MPS), Address Restricted, Hanston, 13000654

Kearny County

Bear Creek Pass Santa Fe Trail Segment (Santa Fe Trail MPS), Address Restricted, Lakin, 13000655

Santa Fe Trail—Kearny County Segment 2, (Santa Fe Trail MPS), Address Restricted, Lakin, 13000656

Rice County

Little Arkansas River Crossing (Santa Fe Trail MPS), Address Restricted, Windom, 13000658

Santa Fe Trail—Rice County Segment 4 (Santa Fe Trail MPS), Address Restricted, Chase, 13000659

MASSACHUSETTS

Suffolk County

Rosendale Substation, 4228 Washington St., Boston, 13000621

Worcester County

District No. 5 School, 2 Old Mill Rd., Shrewsbury, 13000622

Foster, Jedediah, Homesite, Foster Hill Rd., West Brookfield, 13000623

MONTANA

Cascade County

Old U.S. Highway 91 Historic District, Between I–15 Spring Cr. & Hardy Cr. Interchanges, Wolf Creek, 13000624

NEW YORK

Broome County

West Endicott Hose Company No. 1, 113 N. Page Ave., West Endicott, 13000625

Essex County

Lake View Grange No. 970, 22 Champlain Ave., Westport, 13000626

Herkimer County

Oak Hill Cemetery, W. German St., Herkimer, 13000627

Onondaga County

Trinity Episcopal Church, (Historic Churches of the Episcopal Diocese of Central New York MPS) 523 W. Onondaga St., Syracuse, 13000628

Rensselaer County

Adams—Myers—Bryan Farmstead, 314 Stover Rd., Valley Falls, 13000629

Coletti—Rowland—Agan Farmstead, 82 Cooksboro Rd., Troy, 13000631

Saratoga County

Packer Farm and Barkersville Store, 7189 Barkersville Rd., Middle Grove, 13000630

Ulster County

Congregation Tifereth Yehuda Veyisroel, 24–26 Minnewaska Trail, Kerhonkson, 13000632

NORTH CAROLINA

Buncombe County

Elmore, Bruce A. and June L., Lustron House, 70 Hampden Rd., Asheville, 13000635

Caldwell County

Hudson Cotton Manufacturing Company, 447 Main St., Hudson, 13000636

Catawba County

Whisnant Hosiery Mills, 74 8th St., SE., Hickory, 13000637

NORTH DAKOTA

Grand Forks County

Hariman Sanatorium, 2002 University Ave., Grand Forks, 13000633

Skarsbo Apartments, 204 & 210 N. 6th St., Grand Forks, 13000634

PUERTO RICO

Ponce Municipality

Edificio Empresas Ferre, (Rafael Rios Rey MPS) 834 Eugenio Maria de Hostos Ave., Ponce Playa, 13000638

Edificio Municipal de la Playa de Ponce, 28 Alfonso XII St., Ponce, 13000639

UTAH

Salt Lake County

Bennion, Howard and Marian, House, 2136 E. Hubbard Ave., Salt Lake City, 13000640

Mabey, Albert and Celestine, House, (South Jordan, Utah MPS) 10201 S. 1300 West, South Jordan, 13000641

VIRGINIA

Hanover County

Ashland UDC Jefferson Davis Highway Marker, (UDC Commemorative Highway Markers along the Jefferson Davis Highway in Virginia) Jct. of Cedar Ln. & Washington Hwy., Glen Allen, 13000642

Norfolk Independent city

Elmwood Cemetery, 238 E. Princess Anne Rd., Norfolk (Independent City), 13000643

Richmond Independent city

Main Street Banking Historic District (Boundary Increase), 700, 703, 705–711, 801, 830–838 Main St., E., 7 7th & 28 6th Sts., S., Richmond (Independent City), 13000644

Roanoke Independent city

Melrose—Rugby Historic District, Mercer, Grayson, & Carroll Aves., NW., Rugby Blvd., NW., 10th, 11th, 12th, 13th & 14th Sts., NW., Roanoke (Independent City), 13000645

Riverland Historic District, Laural, Primrose, Whitman & Ivy Sts., Riverland Rd., Walnut & Arbutus Aves., Roanoke (Independent City), 13000646

Roanoke Downtown Historic District (Boundary Increase), 300–400 blk. Church & 300–400 blk. Luck Aves., SW., 600–700 blk. S. Jefferson St., 401 3rd & 502 5th Sts., SW., Roanoke (Independent City), 13000647

Southampton County

Sebrell Rural Historic District, Roughly bounded by Nottoway R., Assamoosick Swamp & Old Hickory Rd., Sebrell, 13000648

Surry County

Walnut Valley, Address Restricted, Highgate, 13000649

Winchester Independent city

Fort Loudoun Site, Address Restricted, Winchester (Independent City), 13000650

WISCONSIN

Clark County

Hediger, Herman M. and Hanna, House, 8 Grand Ave., Neillsville, 13000651

A request to remove has been made for the following resources:

TENNESSEE

Sullivan County

Roseland, S. of Kingsport on Shipp St. Kingsport, 73001847

UTAH

Box Elder County

Box Elder High School Gymnasium, 18 N. 400 East, Brigham City, 85000796

[FR Doc. 2013–19398 Filed 8–9–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–13302; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Field Museum of Natural History, Chicago, IL; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Field Museum of Natural History has corrected a Notice of Intent to Repatriate published in the **Federal Register** on August 24, 2007. This notice corrects the NAGPRA category that the Field Museum, in consultation with the appropriate Indian tribes, has determined the cultural items meet. Transfer of control of the cultural items in this correction notice has occurred.

ADDRESSES: Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the

Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of a correction to the definition of cultural items previously under the control of the Field Museum of Natural History, Chicago, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that had control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the NAGPRA category of the cultural items published in a Notice of Intent to Repatriate in the **Federal Register** on August 24, 2007 (72 FR 48672–48675). After the Notice of Intent to Repatriate was published, the Field Museum staff determined that the objects meet the NAGPRA definitions for sacred objects and objects of cultural patrimony. Transfer of control of the items in this correction notice has occurred.

Correction

In the **Federal Register** (72 FR 48672–48675), paragraph 1, sentence 1 is corrected by substituting the following sentence:

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Field Museum of Natural History (Field Museum), Chicago, IL, that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

In the **Federal Register** (72 FR 48672–48675), paragraph 23, sentence 1 is corrected by substituting the following sentence:

Officials of the Field Museum of Natural History have determined that the 56 cultural items described in this notice are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents, and that the 56 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

Additional Requestors and Disposition

Transfer of control of the cultural items in this notice occurred after the 30-day waiting period expired for the original Notice of Intent to Repatriate. For questions related to this notice, contact Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 South Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317.

The Field Museum of Natural History is responsible for notifying the Apache Tribe of Oklahoma; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona, that this notice has been published.

Dated: June 12, 2013.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2013–19381 Filed 8–9–13; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–874]

Certain Products Having Laminated Packaging, Laminated Packaging, and Components Thereof; Commission Decision To Review an Initial Determination; Termination of the Investigation With a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 15), which, *inter alia,* found that the complainant did not satisfy the economic prong of the domestic industry requirement. On review, the Commission has determined to reverse the ALJ's findings regarding the Commission's authority to direct the issuance of an early ID. The Commission has also determined that the complainant has not satisfied the economic prong of the domestic industry requirement. Accordingly, the investigation is terminated with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. 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 March 28, 2013, based on a complaint and amended complaint filed by Lamina Packaging Innovations, Inc. of Longview, Texas (''Lamina'') alleging a violation of section 337 by virtue of the infringement of certain claims of nine patents. 78 FR 19,007. The subject products are certain laminated packaging materials, products packaged with such materials, and components thereof, and are alleged to infringe certain claims of U.S. Patent Nos. 6,207,242 (''the '242 patent'') and 7,348,067 (''the '067 patent''). The notice of investigation named fifteen respondents: Remy Cointreau USA, Inc. of New York, New York; Pernod Ricard USA LLC of Purchase, New York; Moet Hennessy USA of New York, New York; Champagne Louis Roederer of Reims, France; Maisons Marques & Domaines USA Inc. of Oakland, California; Freixenet USA of Sonoma, California; L'Oreal USA, Inc. of New York, New York (''L'Oreal''); Hasbro, Inc. of Pawtucket, Rhode Island; Cognac Ferrand USA, Inc. of New York, New York, WJ Deutsch & Son of White Plains, New York; Diageo North America, Inc. of Norwalk, Connecticut; Sidney Frank Importing Co., Inc. of New Rochelle, New York (''Sidney Frank''); Beats Electronics LLC of Santa Monica, California; and Camus Wine & Spirits Group of Cognac, France (''Camus''). Camus, Sidney Frank, and L'Oreal have since been terminated from this investigation on the basis of settlement agreements with Lamina. Notice at 2 (May 30, 2013) (terminating Camus and Sidney Frank); Notice at 2 (July 2, 2013) (terminating L'Oreal).

The Commission's notice of institution directed the presiding Administrative Law Judge (''ALJ'') to conduct an early hearing and to issue an early decision on whether Lamina ''has satisfied the economic prong of the

domestic industry requirement.'' 78 FR 19,008.

The ALJ conducted a hearing on the domestic-industry issue on May 16–17, 2013. On July 5, 2013, the ALJ issued an initial determination, which found that Lamina had not demonstrated the existence of a domestic industry as required by 19 U.S.C. 1337(a)(2), (a)(3). Order No. 15 (''the ID'').

On July 12, 2013, the parties filed petitions for review. On July 17, 2013, the parties filed replies to the others' petitions.

The Commission has determined to review the ID. On review, the Commission has determined to reverse the ALJ's findings regarding the Commission's authority to direct the issuance of an early ID. The Commission has also determined that the complainant has not satisfied the economic prong of the domestic industry requirement. Accordingly, the investigation is terminated with a finding of no violation of section 337. The Commission's reasoning in support of its determinations will be set forth more fully in a forthcoming opinion.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–.210.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–210.45).

By order of the Commission.

Issued: August 6, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–19403 Filed 8–9–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Chiropractic Associates, Ltd. of South Dakota; Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the comment received on the proposed Final Judgment in *United States* v. *Chiropractic Associates, Ltd. of South Dakota.,* Civil Action No. 13–CV–4030–LLP, which was filed in the United States District Court for the Southern Division of South Dakota on August 5, 2013, together with the response of the United States to the comment.

Copies of the comment and the response are available for inspection at the Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Southern Division of South Dakota, 225 South Pierre Street, Pierre, SD 57501. Copies of any of these materials may also be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHIROPRACTIC ASSOCIATES, LTD. OF SOUTH DAKOTA,

Defendant.

CASE NO. CV 13–04030

RESPONSE OF PLAINTIFF UNITED STATES TO PUBLIC COMMENT ON THE PROPOSED FINAL JUDGMENT

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby files the single public comment concerning the proposed Final Judgment in this case and the United States' response to that comment. After careful consideration of the comment, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comment and this response have been published in the **Federal Register**, pursuant to 15 U.S.C. § 16(d).

I. PROCEDURAL HISTORY

On April 8, 2013, the United States filed a civil antitrust Complaint against Defendant Chiropractic Associates, Ltd. of South Dakota (''CASD'') alleging that CASD negotiated at least seven contracts with payers that set prices for chiropractic services on behalf of CASD's members in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. CASD's actions raised prices for chiropractic services and decreased the availability of chiropractic services in South Dakota.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment and a Stipulation signed by the United States and CASD consenting to entry of the proposed Final Judgment after compliance with the APPA, 15 U.S.C. § 16. The proposed Final Judgment would prevent the recurrence of the violations alleged in the Complaint by enjoining the Defendant from jointly determining prices and negotiating contracts with payers.

Pursuant to the requirements of the APPA, the United States (1) filed its Competitive Impact Statement (''CIS'') with the Court on April 8, 2013; (2) published the proposed Final Judgment and CIS in the **Federal Register** on April 17, 2013 (*see* 78 Fed. Reg. 22901); and (3) had summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, published in (a) *The Washington Post* for seven days beginning on April 15, 2013, and ending on April 21, 2013, and (b) *The Argus Leader* for seven days beginning on April 15, 2013 and ending on April 21, 2013. The Defendant filed the statement required by 15 U.S.C. § 16(g) on April 18, 2013. The sixty-day public comment period ended on June 20, 2013. One comment was received, as described below and attached hereto.

II. THE INVESTIGATION AND PROPOSED RESOLUTION

On June 7, 2011, the United States Department of Justice (the ''Department'') opened its investigation into the conduct at issue. The Department conducted a detailed investigation into CASD's actions. As part of this investigation, the Department obtained and considered more than 240,000 documents.

From this investigation, the Department concluded that CASD's conduct violated Section 1 of the Sherman Act, 15 U.S.C. § 1. As more fully explained in the CIS, the Stipulation and proposed Final Judgment in this case are designed to prevent the recurrence of the violations alleged in the Complaint and restore competition in the sale of chiropractic services in South Dakota.

Specifically, Section IV of the proposed Final Judgment would enjoin CASD from:

(A) providing, or attempting to provide, any services to any physician regarding such physician's actual, possible, or contemplated negotiation or contracting with any payer, or other dealings with any payer;

(B) acting, or attempting to act, in a representative capacity, including as a messenger or in dispute resolution (such as arbitration);

(C) communicating, reviewing, or analyzing, or attempting to communicate, review, or analyze with or for any physician, except as otherwise allowed, about (1) that physician's, or any other physician's, negotiating, contracting, or participating status with any payer; (2) that physician's, or any other physician's, fees or reimbursement rates; or (3) any proposed or actual contract or contract term between any physician and any payer;

(D) facilitating communication or attempting to facilitate communication, among or between physicians, regarding any proposed, contemplated, or actual contract or contractual term with any payer, including the acceptability of any proposed, contemplated, or actual contractual term, between such physicians and any payer;

(E) entering into or enforcing any agreement, arrangement, understanding, plan, program, combination, or conspiracy with any payers or physicians to raise, stabilize, fix, set, or coordinate prices for physician services, or fixing, setting, or coordinating any term or condition relating to the provision of physician services;

(F) requiring that CASD physician members negotiate with any payer through CASD or otherwise restricting, influencing, or attempting to influence in any way how CASD physician members negotiate with payers;

(G) coordinating or communicating, or attempting to coordinate or communicate, with any physician, about any refusal to contract, threatened refusal to contract, recommendation not to participate or contract with any payer, or recommendation to boycott, on any proposed or actual contract or contract term between such physician and any payer;

(H) responding, or attempting to respond, to any question or request initiated by any payer or physician relating to (1) a physician's negotiating, contracting, or participating status with any payer; (2) a physician's fees or reimbursement rates; or (3) any proposed or actual contract or contract term between any physician and any payer, except to refer a payer to a third-party messenger [1] and otherwise to state that the Final Judgment prohibits any additional response; and

(I) training or educating, or attempting to train or educate, any physician in any aspect of contracting or negotiating with any payer, including, but not limited to, contractual language and interpretation thereof, methodologies of payment or reimbursement by any payer for such physician's services, and dispute resolution such as arbitration, except that CASD may, provided it does not violate other prohibitions of the Final Judgment, (1) speak on general topics (including contracting), but only when invited to do so as part of a regularly scheduled medical educational seminar offering continuing medical education credit; (2) publish articles on general topics (including contracting) in a regularly disseminated newsletter; and (3) provide education to physicians regarding the regulatory structure (including legislative developments) of workers' compensation, Medicaid, and Medicare, except Medicare Advantage.

With limited exceptions, Section V of the proposed Final Judgment requires CASD to terminate all payer contracts at the earlier of (1) CASD's receipt of a payer's written request to terminate its contract, (2) the earliest termination date, renewal date (including automatic renewal date), or the anniversary date of such payer contract, or (3) three months from the date the Final Judgment is entered. Furthermore, the Final Judgment immediately makes void any clause in a provider agreement that disallows a physician from contracting individually with a Payer.

To promote compliance with the decree, Section VII of the proposed Final Judgment requires that CASD provide to its members, directors, officers, managers, agents, employees, and representatives, who provide or have provided, or supervise or have supervised the provision of services to physicians, copies of the Final Judgment and this Competitive Impact Statement and to institute mechanisms to facilitate compliance. Finally, for a period of ten years following the date of entry of the Final Judgment, CASD must certify annually to the United States whether it has complied with the provisions of the Final Judgment.

III. STANDARD OF JUDICIAL REVIEW

The Tunney Act requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1).

In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the United States is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995). *See also United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an

[1] A messenger is a person or entity that operates a messenger model, which is an arrangement designed to minimize the costs associated with the contracting process between payers and health-care providers. Messenger models can operate in a variety of ways. For example, network providers may use an agent or third-party to convey to purchasers information obtained individually from providers about the prices or price-related terms that the providers are willing to accept. In some cases, the agent may convey to the providers all contract offers made by purchasers, and each provider then makes an independent, unilateral decision to accept or reject the contract offers. *See* Statement 9(C) of the 1996 Statements of Antitrust Enforcement Policy in Health Care, *available at http://www.justice.gov/atr/public/guidelines/1791.htm.*

unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' ''prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case'').

Courts have less flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *United States v. Abitibi-Consolidated, Inc.,* 584 F. Supp. 2d 162, 165 (D.D.C. 2008) (*citing SBC Commc'ns,* 489 F. Supp. 2d at 17).

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As the United States District Court for the District of Columbia confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments,[3] Congress made clear its intent to preserve the practical benefits of using consent decrees in antitrust enforcement, stating that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). This language reflects what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.

IV. SUMMARY OF PUBLIC COMMENT AND THE UNITED STATES' RESPONSE

During the sixty-day comment period, the United States received one public comment, which the comment says is from an anonymous South Dakota resident who consumes chiropractic care.

A. Summary of Comment

The commenter argues that the proposed Final Judgment does nothing to punish CASD's principals for their conduct because the proposed Final Judgment affixes no fine or penalty. The commenter urges the Court to issue substantial monetary penalties.

B. The United States' Response

The lack of fines or other criminal penalties in the proposed Final Judgment is not a valid basis for challenging its entry because the purpose of this Tunney Act proceeding is to determine whether the proposed Final Judgment resolves the violations identified in the Complaint in a manner that is within the reaches of the public interest. The commenter does not argue that the proposed Final Judgment will not remedy the violations alleged in the Complaint. Indeed, the proposed Final Judgment contains prohibitions which, as described in Section II and the CIS, broadly enjoin the Defendant from jointly determining prices and negotiating contracts with payers. Because the proposed Final Judgment will remedy the violations alleged in the complaint and restore competition in the sale of chiropractic services in South Dakota, the proposed Final Judgment is within the reaches of the public interest.

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for the court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

V. CONCLUSION

After reviewing the public comment, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. Accordingly, after the comment and this Response are published in the **Federal Register**, the United States will move this Court to enter the proposed Final Judgment.

DATE: July ____, 2013

FOR PLAINTIFF
UNITED STATES OF AMERICA:

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Email: *Richard.Mosier@usdoj.gov*

CERTIFICATE OF SERVICE

I, Richard D. Mosier, hereby certify that on _____, 2013, I electronically filed the Response of Plaintiff United States to Public Comment on the Proposed Final Judgment and the attached Public Comment with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to the following counsel:

For Defendant CASD:

Mark A. Jacobson, Esq.
Lindquist & Vennum PLLP
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 371–3211
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/s/Richard D. Mosier.
RICHARD D. MOSIER
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Attorney for the United States of America
Litigation I Section
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United States Department of Justice
450 Fifth Street NW., Suite 4100
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Telephone: (202) 307–0585
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Email: *Richard.Mosier@usdoj.gov*
Peter J. Mucchetti,
Chief, Litigation I Section,
Antitrust Division,
U.S. Department of Justice
450 Fifth Street NW., Suite 4100
Washington, DC 20530
05/21/2013

Comment regarding;
CASE NO. 13–CV–4030–LLP
FILED: 04/08/2013

UNITED STATES OF AMERICA,
Plaintiff,

v.

CHIROPRACTIC ASSOCIATES, LTD. OF SOUTH DAKOTA,
Defendant:

To the court,

I am a South Dakota resident unaffiliated with CHIROPRACTIC ASSOCIATES, LTD. OF SOUTH DAKOTA (CASD), its owners or members. I am a consumer of chiropractic care and have been for several years. I shall offer these comments anonymously as Mr. Munsterman has considerable influence in his role as a state legislator and it is known to me that he would/could retaliate for unfavorable comments.

There are three points I wish to make,

First and foremost CASD for over 15 years CASD has conspired, defrauded, and committed felonious acts against the people of South Dakota and other states as well to increase the price of services rendered by their members. The primary beneficiary of the profits from this conspiracy was Scott Munsterman as primary owner of CASD.

Although the injunction against CASD prohibits further violations as outlined in the case documents, it does nothing to punish the principals for their conduct and fraud. It affixes no fine or penalty other than I assume court costs. Munsterman and his associates have profited for several years from their illegal activities and it appears to all that now the justice system is saying, ''just don't do it anymore'', keep your ill-gotten profits and we will let you get off with this ''slap on the hand''. No fine, no penalties, just stop doing what you are doing.

And of course, CASD would accept that, who wouldn't. If someone robbed a bank, got away with thousands of dollars of other people's hard earned money, later is caught and is told, ''Just don't do it anymore''.

Your honor, this is a travesty of justice in the most egregious manner.

Second, Scott Munsterman serves as a member of the South Dakota House of Representatives, representing District 7. He is the chairperson for the Health and Human Services Committee. It is egregious to think that this man in his position on the Health and Human Services Committee will be making critical decisions and influencing votes for the Healthcare issues facing the South Dakota Legislature and ultimately becoming laws for the people of South Dakota. Sadly few South Dakotans will take notice of the actions against CASD and no one will be held accountable and no penalties assessed.

With all the recent revelations of corruption, scandals and cover-ups in our government, now more than ever due the citizens need to see that our justice system deals out justice fairly and impartially and that those who have manipulated, circumvent and abused the law are punished, not just stopped.

Your honor, please do the right thing in this case and issue substantial monetary penalties for the illegal action by CASD, its owners and associates.

I maintain my anonymity because of potential retaliation from the owner(s) of CASD.

[FR Doc. 2013–19384 Filed 8–9–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0039]

Intertek Testing Services NA, Inc.: Grant of Expansion of Recognition and Request To Remove a Condition of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the scope of recognition and the removal of a special condition of recognition that involves testing and evaluating hazardous-location equipment for Intertek Testing Services NA, Inc., as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of the scope of recognition and the removal of the special condition becomes effective on August 12, 2013.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or phone (202) 693–2110, or email: *johnson.david.w@dol.gov.*

SUPPLEMENTAL INFORMATION:

I. Notice of Final Decision

The Occupational Safety and Health Administration (OSHA or Agency) hereby gives notice of the expansion of the scope of recognition of Intertek Testing Services NA, Inc. (ITSNA), as a Nationally Recognized Testing Laboratory (NRTL). ITSNA's expansion covers the addition of two new sites. OSHA also gives notice of the removal of a special condition of recognition placed upon ITSNA regarding testing and evaluating hazardous-location equipment. OSHA's current scope of recognition for ITSNA is available at the following informational Web site: *http://www.osha.gov/dts/otpca/nrtl/its.html.*

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products

covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web site for each NRTL that details its scope of recognition. These pages are available from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

ITSNA submitted an application, dated June 8, 2007 (Exhibit 1: ITSNA Application), to expand its recognition to include three additional facilities (sites) located at: 545 East Algonquin Road, Suite F, Arlington Heights, IL 60005 (ITSNA Chicago); 420 North Dorothy Drive, Richardson, TX 75081 (ITSNA Dallas); and 2307 East Aurora Road, Suite B7, Twinsburg, OH 44087 (ITSNA Cleveland). ITSNA later amended its application to remove the ITSNA Cleveland site from the application, and to change the address for the ITSNA Dallas site to 1809 10th Street, Suite A, Plano, TX 75074 (ITSNA Dallas) (Exhibit 2: ITSNA Amended Applications dated 7/22/2009 and 10/20/2009).

On November 6, 2009, ITSNA submitted a letter seeking to relax or remove a special condition of its recognition which states: ''All safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing, prior to ITSNA's initial or continued authorization of the certifications covered by these reports. The above limitations apply solely to ITSNA's operations as an NRTL. . . .'' (Exhibit 3: ITSNA Hazardous Location Letter).

In connection with these requests, NRTL Program staff performed on-site reviews of ITSNA's testing facilities in January 2010 (ITSNA Chicago) and March 2012 (ITSNA Dallas), and recommended expansion of ITSNA's recognition to include these two sites (Exhibit 4: ITSNA On-site Review Reports). Additionally, audits of these and other ITSNA NRTL sites determined that ITSNA has the appropriate training programs and controls in place to remove the special condition for testing hazardous-location equipment (Exhibit 5: Memorandum Regarding Removal of Hazardous Location Restriction). As a result, the Agency preliminarily determined that it should (1) expand ITSNA's scope of recognition to include the ITSNA Chicago and ITSNA Dallas sites, and (2) remove the special condition stated above from ITSNA's scope of recognition.

OSHA published the preliminary notice announcing ITSNA's expansion application in the **Federal Register** on May 30, 2013. The Agency requested comments by June 29, 2013, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant ITSNA's expansion application.

To obtain or review copies of all public documents pertaining to the ITSNA application, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2007–0039 contains all materials in the record concerning ITSNA's recognition.

II. Final Decision and Order

The NRTL Program staff examined ITSNA's expansion application, the auditor's recommendations, and other pertinent information. Based on its review of this evidence, OSHA finds that ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA also gives notice that it remove the special condition of recognition involving evaluating hazardous-location equipment from ITSNA's NRTL scope of recognition.

OSHA limits the expansion of ITSNA's recognition to include the sites at ITSNA Dallas (Plano, Texas) and ITSNA Chicago (Arlington Heights, Illinois) as listed above. OSHA's recognition of these sites limits ITSNA to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for which OSHA has recognizes ITSNA. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

These sites also may use all eight of the ''supplemental'' programs in ITSNA's recognition. An NRTL may use these programs, which OSHA described in a March 9, 1995 **Federal Register** notice (60 FR 12980, 03/09/1995), to control and audit, but not generate, the data relied on for product certification. The Agency does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does treat these programs as one of the three elements that define an NRTL's scope of recognition. OSHA previously recognized ITSNA for these programs. As a result, OSHA does not list them again in this final notice, but merely provides this information as a matter of public interest.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, ITSNA also must abide by the following conditions of the recognition:

1. ITSNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. ITSNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. ITSNA must continue to meet the requirements for recognition, including all previously published conditions on ITSNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of ITSNA, subject to these limitations and conditions specified above.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 6, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–19411 Filed 8–9–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc. (formerly SGS U.S. Testing Company, Inc.)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of SGS North America, Inc., formerly SGS U.S. Testing Company, Inc., as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of the scope of recognition becomes effective on August 12, 2013.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or phone (202) 693–2110: email: *Johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

The Occupational Safety and Health Administration (OSHA or Agency) hereby gives notice of the expansion of recognition of SGS North America, Inc., formerly SGS U.S. Testing Company, Inc., as a Nationally Recognized Testing Laboratory (NRTL). SGS's expansion covers the addition of one test site. OSHA also recognizes the removal of one test site and 13 test standards from SGS's NRTL scope of recognition. SGS also informed OSHA of a change in name from SGS U.S. Testing Company, Inc., to SGS North America, Inc. (see Exhibit 1: SGS Application). This notice reflects that change. OSHA's current scope of recognition for SGS is available at *http://www.osha.gov/dts/otpca/nrtl/sgs.html.*

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from our Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS submitted an application, dated April 19, 2012 (Exhibit 1: SGS Application), requesting several changes to its NRTL scope of recognition. SGS requests to expand its recognition to include one additional test site located at 620 Old Peachtree Road, Suwanee, GA 30024. This application also requests the change of the address for SGS's headquarters from 291 Fairfield Avenue, Fairfield, NJ 07004, to 620 Old Peachtree Road, Suwanee, GA 30024. As a consequence of this move, SGS requests the removal of one test site, located at 291 Fairfield Avenue, Fairfield, NJ 07004, from its NRTL scope of recognition. Additionally, SGS informs OSHA of the change of its name from SGS U.S. Testing Company, Inc., to SGS North America, Inc.

SGS also requests a modification of its scope of recognition under the NRTL Program. This request reduces the number of test standards in SGS's current NRTL scope of recognition by 13 test standards. Subsection II.D of Appendix A to 29 CFR 1910.7 provides that OSHA must inform the public of such a reduction in scope. Accordingly, effective the date of this notice, OSHA is modifying SGS's scope of recognition to eliminate the 13 test standards listed below:

1. ANSI/UL 1, Flexible Metal Conduit.
2. UL 62, Flexible Cords and Cables.
3. UL 355, Cord Reels.
4. UL 498, Attachment Plugs and Receptacles.
5. UL 498A, Current Taps and Adapters.
6. ANSI/UL 514A, Metallic Outlet Boxes, Electrical.
7. UL 544, Electric Medical and Dental Equipment.
8. ANSI/UL 632, Electrically Actuated Transmitters.
9. UL 817, Cord Sets and Power-Supply Cords.
10. UL 1363, Relocatable Power Taps.
11. ANSI/UL 1484, Residential Gas Detectors.
12. UL 1492, Audio-Video Products and Accessories.
13. UL 1581, Electrical Wires, Cables, and Flexible Cords.

In connection with these requests, NRTL Program staff performed an on-site review of SGS's Suwanee, GA, testing facilities on November 13, 2012. OSHA staff found some non-conformances within the laboratory during the audit. Following the correction of these non-conformances, OSHA staff recommended expansion of SGS's recognition to include the addition of the Suwanee, GA, site. As a result, OSHA preliminarily determined that it should expand SGS's scope of recognition to include one additional test site. OSHA published the preliminary notice in the **Federal Register** for public comment on June 26, 2013, and received no comments in regards to this preliminary notice.

II. Final Decision and Order

The NRTL Program staff examined SGS's expansion application, the auditor's recommendation, and other pertinent information. Based on its review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA gives notice of the change in name from SGS U.S. Testing Company, Inc., to SGS North America, Inc. OSHA recognizes the removal of 13 test standards as listed above from SGS's NRTL scope of recognition. OSHA also recognizes the relocation of SGS headquarters from Fairfield, NJ, to Suwanee, GA and the removal of SGS's Fairfield, NJ, site from its NRTL scope of recognition.

OSHA limits the expansion of SGS's recognition to include the site in Suwanee, GA, as listed above. OSHA also limits recognition of this site to performing product testing and certifications of products for demonstration of conformance to the test standards for which the site has the proper capability and programs, and for which OSHA currently recognizes SGS. This treatment is consistent with the recognition that OSHA has granted to other NRTLs.

This site also may use all four of the supplemental programs in SGS's scope of recognition. An NRTL may use these programs, which OSHA described in a March 9, 1995 **Federal Register** notice (60 FR 12980, 03/09/95), to control and audit, but not actually generate, the data

relied upon for product certification. The Agency does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA treats these programs as one of the three elements that define an NRTL's scope of recognition. OSHA previously recognized SGS for these programs. As a result, we do not list them again in this final notice, but merely provide this information as a matter of public interest.

Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS also must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);
2. SGS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. SGS must continue to meet the requirements for recognition in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of SGS, subject to the limitation and conditions specified in this section.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 6, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–19412 Filed 8–9–13; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Notice of Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Institutional Advancement Committee will meet telephonically on August 20, 2013. The meeting will commence at 4 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington DC 20007.

STATUS OF MEETING: Upon a vote of the Board of Directors, the meeting may be closed to the public to discuss prospective funders for LSC's 40th anniversary celebration and development activities and prospective members for LSC's 40th anniversary committees.

A verbatim transcript will be made of the closed session meeting of the Institutional Advancement Committee. The transcript of any portion of the closed session falling within the relevant provision of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Closed

1. Approval of agenda
2. Discussion of prospective funders for LSC's 40th anniversary celebration and development activities
3. Discussion of prospective members for LSC's 40th anniversary committees
4. Consider and act on adjournment of meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: August 8, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–19538 Filed 8–8–13; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

NOTICE: (13–083).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Frances Teel, National Aeronautics and Space Administration, 300 E Streets SW., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, (202) 358–2225.

SUPPLEMENTARY INFORMATION:

I. Abstract

Homeland Security Presidential Directive 12 (HSPD–12) established a mandatory requirement for a Government-wide identify verification standard. In compliance with HSPD–12 and the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS) 201: Personal Identity Verification of Federal Employees and Contractors, and OMB Policy memorandum M–05–24 Implementation of Homeland Security Presidential Directive 12, NASA must collect information from members of the public to: (1) Validate identity and (2) issue secure and reliable federal credentials to enable access to NASA facilities/sites and NASA information systems. Information collected is consistent with background investigation data to include but not limited to name, date of birth, citizenship, social security number (SSN), address, employment history, biometric identifiers (e.g. fingerprints), signature, digital photograph.

NASA collects information from U.S. Citizens requiring access 30 or more

days in a calendar year. NASA also collects information from foreign nationals regardless of their affiliation time.

NASA collects, stores, and secures information from individuals identified above in the NASA Identify Management System (IdMAX) in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a.)

Information is collected via a combination of electronic and paper processes and stored in the NASA Identify Account Exchange (IdMAX) System.

II. Method of Collection

Electronic (90%) and paper (10%)

III. Data

Title: Personal Identity Validation for Routine and Intermittent Access to NASA Facilities, Sites, and Information Systems

OMB Number: 2700–XXXX

Type of Review: Active Information Collection without OMB Approval

Affected Public: Individuals

Estimated Number of Respondents: 52,000

Estimated Time per Response: 10 minutes

Estimated Total Annual Public Burden Hours: 8,667

Estimated Total Annual Government Cost: $1,189,350.00

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2013–19365 Filed 8–9–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection relates to 12 CFR § 701.33(b)(2)(i), which requires a federal credit union (FCU) to draft a written reimbursement policy to ensure that the FCU makes payments to its director within the guidelines that the FCU has established in advance and to enable examiners to easily verify compliance by comparing the policy to the actual reimbursements.

DATES: Comments will be accepted until October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a, copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for 3133–0130. The information collection is authorized under Section 120 of the Federal Credit Union (FCU) Act, 12 U.S.C. 1766(a), and Section 701.33(b)(2)(i) of NCUA Rules and Regulations, 12 CFR § 701.33(b)(2)(i). The information collection is necessary to obtain adequate decisions in regard to reimbursement programs and to require internal controls for FCU boards of directors regarding reimbursement requirements. Overall, the reporting and recordkeeping burdens have decreased due to the decrease in the number of newly chartered FCUs as well as existing FCUs.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Written Reimbursement Policy.

OMB Number: 3133–0130.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Each Federal Credit Union (FCU) must draft a written reimbursement policy to ensure that the FCU makes payments to its director within the guidelines that the FCU has established in advance and to enable examiners to easily verify compliance by comparing the policy to the actual reimbursements.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 4272.

Estimated Burden Hours per Response: .5 hours.

Frequency of Response: Other. Once and update.

Estimated Total Annual Burden Hours: 2146.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 6, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19400 Filed 8–9–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. The NCUA regulation at 12 CFR part 760 implements the requirements of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (Flood Act), as amended. 42 U.S.C. 4001–4129. The Flood Act and Part 760 require a federally insured credit union granting a real estate loan to determine if flood insurance for the designated loan term is required. The credit union must also provide certain related notices and maintain records.

DATES: Comments will be accepted until October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and request for comments

NCUA is reinstating the collection for 3133–0143. The NCUA regulation at 12 CFR part 760 implements the Flood Act requirements for a federally insured credit union and contains information collection requirements (ICRs) under the Paperwork Reduction Act. A federally insured credit union must determine if a real estate loan requires flood insurance for the designated loan term. The credit union must also provide information to the borrower when the flood insurance is required.

The credit union must notify the borrower if it determines adequate flood insurance is not in place during the loan term and require the borrower to obtain necessary insurance within 45 days of the notification. A credit union must maintain records that it gave the required information to the borrower and it must ensure that the required flood insurance remains in force while the credit union holds the loan.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: 12 CFR part 760, Loans in Areas Having Special Flood Hazards.

OMB Number: 3133–0143.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Federally insured credit unions are required by the Flood Act and 12 CFR part 760 to make certain disclosures and maintain compliance records. Borrowers use this information to make valid purchase decisions. The NCUA uses the records to verify compliance with the Flood Act and NCUA's regulation at 12 CFR part 760.

Respondents: Federally insured credit unions granting real estate loans.

Total Estimated No. of Respondents/Recordkeepers: 3,727 credit unions.

Total Frequency of Response: Recordkeeping, reporting, and on occasion issuing required notices.

Total Estimated Annual Burden Hours: 127,927.

Total Estimated Annual Cost: N/A.

The following are the specific underlying ICRs that comprise the total:

ICR related to the Standard Flood Hazard Determination Form collection:

Respondents: 3,727 credit unions.

Estimated Annual Frequency of Response: 1,296,000 real estate loans require the notice.

Estimated Time per Response: 5 minutes (1/12 hour) each per loan.

Estimated Annual Burden: 108,000 hours.

ICR related to other required notices:

Respondents: 3,727 credit unions.

Estimated Annual Frequency of Response: 15% × 1,296,000 real estate loans in flood hazard areas = 194,400 loans require other notices.

Estimated Time per Response: 5 minutes (1/12 hour) to execute other notices.

Estimated Annual Burden: 16,200 reporting hours.

ICR related to required recordkeeping (place a copy of Standard Flood Hazard Determination Form and notice(s) in loan file).

Respondents: 3,727 credit unions.

Estimated Annual Time per Response: 1 hour.

Estimated Annual Burden: 3,727 recordkeeping hours.

Therefore, NCUA estimates that the total number for the collection of information is:

108,000 + 16,200 + 3,727 = 127,927 burden hours.

By the National Credit Union Administration Board on August 6, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19395 Filed 8–9–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public and is not part of any new requirements or program changes. This information collection is related to credit unions that serve predominately low-income members and seek a low-income designation from NCUA so they may benefit from certain statutory relief and

receive assistance from the Community Development Revolving Loan Fund.

DATES: Comments will be accepted until October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the NCUA, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444. For additional information about low-income designations, contact Susan Ryan in the NCUA Office of Consumer Protection, Division of Consumer Access, at the above address, or at (703) 518–1140.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending and reinstating the collection for 3133–0117. The collection of information requirement is for those credit unions seeking a low-income designation. A credit union's member address data are utilized for analysis in the NCUA Low-Income Designation (LID) Tool. The LID Tool is a geocoding software program which analyzes member address data. A credit union's member address data are obtained either through the NCUA examination file or a credit union sends the data as an electronic attachment to NCUA. If the member address data are obtained through the examination process and the results of the LID Tool indicate the credit union serves predominantly low-income members, the credit union is notified it is eligible for the low-income designation. The credit union then must contact NCUA to opt for the designation. If the credit union wishes to have its data reviewed other than through the examination process, it may send an electronic member address data file for analysis in the LID Tool.

If a credit union does not qualify for a low-income designation using the geocoding software (LID Tool), it may submit a statistically valid sample of member income data as evidence it qualifies for the designation. Credit unions are permitted to draw this sample from loan files or a member survey.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Designation of Low-Income Status.

OMB Number: 3133–0117.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Credit unions that obtain a low-income designation benefit from certain statutory relief, including: Accepting nonmember deposits from any source; offering secondary capital accounts; an exemption from the aggregate loan limit for member business loans; and being eligible to receive assistance from the Community Development Revolving Loan Fund.

Respondents: Certain credit unions serving predominantly low-income members.

Estimated Number of Respondents/Recordkeepers: 265 (260 credit unions requesting the designation utilizing the LID Tool, and 5 credit unions requesting the designation utilizing the sampling method).

Estimated Burden Hours per Response: 15 minutes for LID Tool; 40 hours for sampling method.

Frequency of Response: Once, on occasion, and recordkeeping.

Estimated Total Annual Burden Hours: 265 hours.

Estimated Total Annual Cost: $20,000.

By the National Credit Union Administration Board on August 6, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19393 Filed 8–9–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. NCUA requires the collection of electronic funds transfer information to maintain its vendor (credit union) records to make electronic payments to credit unions when required.

DATES: Comments will be accepted until October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for OMB No. 3133–0135 without amendment. NCUA will use the provided information to maintain current electronic funds transfer data for its vendor (credit union) electronic routing and transit data database to enable transmittal of funds and payments. If this information is not collected, NCUA will not be able to make payments electronically to credit unions through the Automated Clearing House (ACH) and would not be able to comply with the Debt Collection

Improvement Act of 1996. The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: National Credit Union Administration Authorization Agreement for Electronic Funds Transfer (EFT) Payments.

OMB Number: 3133–0135.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: NCUA will use the provided information to maintain current electronic funds transfer data for its vendor (credit union) electronic routing and transit data database to enable transmittal of funds and payments. If this information is not collected, NCUA will not be able to make payments electronically to credit unions through the Automated Clearing House (ACH). NCUA needs this information to comply with the Debt Collection Improvement Act which has a provision concerning the use of EFT payments.

Respondents: All Federally Insured Credit Unions.

Estimated Number of Annual Respondents/Recordkeepers: 500.

Estimated Burden Hours per Response: 15 minutes, (¼ hr).

Frequency of Response: Other (one-time).

Estimated Total Annual Burden Hours: 125 hours.

Estimated Total Annual Cost: $4,210.

By the National Credit Union Administration Board on August 6, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19399 Filed 8–9–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. This request is for a ''recordkeeping requirement''. 12 CFR part 715 sets forth the supervisory committee's responsibility in meeting the audit and verification requirements of Section 115 of the Federal Credit Union Act, 12 U.S.C. 1761d. A supervisory committee audit is required at least once every calendar year covering the period since the last audit. Also, a bi-annual verification of members' accounts is required. The Credit Union Membership Access Act of 1998 (CUMAA) amended certain audit and financial reporting requirements of the Federal Credit Union Act. Final amendments implementing CUMAA specify the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons performing certain audits, the auditing principles which apply to certain audits, and the accounting principles which must be followed in reports filed with the NCUA Board.

DATES: Comments will be accepted until October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and request for comments

NCUA is reinstating the collection for 3133–0059. The information is collected by the credit union's supervisory committee or its designated representative, through a supervisory committee audit which is required at least once every calendar year covering the period since the last audit. The information is used by both the credit union and the NCUA to ensure thorough audit testing that the credit union's assets, liabilities, equity, income, and expenses exist, are properly valued, controlled and meet ownership, disclosure and classification requirements of sound financial reporting. A written report on the audit must be made to the board of directors and, if requested, NCUA. Working papers must be maintained and made available to NCUA. Independence requirements must be met; standards governing verifications—100 percent verification or statistical sampling—are set forth. 12 CFR part 741 makes these requirements applicable to federally insured state-chartered credit unions.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Part 715, NCUA Rules and Regulations.

OMB Number: 3133–0059.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: The rule specifies the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons

performing certain audits, the auditing principles that apply to certain audits, and the accounting principles that must be followed in reports filed with the NCUA Board.

Respondents: Federal insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 6,847.

Estimated Total Annual Responses: 19,988.

Frequency of Response: Reporting and annually.

Estimated Total Annual Burden Hours: 30,295 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 6, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–19397 Filed 8–9–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board

Sunshine Act Meetings Notice

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 of the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

AGENCY HOLDING MEETING: National Science Board, National Science Foundation

DATE AND TIME: August 15, 2013 from 8:00 a.m. to 5:45 p.m., and August 16 from 8:00 a.m. to 3:00 p.m.

PLACE: These meetings will be held at the National Science Foundation, 4201 Wilson Blvd., Rooms 1235, Arlington, VA 22230. All visitors must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the meeting and provide name and organizational affiliation. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

WEBCAST INFORMATION: Public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/130815/http://www.tvworldwide.com/events/nsf/130509/* and follow the instructions.

UPDATES: Please refer to the National Science Board Web site 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: Jennie L. Moehlmann, *jmoehlma@nsf.gov,* (703) 292–7000.

PUBLIC AFFAIRS CONTACT: Dana Topousis, *dtopousi@nsf.gov,* (703) 292–7750.

STATUS: Portions open; portions closed.

Open Sessions

August 15, 2013

8:00–8:05 a.m. (Chairman's introduction)
8:05–9:30 a.m. (CPP)
12:45–1:30 p.m. (CSB)
1:30–2:30 p.m. (SCF)
2:30–3:15 p.m. (A&O)
3:30–5:00 p.m. (CEH)
5:00–5:45 p.m. (SEI)

August 16, 2013

11:00 a.m.–12:30 p.m. (AB)
1:15–3:00 p.m. (Plenary)

Closed Sessions

August 15, 2013

9:45 a.m.–12:00 Noon (CPP)

August 16, 2013

8:00–8:30 a.m. (A&O)
8:30–9:00 a.m. (CSB)
9:00–9:15 a.m. (Plenary executive closed)
9:15–10:45 a.m. (Plenary closed)

MATTERS TO BE DISCUSSED:

Thursday, August 15, 2013

Committee on Programs and Plans (CPP)

Open Session: 8:05–9:30 a.m.

- Approval of open CPP minutes for May 2013
- Committee Chairman's remarks—including update on schedule of action and information items for NSB review
- CPP Program Portfolio Discussion: Science portfolio and prospects
- NSB Information Item: Status of ocean drilling
- NSB Information Item: Update on the process for assessing the balance of the Division of Materials Research (DMR) facilities and instrumentation portfolio, and update on the review of the renewal proposal for Cornell High Energy Synchrotron Sources (CHESS)

Committee on Programs and Plans (CPP)

Closed Session: 9:45 a.m.–12:00 Noon

- Committee Chairman's remarks
- Approval of closed CPP minutes for May 2013
- NSB Information Item: Planning and prioritizing infrastructure investments in the Directorate for Mathematical and Physical Sciences
- NSB Information Item: MPS/AST portfolio review update
- NSB Action Item: Support for the Renewal of Funding for Operations and Maintenance of the Laser Interferometer Gravitational Wave Observatory (LIGO) for FY 2014–2018
- NSB Action Item: Approval of the Revised Baseline for the Construction of the Advanced Technology Solar Telescope (ATST) for FY 2010–2019
- NSB Action Item: Increase in Pass-Through Authority for Construction of the Atacama Large Millimeter/submillimeter Array (ALMA)

Committee on Strategy and Budget (CSB)

Open Session: 12:45–1:30 p.m.

- Committee Chairman's remarks
- Approval of CSB open minutes for May 2013 meeting
- NSF FY 2014 budget update
- Study on Trends in Science Budgets

CSB Subcommittee on Facilities (SCF)

Open Session: 1:30–2:30 p.m.

- Approval of the May 15, 2013 minutes
- Committee Chair remarks
- Discussion Item: Annual Portfolio Review of Facilities (APR)
  - o Subcommittee history and purpose
  - o Roles of the Annual Facility Plan and APR
  - o 2013 APR
- General Discussion: Next steps
  - o 2014 focus topic
  - o September retreat

Audit and Oversight Committee (A&O)

Open Session: 2:30–3:15 p.m.

- Approval of minutes of the May 9, 2013 meeting
- Committee Chairman's opening remarks
- Inspector General's update
- Chief Financial Officer's update
- Periodic review of A&O committee charge
- Committee Chairman's closing remarks

Committee on Education and Human Resources (CEH)

Open Session: 3:30–5:00 p.m.

- Approval of open minutes for February 20, 2013; open teleconference minutes for April 16, 2013 and open teleconference minutes for July 17, 2013
- Committee Chairman's remarks
- Panel discussion on institutional efforts to improve undergraduate STEM Education

Committee on Science & Engineering Indicators (SEI)

Open Session: 5:00–5:45 p.m.

- Approval of May minutes
- Committee Chairman's remarks: update on *Indicators 2012* mobile app; update on the revised ''STEM Education Data and Trends'' online tool
- Discussion of the *Science and Engineering Indicators 2014* ''Orange Book''
- Update on the ''Digital Indicators'' project
- Update on the companion report to *Science and Engineering Indicators 2014*

Friday, August 16, 2013

Audit and Oversight Committee (A&O)

Closed Session: 8:00–8:30 a.m.

- Committee Chairman's opening remarks
- Office of the Inspector General FY 15 budget
- Committee Chairman's closing remarks

Committee on Strategy and Budget (CSB)

Closed Session: 8:30–9:00 a.m.

- Committee Chairman's remarks
- Approval of CSB closed minutes for May 2013 meeting and closed minutes for July 29 teleconference
- FY 2015 budget approval

Plenary Board Meeting

Executive Closed Session: 9:00–9:15 a.m.

- Approval of Executive closed session minutes, May 2013 meeting
- Board member proposals
- Board member nominations
- Chairman's remarks

Plenary Board Meeting

Closed Session: 9:15–10:45 a.m.

- Approval of closed session minutes, May 2013
- Discussion on risks to NSF
- Awards and Agreements/ Resolutions from CPP
  - Directorate for Mathematical and Physical Sciences (MPS), Division of Physics (PHY): Renewal of Funding for Operations and Maintenance of the Laser Interferometer Gravitational-wave Observatory (LIGO) for FY 2014–2018
  - Directorate for Mathematical and Physical Sciences (MPS), Division of Astronomical Sciences (AST): Revised Baseline for the Construction of the Advanced Technology Solar Telescope (ATST) for FY 2010–2019
  - Directorate for Mathematical and Physical Sciences (MPS), Division of Astronomical Sciences (AST): Increase in Pass-through Authority for Construction of the Atacama Large Millimeter/submillimeter Array (ALMA)
- Closed committee reports
- Chairman's report

Task Force on Administrative Burdens (AB)

Open Session: 11:00 a.m.–12:30 p.m.

- Approval of the July 8, 2013 teleconference minutes
- Task Force Chairman's remarks
- Discussion Item: Results of the request for information
- Discussion Item: Piloted use of required preliminary proposals for a single, annual competition
- General Discussion: Continued discussion on both topics and next steps

Plenary Board Meeting

Open Session: 1:15–3:00 p.m.

- Approval of open session minutes, May 2013
- Chairman's report
- Director's report
- NSF plan on open access
- Open committee reports
- Chairman's remarks

MEETING ADJOURNS: 3:00 p.m.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2013–19565 Filed 8–8–13; 4:15 pm]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Health Benefits Registration Form, OPM 2809

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0141, Health Benefits Election Form, OPM 2809. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. This information collection was previously published in the **Federal Register** on June 28, 2012 at volume 77 FR 38681 allowing for a 60 day public comment period. We received comments from one organization. A response was sent to the organization. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;
2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until September 11, 2013. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: OPM Form 2809, Health Benefits Election Form, is used by annuitants and former spouses to elect, cancel, suspend, or change health benefits enrollment during periods other than open season.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Health Benefits Election Form.

OMB Number: 3206–0141.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 30,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Houses: 11,667 hours.

Elaine Kaplan,

Acting Director, U.S. Office of Personnel Management.

[FR Doc. 2013–19472 Filed 8–9–13; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 31 and Form R31. SEC File No. 270–537, OMB Control No. 3235–0597.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee.) (''Exchange Act'') requires the Commission to collect fees and assessments from national securities exchanges and national securities associations (collectively, ''self-regulatory organizations'' or ''SROs'') based on the volume of their securities transactions. To collect the proper amounts, the Commission adopted Rule 31 (17 CFR 240.31) and Form R31 (17 CFR 249.11) under the Exchange Act whereby the SROs must report to the Commission the volume of their securities transaction and the Commission, based on that data, calculates the amount of fees and assessments that the SROs owe pursuant to Section 31. Rule 31 and Form R31 require the SROs to provide this data on a monthly basis.

Currently, there are 22 respondents under Rule 31: 17 national securities exchanges, two security futures exchanges, and one national securities association subject to the collection of information requirements of Rule 31; there are additionally two registered clearing agencies that are required to provide certain data in their possession needed by the SROs to complete Form R31, although these two entities are not themselves required to complete and submit Form R31. The Commission estimates that the total burden for all 22 respondents is 378 hours per year. The Commission notes that, based on previous and current experience, it estimates an additional two new national securities exchanges will become registered and subject to the reporting requirements of Rule 31 over the course of the authorization period and incur burden of 12 hours per year. Thus, the Commission estimates the total burden for the existing and expected new respondents to be 390 hours per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 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: August 6, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19405 Filed 8–9–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 19b–5 and Form PILOT; SEC File No. 270–448, OMB Control No. 3235–0507.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 19b–5 (17 CFR 240.19b–5) and Form PILOT (17 CFR 249.821) under the Securities Exchange Act of 1934, as amended (''Act'') (15 U.S.C. 78a *et seq.*).

Rule 19b–5 provides a temporary exemption from the rule-filing requirements of Section 19(b) of the Act (15 U.S.C. 78s(b)) to self-regulatory organizations (''SROs'') wishing to establish and operate pilot trading systems. Rule 19b–5 permits an SRO to develop a pilot trading system and to begin operation of such system shortly after submitting an initial report on Form PILOT to the Commission. During operation of any such pilot trading system, the SRO must submit quarterly reports of the system's operation to the Commission, as well as timely amendments describing any material changes to the system. After two years of operating such pilot trading system under the exemption afforded by Rule 19b–5, the SRO must submit a rule filing pursuant to Section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)) in order to obtain permanent approval of the pilot trading system from the Commission.

The collection of information is designed to allow the Commission to maintain an accurate record of all new pilot trading systems operated by SROs and to determine whether an SRO has properly availed itself of the exemption afforded by Rule 19b–5, is operating a pilot trading system in compliance with the Act, and is carrying out its statutory oversight obligations under the Act.

The respondents to the collection of information are national securities exchanges and national securities associations.

While there are 17 national securities exchanges and national securities associations that may avail themselves of the exemption under Rule 19b–5 and the use of Form PILOT, it is estimated that approximately three respondents will file a total of 3 initial reports (for a 72 hour estimated annual burden), 12 quarterly reports (for a 36 hour estimated annual burden), and 6 amendments (for an 18 hour estimated annual burden) on Form PILOT per year, with an estimated total annual response burden of 126 hours. At an average hourly cost of $350.07, the aggregate related cost of compliance with Rule 19b–5 for all respondents is $44,109 per year (126 burden hours multiplied by $350.07/hour = $44,109).

Although Rule 19b–5 does not in itself impose recordkeeping burdens on SROs, it relies on existing requirements imposed by Rule 17a–1 under the Act (17 CFR 240.17a–1) to require SROs to retain all the rules and procedures

relating to each pilot trading system operating pursuant to Rule 19b–5, and to make such records available for Commission inspection for a period of not less than five years, the first two years in an easily accessible place.

The filing of a Form PILOT is mandatory for any SRO seeking a temporary exemption under Rule 19b–5 from the rule filing requirements of Section 19(b) of the Act in connection with the operation of a pilot trading system. It is also mandatory that an SRO operating a pilot trading system file with the Commission notices of material systems changes and quarterly transaction reports on Form PILOT. Information provided on Form PILOT is deemed confidential and shall be available only for examination by the Commission, other agencies of the federal government, and state securities authorities.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 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: August 6, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19407 Filed 8–9–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30644; 812–14176]

Wells Fargo Bank, N.A., et al.; Notice of Application and Temporary Order

August 6, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction effective July 15, 2013, entered against Wells Fargo Bank, N.A. (''Wells Fargo Bank'') by the United States District Court for the Northern District of California, until the Commission takes final action on an application for a permanent order. Applicants have requested a permanent order.

APPLICANTS: Wells Fargo Bank, Alternative Strategies Brokerage Services, Inc. (''Alternative Strategies Brokerage''), Alternative Strategies Group, Inc. (''Alternative Strategies''), First International Advisors, LLC (''First International''), Galliard Capital Management, Inc. (''Galliard''), Golden Capital Management, LLC (''Golden Capital''), Metropolitan West Capital Management, LLC (''Metropolitan West''), Peregrine Capital Management, Inc. (''Peregrine''), Wells Capital Management Incorporated (''Wells Capital Management''), Wells Fargo Funds Distributor, LLC (''WF Funds Distributor''), and Wells Fargo Funds Management, LLC (''WF Funds Management'') (each an ''Applicant'' and collectively, the ''Applicants'').[1]

DATES: *Filing Date:* The application was filed on July 12, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 3, 2013, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Wells Fargo Bank, 101 North Phillips Avenue, Sioux Falls, SD 57104; Alternative Strategies Brokerage and Alternative Strategies, 401 South Tryon Street, TH 3, 5th Floor, Charlotte, NC 28202; First International, 30 Fenchurch Street, London, England, UK EC3M 3BD; Galliard, 800 LaSalle Avenue, Suite 1100, Minneapolis, MN 55402; Golden Capital, 5 Resource Square, Suite 400, 10715 David Taylor Drive, Charlotte, NC 28262; Metropolitan West, 610 Newport Center Drive, Suite 1000, Newport Beach, CA 92660; Peregrine, 800 LaSalle Avenue, Suite 1850, Minneapolis, MN 55402; West Capital Management, 525 Market Street, 10th Floor, San Francisco, CA 94105; and WF Funds Distributor and WF Funds Management, 525 Market Street, 12th Floor, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Exemptive Applications).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Wells Fargo Bank is a national banking association wholly-owned, directly and indirectly, by Wells Fargo & Company (''Wells Fargo''). Through its direct and indirect subsidiaries, Wells Fargo, a registered financial holding company and bank holding company under the Bank Holding Company Act of 1956, as amended, offers banking, brokerage, advisory and other financial services to institutional and individual customers worldwide. Wells Fargo also is the ultimate parent of the other Applicants, who, as direct or indirect, majority-owned or wholly-owned, subsidiaries of the same ultimate parent, are, or may be considered to be, under common control with Wells Fargo Bank.

2. Abbot Downing Investment Advisors and Wells Capital Management Singapore, each a separately identifiable department within Wells Fargo Bank and each registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), serve as investment advisers to one or more Funds (as defined below). Alternative

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which Wells Fargo Bank is or may become an affiliated person within the meaning of section 2(a)(3) of the Act (together with the Applicants, the ''Covered Persons'').

Strategies, First International, Galliard, Golden Capital, Metropolitan West, Peregrine, Wells Capital Management, and WF Funds Management are registered as investment advisers under the Advisers Act and serve as investment advisers or sub-advisers to various Funds. Alternative Strategies Brokerage and WF Funds Distributor are registered as broker-dealers under the Securities Exchange Act of 1934, and each serves as principal underwriter to various Funds. ''Fund'' means any registered investment company, including a registered unit investment trust (''UIT'') or registered face amount certificate company, as well as any business development company (''BDC'') or employees' securities company (''ESC''). ''Fund Servicing Activities'' means acting as an adviser, sub-adviser or depositor to Funds, or principal underwriter for any registered open-end investment company, UIT, registered face amount company or ESC.

3. On May 14, 2013, the United States District Court for the Northern District of California issued an order (the ''Court Order'') in a certified consumer class action under Section 17200 of the California Business and Professions Code relating to a Wells Fargo Bank bookkeeping device known as ''high-to-low'' posting.[2] The plaintiffs in the class action alleged that Wells Fargo Bank, without adequate disclosure to account holders, posted debit card transactions received each day for payment beginning with the highest amount and ending with the lowest amount (*i.e.,* high-to-low), which could have the effect of increasing the number of items posting into overdraft and, therefore, increased overdraft fees.[3] While the plaintiffs' challenge to the practice of high-to-low posting and to the adequacy of the bank's disclosures was found to be preempted by the National Bank Act, Wells Fargo Bank was found liable under the California law for making misleading statements regarding the practice.[4] The Court Order enjoined Wells Fargo Bank from making or disseminating, or permitting to be made or disseminated, any false or misleading representations relating to the posting order of debit-card purchases, checks, and ACH transactions in its customer bank accounts (the ''Injunction''). The Court Order set July 15, 2013, as the effective date of the Injunction.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from acting as a bank, or from engaging in or continuing any conduct or practice in connection with such activity, from acting, among other things, as an investment adviser or depositor of any registered investment company, or as a principal underwriter for any registered open-end investment company, UIT or registered face-amount certificate company. Section 9(a)(3) of the Act extends the prohibitions of section 9(a)(2) to a company any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include, among others, any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that Wells Fargo Bank is, or may be considered to be, under common control with and therefore an affiliated person of each of the other Applicants. Applicants state that the Injunction may result in Applicants being subject to the disqualification provisions of section 9(a) of the Act because Wells Fargo Bank is enjoined from engaging in or continuing certain conduct and/or practices in connection with its banking activity.[5]

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking temporary and permanent orders exempting the Applicants and the other Covered Persons from the disqualification provisions of section 9(a) of the Act. On July 15, 2013, Applicants received a temporary conditional order from the Commission exempting them from section 9(a) of the Act with respect to the Injunction from July 15, 2013 until the Commission takes final action on an application for a permanent order or, if earlier, September 13, 2013.

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the conduct giving rise to the Injunction did not involve any of the Applicants acting in their capacity as investment adviser, sub-adviser, or principal underwriter for Funds. Applicants also state that the alleged conduct giving rise to the Injunction did not involve any Fund or the assets of any Fund for which they provided Fund Servicing Activities. Applicants further state that to the best of their reasonable knowledge: (i) none of the Applicants' (other than certain of Wells Fargo Bank's) current or former directors, officers or employees had any knowledge of, or had any involvement in, the conduct alleged in the Court Order that provided a basis for the Injunction; (ii) the personnel who were involved in the violations have had no involvement in, and will not have any future involvement in, providing advisory, sub-advisory, depository or underwriting services to Funds; and (iii) because the personnel of the Applicants involved in Fund Servicing Activities did not have any involvement in the alleged misconduct, shareholders of Funds that received investment advisory, depository and principal underwriting services from the Applicants were not affected any differently than if those Funds had received services from any other non-affiliated investment adviser, depositor or principal underwriter.

5. Applicants further represent that the inability of Applicants to continue providing Fund Servicing Activities would result in potentially severe financial hardships for both the Funds and their shareholders. Applicants state that they will distribute written materials, including an offer to meet in person to discuss the materials, to the board of directors of each Fund, including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of such Fund, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any, regarding the Injunction, any impact on the Funds, and the application. The Applicants will provide the Funds with all information concerning the Injunction and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the federal securities laws.

6. Applicants also assert that, if the Applicants were barred from engaging in Fund Servicing Activities, the effect

[2] *Gutierrez* v. *Wells Fargo Bank, N.A.,* Case No. C 07–05923 WHA (N.D. Cal., May 14, 2013) (granting in part and denying in part motion for judgment following remand).

[3] *Id.*

[4] *Id.* at 3 (*citing Gutierrez* v. *Wells Fargo Bank, N.A.,* 704 F.3d 712, 725–730 (9th Cir. 2012)).

[5] Applicants believe that the conduct and/or practices covered by the Injunction could be deemed to be in connection with Wells Fargo Bank's banking activity.

on their businesses and employees would be severe. The Applicants state that they have committed substantial capital and resources to establishing expertise in advising and sub-advising Funds and in support of their principal underwriting business.

7. Applicants state that several Applicants and certain of their affiliates have previously received orders under section 9(c), as described in greater detail in the application.

Applicants' Condition

Applicants agree that any order granted by the Commission pursuant to the application will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application, or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that the Applicants and the other Covered Persons are granted a temporary exemption from the provisions of section 9(a), effective forthwith, solely with respect to the Injunction, subject to the condition in the application, until the date the Commission takes final action on their application for a permanent order.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19409 Filed 8–9–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70124; File No. SR–NYSEARCA–2013–78]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 5.3(i)(1)(i) To Specify the Procedures To Be Followed if a Listed Derivative Securities Product or a Listed Structured Product Is Based on an Index or Portfolio of Securities and Such Index or Portfolio Is Modified or Replaced

August 6, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 25, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 5.3(i)(1)(i) to specify the procedures to be followed if a listed Derivative Securities Product or a listed Structured Product is based on an index or portfolio of securities and such index or portfolio is modified or replaced. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to clarify Exchange policies with respect to changes in the index or portfolio on which a listed security is based. The proposed rule change is consistent with the policies currently applied under existing Exchange rules. In particular, the Exchange proposes to adopt specific procedures to be followed when a Derivative Securities Product [4] or a Structured Product [5] based on an index or portfolio of securities is listed on the Exchange and: (1) The value of such index or portfolio is no longer calculated or available and a new index or portfolio is substituted; or (2) such index or portfolio is replaced with a new index or portfolio from the same or a different index provider; or (3) the index or portfolio is significantly modified (including, but not limited to, a significant modification to the index methodology, a change in the index provider or a change in control of the index provider) (each of (1), (2) and (3), a ''Material Index or Portfolio Change'').

It is the Exchange's long-standing policy to require the issuer of any Derivative Securities Product or Structured Product to submit an executed Supplemental Listing Application and to obtain authorization from NYSE Regulation prior to the effective date of any change in the index or portfolio on which such security is based. Generally, NYSE Regulation requires at least two weeks to review and to approve a Supplemental Listing Application. The Exchange reminds issuers of this policy in an annual reminder letter sent to all listed issuers which summarizes important Exchange corporate governance and notice requirements. This current policy is appropriate in light of NYSE Arca Equities Rule 5.3(i)(1)(i)(N), which requires listed issuers to ''provide

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] ''Derivative Securities Products'' are (i) investment company units listed under NYSE Arca Equities Rule 5.2(j)(3) Commentary .01(a)(A)(1) and (ii) securities defined in Section 2 of NYSE Arca Equities Rule 8.

[5] Pursuant to NYSE Arca Equities Rule 5.1(b)(17), the term ''Structured Products'' means products that are derived from and/or based on a single security or securities, a basket of stocks, an index, a commodity, debt issuance and/or a foreign currency, among other things. Structured Products include index and equity linked notes, term notes and units generally consisting of a contract to purchase equity and/or debt securities at a specified time.

sufficient advance application for the listing of securities in substitution for securities, the obligations, rights or privileges of which have been altered by merger, acquisition, consolidation or other corporate action, unless specifically exempted by the [Exchange].'' The Exchange also has the authority to require this notice pursuant to NYSE Arca Equities Rule 5.3(i)(1)(i)(O), which requires listed issuers to furnish any information concerning their businesses as the Exchange may reasonably require.

The Exchange notes that a Derivative Securities Product or Structured Product based on an index or portfolio of securities that is listed under a generic listing standard or pursuant to a rule filing approved by the Commission is authorized for continued listing only so long as it meets the terms of the applicable generic listing standard or rule filing. In the event that a Material Index or Portfolio Change causes the applicable security to cease to be qualified for listing under the applicable generic listing standard or rule filing, then the Exchange does not have the authority to continue its listing unless such continued listing is authorized pursuant to a rule filing declared immediately effective or approved by the Commission.[6] Similarly, the Exchange is required to file a Form 19b–4(e) with the Commission whenever it lists a new Derivative Securities Product or Structured Product under a generic listing standard and it is the Exchange's existing practice to file a new Form 19b–4(e) if there is a Material Index or Portfolio Change in relation to such security in cases where the security as modified still meets the applicable generic listing standard.

The Exchange proposes to add a new paragraph (P) to NYSE Arca Equities Rule 5.3(i)(1)(i) to provide additional clarity to issuers of Derivative Securities Products and Structured Products with respect to Exchange rules and policy applicable in the event of any change in the index or portfolio on which a security is based would specify. If a Material Index or Portfolio Change occurs with respect to a listed security, the Exchange will not continue the listing of such security unless the new (or modified) index or portfolio meets the requirements for listing of the rule under which such security was originally listed, either pursuant to Rule 19b–4(e) under the Act (including the filing of a Form 19b–4(e) with the Commission) or by Commission approval or immediate effectiveness of a filing pursuant to Section 19(b)(1) of the Act. In such circumstances, the Exchange will have sole discretion as to whether it chooses to submit a rule filing pursuant to Section 19(b)(1). If an issuer of a listed Derivative Securities Product or listed Structured Product effectuates a Material Index or Portfolio Change with respect to which approval of a rule filing pursuant to Section 19(b)(2) is required and such rule filing has not yet been approved or is not immediately effective, then the Exchange will immediately halt trading in the applicable security until such rule filing is approved. If at any time it becomes clear, in the opinion of the Exchange, that such rule filing will not be approved by the Commission or become immediately effective, or the Exchange decides in its sole discretion to withdraw or not file such rule filing, the Exchange will immediately commence delisting procedures with respect to such security.

Proposed NYSE Arca Equities Rule 5.3(i)(1)(i)(P) would also require the issuer of any listed Derivative Securities Product or Structured Product to notify the Exchange no fewer than ten business days in advance of the effective date of any change or modification to the index or portfolio associated with such security and, if required by the Exchange, to make application for the continued listing of the security as so changed and to announce such change via a method acceptable under the Exchange's rule with respect to material news dissemination, NYSE Arca Equities Rule 5.3(i)(2). The proposed rule will advise issuers to consult with NYSE Regulation in advance of any Material Index or Portfolio Change which could cause the applicable security to cease to be qualified for continued listing without the approval or immediate effectiveness of a rule filing pursuant to Section 19(b)(1), in which case the proposed rule will advise issuers to provide adequate notice to the Exchange to provide sufficient time to submit an appropriate rule change prior to implementation of the Material Index or Portfolio Change, thereby avoiding any disruption in trading.

The proposed rule change is intended to ensure that the Exchange has appropriate notice of modifications to the index or portfolio on which a security is based that would give rise to the requirement to submit a new rule filing or to file a Form 19b–4(e). The proposal to require 10 business days' notice of a modification of the index or portfolio on which a security is based is consistent with the Exchange's longstanding policy requiring the issuer of any Derivative Securities Product or Structured Product to submit an executed Supplemental Listing Application and to obtain authorization from NYSE Regulation prior to the effective date of any change in the index or portfolio on which such security is based. Generally, NYSE Regulation requires at least two weeks to review and to approve a Supplemental Listing Application. The Exchange reminds issuers of this policy annually in a letter summarizing important Exchange corporate governance and notice requirements disseminated to all listed issuers. The Exchange believes that this current policy is appropriate in light of NYSE Arca Equities Rule 5.3(i)(1)(i)(N), which requires listed issuers to ''provide sufficient advance application for the listing of securities in substitution for securities, the obligations, rights or privileges of which have been altered by merger, acquisition, consolidation or other corporate action, unless specifically exempted by the [Exchange].'' The Exchange also believes that it has the authority to require this notice pursuant to NYSE Arca Equities Rule 5.3(i)(1)(i)(O), which requires listed issuers to furnish any information concerning their businesses as the Exchange may reasonably require.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[7] of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and furthers the objectives of Section 6(b)(1) of the Act,[9] in particular in that it is designed to comply, and to ensure that the Exchange enforces listed company compliance, with the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange believes that the proposed amendment is consistent with Section 6(b)(1) of the Act in that it simply clarifies the framework under which the Exchange will handle a Material Index or Portfolio Change in relation to a Derivative Securities Product or Structured Product. Pursuant to the Act, the Exchange does not have authority to continue listing a security that ceases to be qualified for listing under an applicable generic listing standard or rule filing. In the event that a security ceases to so qualify, the proposed rule change merely sets forth the framework for how the Exchange will rectify the

[6] There can be no assurance that the Commission will approve a rule filing with respect to any specific Material Index or Portfolio Change. In the event that any such rule filing is not approved, the security in question will be delisted.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78a.

[9] 15 U.S.C. 78f(b)(1).

deficiency or ultimately commence delisting proceedings. In this regard, the proposed rule change is consistent with Section 6(b)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The sole purpose of the proposed rule filing is to enable the Exchange to effectively comply with its obligations under the Act and Commission rules with respect to the listing of Derivative Securities Products and Structured Products in the event of a Material Index or Portfolio Change and it therefore imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2013–78 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–2013–78. 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–2013–78 and should be submitted on or before September 3, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19406 Filed 8–9–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70123; File No. SR–NYSEMKT–2013–63]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Message To Contracts Traded Ratio Fee in the NYSE Amex Options Fee Schedule

August 6, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 1, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the Message To Contracts Traded Ratio Fee in the NYSE Amex Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective August 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Messages To Contracts Traded Ratio Fee in the Fee Schedule. The Exchange proposes to implement the fee change effective August 1, 2013.

Under the current fee, which was first adopted in 2011,[4] an ATP Firm pays $0.01 per 1,000 messages in excess of one billion messages in a calendar month if the ATP Firm does not execute at least one contract for every 1,500–3,000 messages entered, as determined by the Exchange. The Exchange notifies ATP Firms of any change to the ratio to be used to calculate the fee at least one business day in advance of such change via an Information Memo. Such number is applicable in the following calendar month and thereafter until changed.

The Messages To Contracts Traded Ratio Fee is designed to encourage efficient usage of systems capacity by all ATP Firms by taking into consideration quotes as well as orders entered and looking at the number of contracts traded as a result. ATP Firms that enter excessive amounts of orders and quotes that produce little or no volume are assessed this fee based on the ratio of quotes and orders to contracts traded. The Exchange recognizes that there can be problems at the level of either an ATP Firm or its vendor or at the Exchange that can cause inadvertent bursts of quotes and/or orders. For that reason, the Exchange initially proposed to consider only those ATP Firms that exceed one billion quotes and/or orders in a given month in determining whether inefficient utilization of systems capacity has occurred. In doing so, the Exchange intended to maintain its existing, well-understood incentives for order-sending firms to use bandwidth efficiently, while ensuring that NYSE Amex Options Market Makers (''Market Makers'') also have such incentives but with a higher level of traffic permitted before the fee takes effect. The Exchange believes that this higher level of free message traffic for Market Makers is appropriate due to the quoting obligations incurred by Market Makers and their importance as liquidity providers in the options market. In the last six months, about 10% of ATP Firms have exceeded the one billion messages threshold, and all of these ATP Firms were Market Makers quoting over 250 issues. As such, generally only larger firms are potentially subject to the fee.

The Exchange proposes to make three changes to the current fee calculation. First, the Exchange proposes to increase the baseline number of messages that each ATP Firm may send each month before becoming potentially liable for fees from one billion messages to 1.5 billion messages. Overall message traffic has risen since June 2011 due to additional products, series, and exchanges entering the marketplace. For example, the peak rate of traffic experienced by The Options Price Reporting Authority (''OPRA'') in May 2011 was 2.8 million messages per second. In May 2013, the peak rate was 5.8 million messages per second. Due to this increase in message traffic generally, the Exchange believes that it is appropriate to raise the baseline number of messages permitted before the fee applies. Most of the ATP Firms that have met the one billion messages threshold in the last six months would also have exceeded the proposed 1.5 billion messages threshold in that period, which the Exchange believes is reflective not of any inefficient use of its systems but rather of the overall message traffic increase since June 2011 as a result of additional products, series, and exchanges.

Second, the Exchange proposes to expand the range of ratios permitted from 1,500:1 to 5,000:1. Presently the range of the ratios permitted is 1,500:1 to 3,000:1. This expansion will give the Exchange greater flexibility in responding to market conditions that cause heightened levels of message traffic. Thus, if appropriate, the Exchange could increase the ratio during times of market stress so that ATP Firms could continue to foster price discovery and transparency without having to be concerned about incurring the Messages To Contracts Traded Ratio Fee.

Third, the Exchange proposes to grant each ATP Firm acting as Market Maker an additional one million messages per month (above and beyond the 1.5 billion per month that will be applicable to all ATP Firms) for each issue in its primary market making appointment if it executes in the aggregate across all options issues in its assignment at least 20,000 contracts average daily volume (''ADV'') electronically as a Market Maker.[5] For example, if a Market Maker has an appointment in 500 issues and executes electronically at least 20,000 contracts ADV as a Market Maker in the aggregate across all 500 issues, then the Market Maker will receive another 500 million messages for a total of two billion messages that it can send in that month before it potentially becomes liable for the Messages To Contracts Traded Ratio Fee (and then only if it fails to maintain an acceptable ratio of messages sent to contracts executed).

The Exchange notes that the ATP Firms that would have exceeded a 1.5 billion messages threshold in the last six months each acted as Market Maker for between approximately 800 to 2,100 issues, with an average of 1,436 issues quoted. If an execution requirement of at least 20,000 contracts ADV as Market Maker had applied to such ATP Firms, the average ATP Firm could have obtained the additional one million messages by executing just 14 contracts per day (20,000 contracts divided by 1,436 issues). Based on this historical analysis, the Exchange believes that most Market Makers that exceed the 1.5 billion messages threshold will be capable of reaching the 20,000 contracts ADV threshold to obtain the additional one million messages per month for each issue they quote.

The proposed change is not intended to address any other issues, and the Exchange is not aware of any problems that ATP Firms would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons

[4] *See* Securities Exchange Act Release No. 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR–NYSEAmex–2011–37).

[5] The Market Maker is not required to execute at least 20,000 contracts ADV as Market Maker in each of the assigned issues; rather, execution volume in the aggregate across all issues is considered.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed increase in the total number of monthly messages from one billion to 1.5 billion per month is reasonable in light of the additional products, series, and exchanges that have entered the marketplace since the fee was first adopted; message traffic has nearly doubled since that time. Thus, the Exchange believes that it must adjust the fee ratio to reflect current market conditions that can lead to increased message traffic and are not necessarily reflective of any inefficient use of the Exchange's systems. The increase is also equitable and not unfairly discriminatory because it will apply to all ATP Firms.

The proposal to increase the range of ratios of messages per contracts traded is reasonable because it will give the Exchange greater flexibility in responding to market conditions, including volatility, that cause heightened levels of message traffic. The proposed change is equitable and not unfairly discriminatory because it will apply to all ATP Firms.

The proposed change to grant ATP Firms acting as Market Makers an additional one million messages per month (above and beyond the 1.5 billion per month that will be applicable to all ATP Firms) for each issue in its primary market making appointment if the Market Maker executes electronically at least 20,000 contracts ADV as a Market Maker is reasonable because Market Makers have quoting obligations that require them to submit quotes to the Exchange for each issue, thereby increasing their message traffic. The Exchange believes that the threshold of requiring executions of at least 20,000 contracts ADV as Market Maker is reasonable because it is consistent with the Exchange's practice of tying the permitted number of messages to actual executions on the Exchange, thereby encouraging efficient use of the Exchange's systems capacity. As described above, the Exchange believes that most Market Makers potentially subject to the fee will be able to meet the requirement for the additional messages because on average they quote 1,436 issues, which would require them to execute on average 14 contracts per day in each issue to qualify for the additional messages.

The Exchange believes that the proposed change with respect to raising to [sic] message threshold level to 1.5 billion messages and adjusting the range of ratios permitted is equitable and not unfairly discriminatory because Market Makers' quoting activity fosters price discovery and transparency and is an important source of liquidity for all market participants. Thus, all market participants may benefit from the change. The proposed change is not inequitable or unfairly discriminatory to non-Market Makers because such firms generally have not reached the initial threshold of one billion messages under the current fee and similarly are not expected to reach the new threshold of 1.5 billion messages that would potentially trigger the new fee. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory among Market Makers because the number of additional messages granted if the 20,000 share ADV threshold is met is tied directly to the number of issues quoted. Market Makers that quote more issues should be expected to have a higher volume of messages, which in no way reflects inefficient use of the Exchange's systems and thus is fair to Market Makers. For the reasons stated above, the Exchange believes that it will not be difficult for a Market Maker subject to the fee to reach that threshold given the small number of contracts it must execute per appointment. A requirement to achieve a minimal level of electronic Market Maker volume as evidence of the price discovery fostered in exchange for the additional messages is necessary to ensure the allocation of extra messages is done equitably and in a manner that is not unfairly discriminatory.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed fee is designed to discourage inefficient use of the Exchange's systems capacity by the Exchange's market participants. The Exchange believes that the 20,000 contract ADV threshold will not burden competition among Market Makers on the Exchange based on the analysis of historical data described above; specifically, the Exchange expects that Market Makers should be able to meet the threshold because on average they will need to execute a relatively small number of contracts per issue per day. The Exchange does not anticipate that non-Market Makers will be subject to the fee for the reasons described above.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or credits available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their trading practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of ATP Firms or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

under Section 19(b)(2)(B) [11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–63 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–63. 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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–63, and should be submitted on or before September 3, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–19404 Filed 8–9–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8417]

Culturally Significant Object Imported for Exhibition Determinations: ''Violence and Virtue: Artemisia Gentileschi's Judith Slaying Holofernes''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the object to be included in the exhibition ''Violence and Virtue: Artemisia Gentileschi's Judith Slaying Holofernes,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Art Institute of Chicago, Chicago, IL, from on or about October 17, 2013, until on or about January 9, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 20, 2013.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–19469 Filed 8–9–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2013–0684]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Helicopter Air Ambulance Operator Reports; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. This notice corrects a notice published in the **Federal Register** on July 31, 2013 (78 FR 46405) to include additional background information, to include the docket number FAA–2013–0684, which contains supplementary documentation on the subject information collection, and to extend the comment period. The FAA Modernization and Reform Act of 2012 included a mandate to begin collection of operational data from Air Ambulance operators. FAA is to summarize the data and report to Congress no later than February 14, 2014, and annually thereafter.

DATES: Written comments should be submitted by October 11, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–XXXX.

Title: Helicopter Air Ambulance Operator Reports.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Clearance of a new information collection.

Background: The FAA Modernization and Reform Act of 2012 mandates that all helicopter air ambulance operators must begin reporting the number of flights and hours flown, along with other specified information, during which helicopters operated by the certificate holder were providing

helicopter air ambulance services. See 49 U.S.C. 44731. The helicopter air ambulance operational data provided to the FAA will be used by the agency as background information useful in the development of risk mitigation strategies to reduce the currently unacceptably high helicopter air ambulance accident rate, and to meet the mandates set by Congress. Upon approval of this information collection the FAA intends to amend helicopter air ambulance operators' Operations Specifications to require submission of the data, mandated by Congress, to the FAA.

The FAA notes that prior to issuance of this notice representatives from the Flight Standards Service, Office of Accident Investigation and Prevention, and the Office of the Chief Counsel met with representatives from the Air Medical Operators Association (AMOA) to discuss the FAA's approach to this data collection. Meetings were held on October 15, 2012 and May 17, 2013. On June 28, 2013 AMOA submitted a response to the FAA discussing its view of the method to collect the data being pursued by the FAA. A copy of that letter has been placed in the docket and will be considered by the agency.

Respondents: 73 helicopter air ambulance certificate holders.

Frequency: Information is collected quarterly.

Estimated Average Burden per Response: 6 hours.

Estimated Total Annual Burden: 2,352 hours.

ADDRESSES: Send comments identified by docket number to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169. Comments may also be submitted electronically by going to *http://www.regulations.gov* and following the online instructions.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

The supplementary materials placed in the docket may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE.,Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on August 5, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2013–19449 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Request to Release Airport Property at the Ottumwa Regional Airport (OTM), Ottumwa, Iowa.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land, Lot #3, at the Ottumwa Regional Airport, Ottumwa, Iowa, under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before September 11, 2013.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Tom Francis, Airport Manager, C/O Ottumwa Regional Airport 14802 Terminal St. Ottumwa, IA 50501, 641–683–0619.

FOR FURTHER INFORMATION CONTACT: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2644, *lynn.martin@faa.gov.*

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 4.80 acres of airport property, Lot #3, at the Ottumwa Regional Airport (OTM) under the provisions of 49 U.S.C. 47107(h)(2). On January 2, 2013, the Airport Manager at the Ottumwa Regional Airport requested from the FAA that approximately 4.80 acres of property, Lot #3, be released for sale to CT Development, LLC. for use as a warehouse operation. On July 16, 2013, the FAA determined that the request to release property at the Ottumwa Regional Airport (OTM) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Ottumwa Regional Airport (OTM) is proposing the release of one parcel, Lot #3, containing 4.80 acres, more or less. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Ottumwa Regional Airport (OTM) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation facilities at the Ottumwa Regional Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Ottumwa Regional Airport.

Issued in Kansas City, MO on August 2, 2013.

Rodney N. Joel,

Acting Manager, Airports Division.

[FR Doc. 2013–19454 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Request To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent To Rule on Request To Release Airport Property at the Ottumwa Regional Airport (OTM), Ottumwa, Iowa.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land, Lot #14, at the Ottumwa Regional Airport, Ottumwa, Iowa, under the provisions of 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before September 11, 2013.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Tom Francis, Airport Manager, C/O Ottumwa Regional Airport 14802 Terminal St. Ottumwa, IA 50501, 641–683–0619.

FOR FURTHER INFORMATION CONTACT: Lynn D. Martin, Airports Compliance Specialist, Federal Aviation Administration, Airports Division, ACE–610C, 901 Locust Room 364, Kansas City, MO 64106, (816) 329–2644, *lynn.martin@faa.gov.*

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release approximately 0.68 acres of airport property, Lot #14, at the Ottumwa Regional Airport (OTM) under the provisions of 49 U.S.C. 47107(h)(2). On January 2, 2013, the Airport Manager at the Ottumwa Regional Airport requested from the FAA that approximately 0.68 acres of property, Lot #14, be released for sale to Al-Jon for use as a light manufacturing operation. On July 16, 2013, the FAA determined that the request to release property at the Ottumwa Regional Airport (OTM) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

Ottumwa Regional Airport (OTM) is proposing the release of one parcel, Lot #14, containing 0.68 acres, more or less. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the Ottumwa Regional Airport (OTM) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for general aviation facilities at the Ottumwa Regional Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Ottumwa Regional Airport.

Issued in Kansas City, MO on July 30, 2013.

Rodney N. Joel,

Acting Manager, Airports Division.

[FR Doc. 2013–19451 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0275]

Hours of Service of Drivers: U.S. Department of Defense (DOD); Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from the U.S. Department of Defense (DOD) Military Surface Deployment and Distribution Command (SDDC) for an exemption from the minimum 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. The exemption would enable SDDC's contract motor carriers and their employee-drivers engaged in the transportation of weapons, munitions, and sensitive/classified cargo to have the same regulatory flexibility that § 395.1(q) provides for drivers transporting explosives. The exempted drivers would be allowed to use 30 minutes or more of attendance time to meet the HOS rest break requirements, provided they do not perform any other work during the break. FMCSA requests public comment on SDDC's application for exemption.

DATES: Comments must be received on or before September 11, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2013–0275 by any of the following methods:

- *Federal eRulemaking Portal: // www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

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

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received

after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

On December 27, 2011 (76 FR 81133), FMCSA published a final rule amending its hours of service (HOS) regulations for drivers of property-carrying commercial motor vehicles (CMVs). The final rule adopted several changes to the HOS regulations including a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive only if no more than 8 hours have passed since the end of the driver's last off-duty period of at least 30 minutes.

FMCSA did not specify when drivers must take the break, but the rule requires that they wait no longer than 8 hours after the last off-duty period of 30 minutes or more to take that break. Drivers who already take shorter breaks during the work day could comply with the rule by taking one of the shorter breaks and extending it to 30 minutes. The new requirement took effect on July 1, 2013.

The Military Surface Deployment and Distribution Command (SDDC) manages the motor carrier industry contracts for the Department of Defense (DOD). Certain motor carriers under contract to the SDDC provide protective services while transporting weapons, munitions, and sensitive/classified cargo.

SDDC requests a limited exemption from the HOS regulation pertaining to rest breaks [49 CFR 395.3(a)(3)(ii)] to allow SDDC-contracted drivers providing dual driver-protective services to be treated the same as drivers transporting explosives, as provided in § 395.1(q). Section 395.1(q) states that operators of CMVs carrying Division 1.1, 1.2, or 1.3 explosives subject to the requirement for a minimum 30-minute rest break in § 395.3(a)(3)(ii) may use 30 minutes or more of ''attendance time'' to meet the requirement for a rest break. SDDC believes that shipments moved under the requested exemption would achieve a level of safety and security that is at least equivalent to what would be obtained by following the normal break requirements in § 395.3(a)(3)(ii).

SDDC states that it requires continuous attendance and surveillance of such shipments until they reach their final destination. SDDC states that it has instituted several technical and administrative controls to ensure the efficient transportation of cargo requiring protective services, controls that would remain in effect under the requested exemption. They include the following:

- Conducting review of carrier compliance requirements and procedures for moving hazardous cargo.
- Evaluating carrier authority to operate on United States roadways.
- Evaluating carrier compliance with the Federal Motor Carrier Safety Administration's Compliance Safety Accountability program Safety Measurement System standards.
- Providing over-the-road vehicle surveillance.
- Inspecting carrier facilities and corporate headquarters for compliance with DOD and DOT standards.

Further details regarding SDDC's safety controls can be found in its application for exemption. The application can be accessed in the docket identified at the beginning of this notice. SDDC asserts that granting the exemption would allow driver teams to manage their en-route rest periods efficiently and also perform mandated shipment security surveillance, resulting in both safe driving performance and greater security of cargo during long-distance trips.

SDDC anticipates no safety impacts from this exemption and believes that its contract employee drivers should be allowed to follow the requirements in § 395.1(q) when transporting shipments of sensitive DOD cargo. SDDC believes that shipments made under the requested exemption would achieve a level of safety and security that is at least equivalent to that which would be obtained by following the normal break requirement in § 395.3(a)(3)(ii).

SDDC indicated that 40 contract carriers with 1,942 power units and 3,000 drivers would be covered by the exemption. The proposed exemption would be effective for 2 years, the maximum period allowed by § 381.300.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on SDDC's application for an exemption from certain provisions of 49 CFR part 395. The Agency will consider all comments received by close of business on September 11, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: August 2, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–19396 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0283]

Hours of Service of Drivers: National Pork Producers Council; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from the National Pork Producers Council (NPPC) on behalf of its members and other agricultural organizations for an exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. The exemption would enable all

CMV drivers transporting livestock to operate without taking a 30-minute break during the work day if 8 hours have passed since the last off-duty period of at least 30 minutes. FMCSA considers the request to be on behalf of all motor carriers and drivers when transporting livestock. FMCSA requests public comment on the application for exemption.

DATES: Comments must be received on or before September 11, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2013–0283 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the *Public Participation* heading below. Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided. Please see the *Privacy Act* heading below.

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

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

Submitting Comments: You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0283'' and click the SEARCH button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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.

Viewing Comments and Documents: To view comments, as well as any documents mentioned in this notice, go to *www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0283'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

National Pork Producers Council Waiver and Exemption Request

On December 27, 2011 (76 FR 81133), FMCSA published a final rule amending its hours-of-service (HOS) regulations for drivers of property-carrying commercial motor vehicles (CMVs). The final rule adopted several changes to the HOS regulations, including a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive a CMV only if a period of 8 hours or less has passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes. FMCSA did not specify when drivers must take the 30-minute break, but the rule requires that they wait no longer than 8 hours after the last off-duty or sleeper-berth period of that length or longer to take the break. Drivers who already take shorter breaks during the work day could comply with the rule by taking one of the shorter breaks and extending it to 30 minutes. The new requirement took effect on July 1, 2013.

On June 19, 2013, FMCSA received a combined request for a 90-day waiver and an application for an exemption from the National Pork Producers Council (NPPC) on behalf of itself and the following organizations:

- Agricultural and Food Transporters Conference of the American Trucking Associations;
- American Farm Bureau Federation;
- American Feed Industry Association;
- American Meat Institute;
- Livestock Marketing Association;
- National Cattlemen's Beef Association;
- National Chicken Council;
- National Milk Producers Federation;
- National Turkey Federation;
- North American Meat Association;
- Professional Rodeo Cowboys Association; and,
- U.S. Poultry and Egg Association.

The NPPC requested a waiver and exemption from the minimum 30-minute ''rest break'' provisions of 49 CFR 395.3(a)(3)(ii) for drivers

transporting livestock. A copy of the NPPC's waiver and exemption request is included in the docket referenced at the beginning of this notice.

The NPPC stated that complying with the 30-minute rest break rule will cause livestock producers and their drivers irreparable harm, place the health and welfare of the livestock at risk, and provide no apparent benefit to public safety, while forcing the livestock industry and their drivers to choose between the humane handling of animals or compliance with the rule.

The NPPC explained that the process of transporting livestock, whether to slaughter, for transfer of ownership, or for purposes of breeding or simply finding forage for feed, is a significant concern to the agricultural industry. The animals face a variety of stresses including temperature, humidity, and weather conditions.

During the summer months, exposure to heat is one of the greatest concerns in maintaining the animals' well-being. This is especially challenging for the transportation of pigs because these animals do not sweat and are subject to heat stress. When heat stress occurs, a pig's body temperature rises to a level that it cannot control through its normal panting mechanisms. Under the industry's guidelines, drivers are directed to avoid stopping in temperatures greater than 80 degrees. Drivers are advised to stop only when animals will be immediately unloaded or when safety becomes an issue. If the vehicle must be stopped, drivers are required to stay with the animals and provide them with water to help keep them cool.

When temperature and humidity result in a heat index equal to or greater than 100 degrees Fahrenheit, cattle also are placed at significant health risk. When cattle are stressed under extreme heat conditions, they are more likely to become non-ambulatory, sick, and even die. Non-ambulatory cattle are banned from entering the food system. Current industry guidelines recommend that drivers avoid stopping as internal trailer temperatures will then increase rapidly because of the loss of airflow through the trailer and heat production from the animals.

During the winter months, exposure of the animals to cold is also a serious concern in maintaining the animals' well-being. Extremely low temperatures combined with wind can result in dangerous wind-chills. These can be especially harmful to pigs, but are also risk factors for the transportation of other livestock.

Population of Drivers and Carriers Engaged in Livestock Transportation

Although the NPPC did not provide information on the number of carriers and drivers to be included in the waiver and exemption it requested, FMCSA reviewed its Motor Carrier Management Information System (MCMIS) to determine this information. MCMIS includes the information reported to the Agency by carriers submitting the Motor Carrier Identification Report (FMCSA Form MCS–150), required by 49 CFR 390.19. As of July 3, 2013, MCMIS lists 64,892 motor carriers that identified livestock as a type (though not necessarily the only type) of cargo they transported. These carriers operate 187,606 vehicles and employ 242,676 drivers. And 126,471 of these drivers operate within a 100 air-mile radius of their work-reporting location—a fact that is important because existing statutory exemptions provide relief from the HOS requirements for these drivers.[1]

Section 32101(d) of ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21) (Pub. L. 112–141, 126 Stat. 405), enacted on July 6, 2012, expanded that 100 air-mile radius provided by the National Highway System Designation Act of 1995 to 150 air miles; FMCSA implemented the provision with a final rule published on March 14, 2013 (78 FR 16189). Therefore, the exemption would not be applicable to drivers whose operation is limited to 150 air-miles of their work-reporting location, leaving fewer than 116,205 drivers likely to utilize the requested relief from the 30-minute rest break provision.

In addition, section 32934 of MAP–21 provides statutory exemptions from most of the FMCSRs, including those pertaining to HOS, the commercial driver's license and driver qualification requirements, for drivers of ''covered farm vehicles'' (CFVs), a term defined in detail by MAP–21. Among other things, CFV drivers must be owners or operators of farms or ranches, or their employees or family members; for-hire motor carriers are not eligible for the exemptions provided by section 32934. These exemptions are explained in the March 14, 2013, final rule mentioned above.

[1] Section 345 of the National Highway System Designation Act of 1995 (the NHS Act) (Pub. L. 104–69, 109 Stat. 613), enacted on November 28, 1995, implemented by 49 CFR 395.1(k), provided relief from the HOS requirements for drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if ''the transportation is limited to an area within a 100 air-mile radius from the source of the commodities or the distribution point for the farm supplies and is during the planting and harvesting seasons within such State, as determined by the State.''

Waiver Granted

Based on the NPPC's application and additional analysis by FMCSA, on July 11, 2013, the Agency granted a 90-day waiver, effective from July 11, 2013, through October 9, 2013, from the rest break requirement of 49 CFR 395.3(a)(3)(ii) for drivers transporting livestock as defined in the Emergency Livestock Feed Assistance Act of 1988, as amended (the 1988 Act) [7 U.S.C. 1471(2)] (78 FR 41716.) The term ''livestock'' means ''cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), fish used for food, and other animals designated by the Secretary of Agriculture that are part of a foundation herd (including dairy producing cattle) or offspring, or are purchased as part of a normal operation and not to obtain additional benefits under [the 1988 Act].''

The waiver is further limited to motor carriers that have a ''satisfactory'' FMCSA safety rating or are ''unrated;'' motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from utilizing this waiver.

Because a waiver may not be granted for more than 90 days and may not be renewed, the NPPC also requested an exemption, which may extend up to 2 years and may be renewed (49 CFR part 381). The exemption would be issued to the same carriers and drivers and under the same terms and conditions as the waiver, except that the exemption would be for a 2-year period.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on NPPC's application for an exemption from certain provisions of the driver's hours-of-service rules in 49 CFR part 395. The Agency will consider all comments received by close of business on September 11, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: August 6, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–19387 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 75]

Railroad Safety Advisory Committee; Notice of Emergency Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Emergency Meeting.

SUMMARY: FRA announces the forty-ninth meeting of the RSAC, a Federal Advisory Committee that develops railroad safety recommendations through a consensus process. The topic of the RSAC meeting will be the July 6, 2013, derailment involving an unattended freight train containing hazardous materials that rolled down a descending grade and subsequently derailed in Lac-Mégantic, Quebec, Canada. At this time, it is estimated that this accident resulted in 42 fatalities, and 5 persons are still reported to be missing. Remarks will be given by the FRA Administrator, Committee members will be briefed on the preliminary findings of the accident, and discussions will involve the safety issues related to the July 6 accident.

DATES: The RSAC meeting is scheduled to commence at 9:00 a.m. on Thursday, August 29, 2013, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the National Housing Center, 1201 15th Street NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6212; or Robert Lauby, Deputy Associate Administrator for Regulatory and Legislative Operations, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC. 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 54 voting representatives from 32 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks: *http://rsac.fra.dot.gov/*. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

At the August 29 meeting, FRA intends to address the safety requirements that were issued in FRA Emergency Order No. 28 (EO 28) and the recommendations made in Safety Advisory 2013–06. FRA also plans to discuss the safety implications and potential costs and benefits of the requirements contained in Transport Canada's emergency directives, and safety-related initiatives, including possible new RSAC tasks to implement such initiatives.

FRA requests that both freight and passenger railroads be prepared to discuss Transport Canada's directive requiring that two-person crews operate trains carrying hazardous materials on main track. FRA believes that initiatives to require a minimum of two crewmembers for over-the-road trains (including both passenger and freight trains) could enhance safety. FRA expects to discuss formulating a task statement about appropriate train crew size for an RSAC working group to consider.

FRA also requests that RSAC representatives be specifically prepared to discuss two other requirements contained in EO 28. First, FRA intends to discuss the appropriate types and quantities of hazardous materials and the circumstances under which trains transporting such materials should not be left unattended on main track and sidings. EO 28 specifies certain types and quantities of hazardous materials that trigger requirements about train attendance and securement procedures, but FRA, in conjunction with the Pipeline and Hazardous Materials Safety Administration, would like to explore these issues in more detail. This will include a discussion of the various criteria and evaluation processes railroads have used, or intend to use, to formulate plans that they may choose to adopt to identify locations and circumstances where it is safe and suitable to leave trains unattended and secured on main track or sidings outside of yards or terminals.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–19471 Filed 8–9–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 337X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Lucas County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon approximately 1.0 miles of rail line extending between milepost XK 299.3 (to the south of the intersection of Woodstock Ave. and Nebraska Ave.) and milepost XK 300.3 (near the intersection of Douglas Rd. and Dorr St.) in Toledo, Lucas County, Ohio (the Line). The Line traverses United States Postal Service Zip Codes 43606 and 43607.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this

exemption will be effective on September 11, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 22, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 3, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 16, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by August 12, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 7, 2013.

By the Board, Rachel D. Campbell,

Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–19433 Filed 8–9–13; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have approved the publication for public comment of proposed revisions to regulatory capital components and ratios portion of Schedule RC–R, Regulatory Capital, in the Consolidated Reports of Condition and Income (Call Report or FFIEC 031 and FFIEC 041) and to the Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101). The proposed revisions to the Call Report and the FFIEC 101 are consistent with the revised regulatory capital rules approved by the agencies during July 2013 (revised regulatory capital rules).[1]

Institutions subject to the advanced approaches risk-based capital rules (advanced approaches banking organizations) that are not savings and loan holding companies would begin reporting on the proposed revised FFIEC 101 and, if applicable, proposed revised Call Report Schedule RC–R effective March 31, 2014. Advanced approaches banking organizations that are savings and loan holding companies and that are subject to the revised regulatory capital rules would begin reporting on the proposed revised FFIEC 101 effective March 31, 2015. All other institutions that are required to file the Call Report would begin reporting on proposed revised Call Report Schedule RC–R effective March 31, 2015.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the proposed reporting revisions prior to giving final approval. The agencies will then submit the proposed reporting revisions to OMB for review and approval.

In connection with the revised regulatory capital rules, published elsewhere in today's **Federal Register**, the Board proposes to make corresponding revisions to the Consolidated Financial Statements for Holding Companies (FR Y–9C) and to collect consolidated regulatory capital data from savings and loan holding companies with total consolidated assets of less than $500 million that are subject to the revised regulatory capital rules on the Parent Company Only Financial Statements for Holding Companies (FR Y–9SP).

DATES: Comments must be submitted on or before October 11, 2013.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Because paper mail in the Washington, DC, area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0081 and 1557–0239, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy

[1] See *http://www.occ.treas.gov/news-issuances/news-releases/2013/nr-occ-2013–110.html,* July 9, 2013 (OCC); *http://www.federalreserve.gov/newsevents/press/bcreg/20130702a.htm,* July 2, 2013 (Board); and *http://www.fdic.gov/news/news/press/2013/pr13060.html,* July 9, 2013 (FDIC).

comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Board: You may submit comments, which should refer to ''FFIEC 031, FFIEC 041, and FFIEC 101,'' by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include reporting form number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert DeV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''FFIEC 031, FFIEC 041, and FFIEC 101,'' by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: comments@FDIC.gov.* Include ''FFIEC 031, FFIEC 041, and FFIEC 101'' in the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel, Attn: Comments, 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 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to regulatory reporting requirements discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the proposed revised Call Report Schedule RC–R and FFIEC 101 forms and instructions can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Mary H. Gottlieb and Johnny Vilela, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Cynthia Ayouch, Federal Reserve Board Clearance Officer, (202) 452–3829, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise, without extension, the Call Report and to revise, with extension, the FFIEC 101, which are currently approved collections of information for each agency.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 1,787 national banks and federal savings associations.

Estimated Time per Response: 55.39 burden hours per quarter to file.

Estimated Total Annual Burden: 395,928 burden hours to file.

Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 843 state member banks.

Estimated Time per Response: 57.29 burden hours per quarter to file.

Estimated Total Annual Burden: 193,182 burden hours to file.

FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 4,369 insured state nonmember banks and state savings associations.

Estimated Time per Response: 42.06 burden hours per quarter to file.

Estimated Total Annual Burden: 735,041 burden hours to file.

The estimated time per response for the quarterly filings of the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (e.g., size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the filing of the Call Report as it is proposed to be revised is estimated to range from 18 to 750 hours per quarter, depending on an individual institution's circumstances.

Report Title: Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.

Form Number: FFIEC 101.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557–0239.

Estimated Number of Respondents: 14 national banks and federal savings associations.

Estimated Time per Response: 676 burden hours per quarter to file.

Estimated Total Annual Burden: 37,856 burden hours to file.

Board:

OMB Number: 7100–0319.

Estimated Number of Respondents: 20 state member banks, bank holding companies, and savings and loan holding companies.

Estimated Time per Response: 676 burden hours per quarter to file.

Estimated Total Annual Burden: 54,080 burden hours to file.

FDIC:

OMB Number: 3064–0159.

Estimated Number of Respondents: 8 insured state nonmember banks and state savings associations.

Estimated Time per Response: 676 burden hours per quarter to file.

Estimated Total Annual Burden: 21,632 burden hours to file.

General Description of Reports

The Call Report information collections are mandatory for the following institutions: 12 U.S.C. 161 (national banks), 12 U.S.C. 324 (state member banks), 12 U.S.C. 1817 (insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (savings associations) (collectively, Call Report filers). At present, except for selected data items, Call Report information collections are not given confidential treatment.

The FFIEC 101 information collections are mandatory for institutions using the advanced approaches risk-based capital rule (advanced approaches banking organizations): 12 U.S.C. 161 (national banks), 12 U.S.C. 324 and 12 U.S.C. 1844(c) (state member banks and bank holding companies, respectively), 12 U.S.C. 1467a(b) (savings and loan holding companies), 12 U.S.C. 1817 (insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (savings associations). Under the agencies' current practice, the FFIEC 101 information collections are given confidential treatment (5 U.S.C. 552(b)(4)) for report dates until after the reporting institution conducts a satisfactory parallel run. For report dates thereafter, Schedules A and B, as well as line items 1 and 2 of Schedule S, of the institution's FFIEC 101 are no longer given confidential treatment. The agencies propose to make public the information collected on the proposed FFIEC 101 Schedule A, except for a few advanced approaches-specific line items, for all advanced approaches banking organizations, regardless of their parallel run status, starting with the report for the March 31, 2014, report date, consistent with the implementation timeline established by the revised regulatory capital rules.

Abstract

Call Report: Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data provide the most current statistical data available for evaluating institutions' corporate applications, identifying areas of focus for on-site and off-site examinations, and monetary and other public policy purposes. The agencies use Call Report data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data also are used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' and federal savings associations' semiannual assessment fees.

FFIEC 101: Each advanced approaches banking organization is required to file quarterly regulatory capital data. The agencies use these data to assess and monitor the levels and components of each reporting entity's risk-based capital requirements and the adequacy of the entity's capital under the Advanced Capital Adequacy Framework; to evaluate the impact and competitive implications of the Advanced Capital Adequacy Framework on individual reporting entities and on an industry-wide basis; and to supplement on-site examination processes. The reporting schedules also assist advanced approaches banking organizations in understanding expectations around the system development necessary for implementation and validation of the Advanced Capital Adequacy Framework. Submitted data that are released publicly will also provide other interested parties with information about advanced approaches banking organizations' regulatory capital.

Current Actions

I. Overview of the Proposed Changes

A. Summary of Proposed Changes

Call Report

Call Report Schedule RC–R collects regulatory data on tier 1, tier 2, and total capital and regulatory capital ratios (regulatory capital components and ratios portion) and on risk-weighted assets (risk-weighted assets portion). The agencies are proposing at this time to revise the reporting requirements for the regulatory capital components and ratios portion of Call Report Schedule RC–R, consistent with the revised regulatory capital rules. Compared to the current schedule, the proposed regulatory capital components and ratios portion of Schedule RC–R would provide a more detailed breakdown of the regulatory capital elements, including deductions and adjustments, consistent with the revised regulatory capital rules. For report dates in 2014, the regulatory capital components and ratios portion of Schedule RC–R would be designated Parts I.A and I.B. Call Report filers that are not advanced approaches institutions [2] would file Part I.A, which would include existing data items 1 through 33 of current Schedule RC–R. Call Report filers that are subject to advanced approaches and to the revised regulatory capital rule effective January 1, 2014, would file Part I.B, which would include the reporting revisions proposed herein consistent with the revised regulatory capital rules. In March 2015, Part I.A would be removed and Part I.B would be designated Part I; all Call Report filers would then submit Part I. The proposed changes to Call Report Schedule RC–R are discussed in more detail in section II below.

The agencies expect to publish at a later date a request for comment on a separate proposal to revise the risk-weighted assets portion of Call Report Schedule RC–R to incorporate the standardized approach for calculating risk-weighted assets under the revised regulatory capital rules. The revisions to the risk-weighted assets portion of Schedule RC–R would take effect March 31, 2015. The agencies are proposing changes to Schedule RC–R in two stages to allow interested parties to better understand the proposed revisions and focus their comments on areas of particular interest. Therefore, for report dates in 2014, all Call Report filers would continue to report risk-weighted assets in the portion of Schedule RC–R that contains existing data items 34

[2] An advanced approaches institution as defined in the agencies' revised regulatory capital rules (i) has consolidated total assets (excluding assets held by an insurance underwriting subsidiary) on its most recent year-end regulatory report equal to $250 billion or more; (ii) has consolidated total on-balance sheet foreign exposure on its most recent year-end regulatory report equal to $10 billion or more (excluding exposures held by an insurance underwriting subsidiary); (iii) is a subsidiary of a depository institution that uses the advanced approaches pursuant to subpart E of 12 CFR part 3 (OCC), 12 CFR part 217 (Board), or 12 CFR part 325 (FDIC) to calculate its total risk-weighted assets; (iv) is a subsidiary of a bank holding company or savings and loan holding company that uses the advanced approaches pursuant to 12 CFR part 217 to calculate its total risk-weighted assets; or (v) elects to use the advanced approaches to calculate its total risk-weighted assets.

through 62 and Memorandum items 1 and 2 of current Schedule RC–R, but this portion of the schedule would be designated Part II and the data items would be renumbered beginning with item 1.

FFIEC 101

The proposed revised FFIEC 101 Schedule A for advanced approaches banking organizations incorporates the Basel III common disclosure template that was adopted by the Basel Committee on Banking Supervision in June 2012 (Basel III common disclosure template).[3] The proposed revised Schedule A incorporates the Basel III capital disclosure template in its entirety, with some minor changes to the titles of the line items, consistent with the revised regulatory capital rules and accounting terminology of U.S. generally accepted accounting principles (GAAP). Line items that are not applicable to U.S. banking organizations are shaded out and marked as not applicable (for example, prudential valuation adjustments in line item 7 and additional tier 1 capital instruments classified as equity or liabilities under GAAP in line items 31 and 32). The agencies believe that incorporating the complete Basel III common disclosure template into Schedule A is essential to ensure transparency and comparability of reporting of regulatory capital elements among internationally active institutions. The proposed revised Schedule A also includes additional line items, such as the supplementary leverage ratio, to collect data on the new requirements established by the revised regulatory capital rules.

To ensure transparency of reporting regulatory capital by internationally active institutions, the agencies propose to make public the information collected on the proposed revised Schedule A, except for a few specific line items, starting with the March 31, 2014, report date. The agencies propose to continue granting confidential treatment to certain items that are dependent on the implementation of the advanced approaches systems while an advanced approaches banking organization is in its parallel run period. The agencies believe that according confidential treatment to such line items is important to ensure that the organization conducts a satisfactory parallel run and reports this data publicly only after its primary federal supervisor approves its internal systems to apply the revised advanced approaches rules.

The agencies also propose to revise the risk-weighted assets schedules of the FFIEC 101 (Schedules B, C, D, H, I, J, P, Q, and R) consistent with the revised regulatory capital rules at this time to facilitate the timely implementation of the revised advanced approaches rules in 2014.

B. Timing of Implementation of the Proposed Reporting Requirements

Call Report Filers

Call Report filers that are not subject to the advanced approaches rules would continue to report their regulatory capital data and regulatory capital ratios using the current template of Schedule RC–R, which would be designated Part I.A, during the reporting periods in 2014.[4] These institutions would begin using proposed Schedule RC–R, Part I.B, to report their regulatory capital data and regulatory capital ratios effective March 31, 2015, at which time Part I.B would be relabeled Part I and Part I.A would be eliminated.

Advanced Approaches Banking Organizations

Reporting regulatory capital: An advanced approaches banking organization that is not a savings and loan holding company would use proposed revised FFIEC 101 Schedule A and proposed Call Report Schedule RC–R, Part I.B, if applicable, to report its regulatory capital consistent with the revised regulatory capital rules, effective March 31, 2014.[5] An advanced approaches banking organization that is a savings and loan holding company (SLHC), except top-tier SLHCs that are substantially engaged in insurance and commercial activities, would file the FFIEC 101 effective March 31, 2015, consistent with the revised regulatory capital rules.[6]

Reporting risk-weighted assets and regulatory capital ratios: An advanced approaches banking organization that is in a parallel run period would apply the generally applicable risk-based capital rules for report dates in 2014[7] and the standardized approach for report dates beginning in 2015 to report its risk-weighted assets and capital ratios on proposed revised FFIEC 101 Schedule A (line items 60 through 63) and on proposed Call Report Schedule RC–R, Part I.B (in 2014, which would be designated Part I in 2015), if applicable (line items 40 through 43, Column A). In addition, such an institution would apply the revised advanced approaches rules to report its risk-weighted assets and risk-based capital ratios on proposed revised FFIEC 101 Schedule A (line items 87 through 90).

Beginning in 2014, an advanced approaches banking organization that conducts a satisfactory parallel run would report its advanced approaches risk-weighted assets and risk-based capital ratios on proposed revised FFIEC 101 Schedule A (line items 60 through 63) and on proposed revised Call Report Schedule RC–R, Part I.B, if applicable (line item 40.b and line items 41 through 43, Column B).

Supplementary leverage ratio and capital buffer: All advanced approaches banking organizations, regardless of their parallel run status, would report their supplementary leverage ratio effective March 31, 2015, on proposed revised FFIEC 101 Schedule A (line item 98) and on proposed revised Call Report Schedule RC–R, Part I (as relabeled in 2015), if applicable (line item 44). All banking organizations would report the applicable capital buffer effective March 31, 2016, on proposed revised FFIEC 101 Schedule A (line items 64 through 68) and on proposed Call Report Schedule RC–R, Part I (as relabeled in 2015), if applicable (line items 45 through 47).

Initial Reporting

For the March 31, 2014, and March 31, 2015, report dates, as applicable, institutions may provide reasonable estimates for any new or revised Call Report and FFIEC 101 items initially required to be reported as of that date

[3] *See* Basel Committee on Banking Supervision, *Composition of capital disclosure requirements;* Annex 1; available at *http://www.bis.org/publ/bcbs221.pdf.*

[4] For report dates in 2014, the regulatory capital components and ratios portion of Schedule RC–R would be presented as two parts. Part 1.A would be identical to the current regulatory capital components and ratios portion of Schedule RC–R and it would be used by Call Report filers that are not subject to the advanced approaches rules. Part I.B would be the proposed revised regulatory capital components and ratios portion of Schedule RC–R and it would be used by Call Report filers that are subject to the advanced approaches rules. Starting on the March 31, 2015, report date, Part I.A would be eliminated and the proposed Part I.B of Schedule RC–R would be relabeled Part I, would be the only template for reporting regulatory capital data and regulatory capital ratios, and would be used by all Call Report filers.

[5] Advanced approaches banking organizations that file the FR Y–9C would report their regulatory capital on proposed revised FR Y–9C Schedule HC–R, as described in the **Federal Register** notice published by the Board.

[6] The revised regulatory capital rules apply to top-tier SLHCs that are not substantially engaged in insurance or commercial activities (covered SLHCs) as defined in the rules.

[7] The agencies' general risk-based capital rules are at 12 CFR part 3, appendix A, and 12 CFR part 167 (OCC); 12 CFR parts 208 and 225, appendix A (Board); and 12 CFR part 325, appendix A, and 12 CFR part 390, subpart Z (FDIC).

for which the requested information is not readily available. The specific wording of the captions for the new or revised Call Report and FFIEC 101 data items discussed in this proposal and the numbering of these data items should be regarded as preliminary.

II. Discussion of Proposed Call Report Schedule RC–R, Part I.B

This section describes the proposed changes to Call Report Schedule RC–R to implement the reporting of regulatory capital information and ratios consistent with the revised regulatory capital rules. As previously discussed, effective March 31, 2014: (1) the existing regulatory capital ratios portion of Schedule RC–R would be designated Part I.A and would be completed by institutions that are not advanced approaches institutions during the 2014 reporting periods, and (2) a new Part I.B would be added to Schedule RC–R effective March 31, 2014, and would be completed by advanced approaches institutions during the 2014 reporting period. Then, effective March 31, 2015, Part I.A would be eliminated, Part I.B would be redesignated Part I of Schedule RC–R, and all institutions would complete Part I. Call Report filers should refer to the revised regulatory capital rules and the proposed reporting instructions for further information. The proposed reporting instructions also provide guidance on how to calculate and report items subject to the transition provisions under section 300 of the revised regulatory capital rules.

Proposed Part I.B of Schedule RC–R would be divided into the following sections: (A) Common equity tier 1 capital; (B) common equity tier 1 capital: adjustments and deductions; (C) additional tier 1 capital; (D) tier 2 capital; (E) total assets for the leverage ratio; (F) capital ratios; and (G) capital buffer. A brief description of each of these sections and the corresponding line items is provided below.

A. Schedule RC–R, Part I.B, Items 1–5: Common Equity Tier 1 Capital

Proposed line items 1 through 5 would collect information regarding the new regulatory capital component, common equity tier 1 capital. The proposed line items align with the elements of common equity tier 1 capital under the revised definition of capital, including (item 1) common stock plus related surplus (net of treasury stock and unearned employee stock ownership plan shares), (item 2) retained earnings, (item 3) accumulated other comprehensive income (AOCI), and (item 4) common equity tier 1 minority interests.[8] As explained in section 21 of the revised regulatory capital rules, an institution may include a limited amount of common equity tier 1 minority interest in a consolidated subsidiary that is a depository institution or a foreign bank in its common equity tier 1 capital. Line item 5 collects the sum of items 1 through 4 to determine common equity tier 1 capital before adjustments and deductions.

For purposes of reporting line item 3, AOCI, an institution that is not subject to the advanced approaches rules may make a one-time election to opt out of the requirement to include most components of AOCI in common equity tier 1 capital (AOCI opt-out election). An institution that makes an AOCI opt-out election must report ''Yes'' in line item 3.a and report the amounts in line items 9.a, 9.b, 9.c, 9.d, and 9.e. An institution that is not an advanced approaches institution would make this election when it completes Schedule RC–R in its Call Report for March 31, 2015 (or, for an institution that becomes insured after March 31, 2015, in the first Call Report it files after becoming insured). If an institution makes an AOCI opt-out election, the transition provisions for AOCI under section 300 of the revised regulatory capital rules would not apply to the reporting of AOCI in line item 3.

All advanced approaches banking organizations that file the Call Report and all other insured depository institutions that choose not to make the AOCI opt-out election must report ''No'' in line item 3.a and complete line item 9.f. In addition, such institutions must report AOCI in item 3 subject to the transition provisions, as described in section 300 of the revised regulatory capital rules and the corresponding instructions.

B. Schedule RC–R, Part I.B, Items 6–19: Common Equity Tier 1 Capital: Adjustments and Deductions

Proposed line items 6 through 18 reflect adjustments and deductions to common equity tier 1 capital, as described in section 22 of the revised regulatory capital rules. Institutions must refer to the revised regulatory capital rules to determine the conditions under which deferred tax liabilities (DTLs) may be netted against assets subject to deduction. An institution would calculate and report the following adjustments and deductions, as described below, which would be summed in line item 18 and deducted from common equity tier 1 capital in line item 19.

Schedule RC–R, Part I.B, item 6: LESS: Goodwill net of associated DTLs: Goodwill is reported and deducted from common equity tier 1 capital.

Schedule RC–R, Part I.B, item 7: LESS: Intangible assets (other than goodwill and mortgage servicing assets (MSAs)), net of associated DTLs: Intangible assets, other than goodwill and MSAs, net of associated DTLs, must be deducted from common equity tier 1 capital.

Schedule RC–R, Part I.B, item 8: LESS: Deferred tax assets (DTAs) that arise from operating loss and tax credit carryforwards, net of any related valuation allowances and net of associated DTLs: An institution must deduct DTAs that arise from operating loss and tax credit carryforwards, net of any related valuation allowances and net of associated DTLs, from common equity tier 1 elements.[9]

Schedule RC–R, Part I.B, item 9: AOCI-related adjustments: An institution that makes an AOCI opt-out election in line item 3.a would adjust its common equity tier 1 capital by reporting the amount of specified AOCI components in line items 9.a, 9.b, 9.c, 9.d, and 9.e, that is, net unrealized gains (losses) on available-for-sale (AFS) securities; net unrealized loss on AFS preferred stock classified as an equity security under GAAP and AFS equity exposures; accumulated net gains (losses) on cash flow hedges; amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans; and net unrealized gains (losses) on held-to-maturity securities that are included in AOCI.

An advanced approaches banking organization that files the Call Report and any other insured depository institution that chooses not to make the AOCI opt-out election would report in line item 9.f any accumulated net gain (loss) on cash flow hedges included in AOCI, net of applicable tax effects, that relate to the hedging of items that are not recognized at fair value on the balance sheet.

Schedule RC–R, Part I.B, item 10: LESS: Other deductions from (additions to) common equity tier 1 capital: Under the revised regulatory capital rules,

[8] Under current GAAP, minority interests are referred to as noncontrolling interests. In this regard, on the Call Report balance sheet (Schedule RC), such interests are labeled ''Noncontrolling (minority) interests in consolidated subsidiaries.''

[9] DTAs arising from temporary differences that the banking organization could realize through net operating loss carrybacks are not subject to deduction and instead receive a 100 percent risk weight.

institutions must make the following deductions from or additions to common equity tier 1 capital.

Schedule RC–R, Part I.B, item 10.a: Unrealized net gain (loss) related to changes in the fair value of liabilities that are due to changes in own credit risk: An institution would report the amount of unrealized net gain (loss) related to changes in the fair value of liabilities measured at fair value on the balance sheet that are due to changes in its own credit risk. Advanced approaches banking organizations would include the credit spread premium over the risk-free rate for derivatives that are liabilities.

Schedule RC–R, Part I.B, item 10.b: LESS: All other deductions from (additions to) common equity tier 1 capital before threshold-based deductions: An institution would report in line item 10.b the total of the following deductions and additions:

(1) Gain-on-sale associated with a securitization exposure: An institution must deduct from common equity tier 1 capital any after-tax gain-on-sale associated with a securitization exposure. Gain-on-sale means an increase in the equity capital of the institution resulting from the consummation or issuance of a securitization (other than an increase in equity capital resulting from the institution's receipt of cash in connection with the securitization).

(2) Defined benefit pension fund net assets net of associated DTLs: Defined benefit pension fund assets, net of any associated DTLs, must be deducted from common equity tier 1 capital. (This deduction does not pertain to defined benefit pension fund net assets owned by depository institutions.)

(3) Investments in own regulatory capital instruments: To avoid double-counting of regulatory capital, an institution must deduct any investments in its own common equity tier 1, own additional tier 1, and own tier 2 capital instruments from its common equity tier 1, additional tier 1, and tier 2 capital elements, respectively. Any common equity tier 1, additional tier 1, or tier 2 capital instrument issued by the institution which the institution could be contractually obligated to purchase must be deducted from its common equity tier 1, additional tier 1, or tier 2 capital elements, respectively. If an institution already deducts its investment in its own shares (for example, treasury stock) from its common equity tier 1 capital elements, it does not need to make such deduction twice.

(4) Reciprocal cross holdings in the capital instruments of financial institutions: A reciprocal cross holding results from a formal or informal arrangement between two financial institutions to swap, exchange, or otherwise intend to hold each other's capital instruments. Institutions must deduct reciprocal holdings of capital instruments of other financial institutions in certain circumstances. The deduction is made by using the corresponding deduction approach as described in section 22(c) of the revised regulatory capital rules. The corresponding deduction approach requires the institution to make the deduction from the tier of capital for which the instrument would qualify. However, if the institution does not have a sufficient amount of the tier of capital to effect the required deduction, the shortfall must be deducted from the next higher (that is, more subordinated) component of regulatory capital. For example, if an institution is required to deduct a certain amount of regulatory capital from additional tier 1 capital and it does not have sufficient additional tier 1 capital to effectuate the deduction, then the amount of the deduction in excess of the available additional tier 1 capital must be made from common equity tier 1 capital.

(5) Equity investments in financial subsidiaries: An institution must deduct the aggregate amount of its outstanding equity investments, including retained earnings, in its financial subsidiaries [10] from common equity tier 1 capital and may not consolidate the assets and liabilities of a financial subsidiary with those of the parent institution. No other deduction is required for these investments in the capital instruments of financial subsidiaries.

(6) Advanced approaches banking organizations that file Call Report: After such an institution conducts a satisfactory parallel run, it would include expected credit losses that exceed its eligible credit reserves in this line item.

Schedule RC–R, Part I.B, item 11: LESS: Non-significant investments in the capital of unconsolidated financial institutions in the form of common stock that exceed the 10 percent threshold for non-significant investments: Non-significant investments in the capital of unconsolidated financial institutions are investments where an institution owns 10 percent or less of the issued and outstanding common shares of an unconsolidated financial institution. An institution must deduct the amount of its non-significant investments that exceeds the 10 percent threshold for non-significant investments (calculated as described in section 22(c)(4) of the revised regulatory capital rules and in the reporting instructions for this line item), applying the corresponding deduction approach.

Schedule RC–R, Part I.B, item 12: Subtotal: An institution would report the amount in item 5 less the amounts in items 6 through 11. The amount reported in this item is used to calculate the common equity tier 1 capital deduction thresholds that are used for reporting items 13, 14, 15, and 16.

Schedule RC–R, Part I.B, items 13 through 16: LESS: Items subject to the 10 and 15 percent common equity tier 1 capital threshold deductions: An institution must report the amount of each of the following items that individually exceeds the 10 percent common equity tier 1 capital deduction threshold (that is, 10 percent of the amount reported in line item 12). These items are referred to as items subject to the threshold deductions in section 22(d) of the revised regulatory capital rules and include: (1) DTAs arising from temporary differences that could not be realized through net operating loss carrybacks, net of any related valuation allowances and net of DTLs; (2) MSAs net of associated DTLs; and (3) significant investments in the capital of financial institutions in the form of common stock.

The aggregate amount of the items subject to the threshold deductions (that are not deducted in line items 13, 14, and 15) are not permitted to exceed 15 percent of an institution's common equity tier 1 capital. The aggregate amount in excess of the 15 percent threshold, if any, calculated in accordance with section 22(d)(2) of the revised regulatory capital rules and the corresponding line item instructions, must be deducted in line item 16.

Schedule RC–R, Part I.B, item 17: LESS: Deductions applied to common equity tier 1 capital due to insufficient amount of additional tier 1 capital and tier 2 capital to cover deductions: If an institution does not have a sufficient amount of additional tier 1 capital and tier 2 capital to cover deductions, then the shortfall must be reported in this line item.

Schedule RC–R, Part I.B, items 18 and 19: An institution would summarize total adjustments and deductions in line item 18 and deduct that amount from its common equity tier 1 capital before adjustments and deductions to determine its common equity tier 1 capital, which would be reported in line item 19.

[10] The agencies' definitions of financial subsidiary are at 12 CFR 5.39 (OCC); 12 CFR 208.77 (Board); and 12 CFR 362.17 (FDIC).

C. Schedule RC–R, Part I.B, Items 20 through 25: Additional Tier 1 Capital, and Item 26: Tier 1 Capital

Proposed line items 20 through 25 pertain to the reporting of additional tier 1 capital elements. Additional tier 1 capital is the sum of: (item 20) additional tier 1 capital instruments that satisfy the eligibility criteria described in section 20 of the revised regulatory capital rules plus related surplus; (item 21) non-qualifying capital instruments subject to phase-out from additional tier 1 capital; and (item 22) tier 1 minority interest that is not included in an institution's common equity tier 1 capital; less (item 24) applicable deductions.

Line item 26 collects information on the institution's tier 1 capital, calculated as the sum of (item 19) common equity tier 1 capital and (item 25) additional tier 1 capital.

D. Schedule RC–R, Part I.B, Items 27 Through 34: Tier 2 Capital, and Item 35: Total Capital

Proposed line items 27 through 34 would require reporting of tier 2 capital elements. Tier 2 capital is the sum of: (item 27) tier 2 capital instruments that satisfy the eligibility criteria described in section 20 of the revised regulatory capital rules, plus related surplus; (item 28) non-qualifying capital instruments subject to phase-out from tier 2 capital; (item 29) total capital minority interest not included in an institution's tier 1 capital; (item 30.a) allowance for loan and lease losses (ALLL) includable in tier 2 capital; and (item 31) unrealized gains on AFS preferred stock classified as an equity security under GAAP and AFS equity exposures; less (item 33) tier 2 capital deductions.

Advanced approaches banking organizations would report line items 30.b (eligible credit reserves includable in tier 2 capital), 32.b (tier 2 capital before deductions), 34.b (tier 2 capital), and 35.b (total capital) only after these institutions conduct a satisfactory parallel run.

Line item 35.a would collect information on an institution's total capital, which is the sum of (item 26) tier 1 capital and (item 34) tier 2 capital.

E. Schedule RC–R, Part I.B, Items 36 Through 39: Total Assets for the Leverage Ratio

Institutions would report total assets for the leverage ratio denominator in line item 39, calculated as: (item 36) average total consolidated assets; less (item 37) deductions from common equity tier 1 capital and additional tier 1 capital; and less (item 38) other deductions from (additions to) assets for leverage ratio purposes, as described under sections 22(a), (c), and (d) of the revised regulatory capital rules.

F. Schedule RC–R, Part I.B, Items 40 Through 45: Total Risk-Weighted Assets and Capital Ratios

Line item 40 would collect information on an institution's risk-weighted assets. Line items 41 through 45 would collect information on the following regulatory capital ratios: (item 41) common equity tier 1 capital ratio; (item 42) tier 1 capital ratio; (item 43) total capital ratio; (item 44) tier 1 leverage ratio; and, for advanced approaches institutions, (item 45) supplementary leverage ratio, all calculated as described in section 10 of the revised regulatory capital rules.

During the reporting periods in 2014, Call Report filers would continue applying the general risk-based capital rules to report their total risk-weighted assets in line item 40.a of Part I of Schedule RC–R (as currently reported in item 62 of the risk-weighted assets portion of Schedule RC–R). The amount in line item 40 would serve as the denominator of the risk-based capital ratios reported in line items 41 through 44 (Column A). Effective March 31, 2015, Call Report filers would apply the standardized approach, described in subpart D of the revised regulatory capital rules, to report their risk-weighted assets in line item 40.a and the risk-based capital ratios in line items 41 through 44 (Column A) of the regulatory capital ratios portion of Schedule RC–R.

Advanced approaches institutions would report line items 40 through 45 on the proposed Schedule RC–R, Part I.B, as follows.

- During the reporting periods in 2014, these institutions would continue applying the general risk-based capital rules to report their total risk-weighted assets in line item 40.a, which would serve as the denominator of the ratios reported in line items 41 through 44 (Column A).
- Starting on March 31, 2015, these institutions would apply the standardized approach, described in subpart D of the revised regulatory capital rules, to report their risk-weighted assets in item 40.a and the regulatory capital ratios in items 41 through 44. After they conduct a satisfactory parallel run, these institutions would report their total risk-weighted assets (item 40.b) and regulatory capital ratios (items 41 through 44, Column B) using the advanced approaches rule.
- In addition, starting on March 31, 2015, these institutions would report a supplementary leverage ratio in item 45, as described in section 10 of the revised regulatory capital rules.

G. Schedule RC–R, Part I.B, Items 46 Through 48: Capital Buffer

Under section 11 of the revised regulatory capital rules, institutions must hold sufficient common equity tier 1 capital to avoid limitations on distributions and discretionary bonus payments. An institution's capital conservation buffer, which would be reported in item 46.a, is the lowest of the following measures: (1) The institution's common equity tier 1 capital ratio minus the applicable minimum (4 percent in 2014, 4.5 percent in 2015 and thereafter); (2) the institution's tier 1 capital ratio minus the applicable minimum (5.5 percent in 2014, 6 percent in 2015 and thereafter); and (3) the institution's total capital ratio minus 8 percent. Advanced approaches banking organizations must make additional calculations to account for all the applicable buffers and report the resulting amount in item 46.b, as described in section 11 of the revised regulatory capital rules. If an institution's capital buffer is less than or equal to the applicable minimum capital conservation buffer (or, in the case of an advanced approaches institution, the applicable minimum capital conservation buffer plus any other applicable capital buffers), then it must report eligible retained income in item 47 and distributions and discretionary bonus payments to executive officers in item 48, as described in section 11 of the revised regulatory capital rules.

III. Discussion of the Proposed FFIEC 101 Changes

A. Schedule A: Advanced Risk-Based Capital

As described in section I.A of this notice, the proposed revised FFIEC 101 Schedule A incorporates the Basel III common disclosure template to ensure consistency and comparability of reporting of regulatory capital elements by internationally active institutions. Although the changes proposed to be made to Schedule A of the FFIEC 101 are consistent with the regulatory capital reporting approach followed in proposed Call Report Schedule RC–R, Part I.B, as described in section II of this notice, advanced approaches banking organizations would provide a more granular breakdown of regulatory capital elements, deductions and adjustments, and regulatory capital instruments subject to phase-out in Schedule A, consistent with the Basel III common disclosure template. Advanced

approaches banking organizations would be able to continue to import the majority of the line items from proposed Call Report Schedule RC–R, Part I.B, into proposed revised FFIEC 101 Schedule A.[11]

Reporting confidential line items during the parallel run period: As noted in section I.B of this notice, the agencies propose to make public the information collected on proposed revised Schedule A, except for a few specific line items, for all advanced approaches banking organizations, starting with the March 31, 2014, report date. Since the majority of the line items on the proposed Schedule A would also be publicly reported on the proposed Call Report Schedule RC–R, the additional disclosure of regulatory capital elements on proposed revised Schedule A while the institution is conducting its parallel run would be minimal.

The agencies propose to grant confidential treatment to items that are dependent on the implementation of the advanced approaches systems to ensure compliance with the revised advanced approaches rules. Specifically, while an institution is conducting its parallel run, the following line items on proposed revised Schedule A would be reported on a confidential basis using the revised advanced approaches rules: item 78 (total eligible credit reserves calculated under the advanced approaches rules); item 79 (amount of eligible credit reserves includable in tier 2 capital); item 86 (expected credit loss that exceeds eligible credit reserves); item 87 (advanced approaches risk-weighted assets); item 88 (common equity tier 1 capital ratio calculated using the advanced approaches); item 89 (tier 1 capital ratio calculated using the advanced approaches); and item 90 (total capital ratio using the advanced approaches). In addition, an institution that is conducting its parallel run would report ''zero'' in line item 12 (expected credit loss that exceeds eligible credit reserves) and would report line item 50 (eligible credit reserves) and line item 60 (total risk-weighted assets) by applying the general risk-based capital rules in 2014 and the standardized approach in 2015.

After an institution conducts a satisfactory parallel run, the entire Schedule A would be made public. In addition, such an institution would then begin to report line item 12 (expected credit loss that exceeds eligible credit reserves), line item 50 (eligible credit reserves), and line item 60 (total risk-weighted assets) using the revised advanced approaches rules.

Supplementary leverage ratio: Proposed line items 91 through 98 in the Schedule A would collect data on a new supplementary leverage ratio requirement for advanced approaches banking organizations, effective March 31, 2015. Consistent with the revised regulatory capital rules, an advanced approaches banking organization would report the supplementary leverage ratio calculated as the simple arithmetic mean of the three monthly leverage ratios over the reporting quarter.

B. Schedules B, C, D, H, I, J, P, Q, and R: Risk-Weighted Assets

This section describes the proposed revisions to Schedules B, C, D, H, I, J, P, Q, and R of the FFIEC 101, which are intended to be consistent with the revised advanced approaches rules to calculate the risk-weighted assets. The proposed revisions reflect changes to the methodologies for calculating regulatory capital for counterparty credit risk, securitization exposures, and exposures to central counterparties (CCPs). In addition, the proposed changes incorporate capital requirements for credit valuation adjustments (CVA), wrong-way risk, margin risk, exposures subject to a wholesale correlation factor multiplier of 1.25, cleared derivative and repo-style transactions, and default fund contributions to CCPs.

As is currently the case, FFIEC 101 Schedules B through S will be given confidential treatment while an institution is conducting its parallel run. Also, as is currently the case, after an institution conducts a satisfactory parallel run, Schedule B and line items 1 and 2 of Schedule S will no longer be given confidential treatment.

Schedules H and J: Credit valuation adjustments (CVAs): The proposed insertion of memorandum items in Schedule H (Wholesale Exposure: Eligible Margin Loans, Repo-Style Transactions, and OTC Derivatives with Cross-Product Netting) and Schedule J (Wholesale Exposure: OTC Derivatives No Cross-Product Netting) reflects the CVA requirements for over-the-counter (OTC) derivative activities. Under the revised regulatory capital rules, CVA is the fair value adjustment to reflect counterparty credit risk in the valuation of an OTC derivative contract. Advanced approaches banking organizations must hold capital to reflect the CVA due to changes in counterparties' credit spreads, assuming fixed expected exposure (EE) profiles. The advanced approaches rules provide two approaches for calculating the CVA capital requirement: the simple and advanced CVA approaches. The conditions for each approach, as well as the methods for calculation, are described in section 132 of the revised regulatory capital rules.

Schedule P: Securitization exposures: The agencies propose to combine the current Schedule P (Securitization Exposures Subject to Ratings-based or Internal Assessment Approaches) and Schedule Q (Securitization Detail Schedule) into a new Schedule P (Securitization Exposures). This proposed revision reflects a number of changes to the securitization framework, including the replacement of the ratings-based and internal assessment approaches from the advanced approaches rules with the simplified supervisory formula approach, and the introduction of a specific treatment for resecuritization exposures. The revised advanced approaches rules introduce enhanced due diligence requirements and require banking organizations to assign higher risk weights to resecuritization exposures than other securitization exposures with similar credit characteristics. The revised advanced approaches rules introduce new operational criteria for recognizing risk transfer as well as revisions to the hierarchy of approaches in the securitization framework. The operational criteria as well as the revised hierarchy of approaches are described in sections 141 through 145 of the revised regulatory capital rules.

Schedule Q: Cleared transactions: The proposed new Schedule Q (Cleared Transactions) reflects the treatment for cleared transactions and is intended to capture exposures to CCPs. The revised advanced approaches rules introduce a capital requirement for transactions with CCPs and a more risk-sensitive approach for determining the capital requirement for a banking organization's contributions to the default funds of these CCPs. The calculation of the trade exposure amount for a cleared transaction is described in section 133 of the revised regulatory capital rules.

Schedules C, D, H, I, and J: Exposures subject to a 1.25 asset correlation factor: The proposed insertion of memorandum items in Schedule C (Wholesale Exposure: Corporate), Schedule D (Wholesale Exposure: Bank), Schedule H (Wholesale Exposure: Eligible Margin Loans, Repo-Style Transactions, and OTC Derivatives with Cross-Product Netting); Schedule I (Wholesale Exposure: Eligible Margin Loans and Repo-Style Transactions No Cross-Product Netting), and Schedule J

[11] Advanced approaches banking organizations that file the FR Y–9C rather than the Call Report would be able to import the majority of the line items from proposed revised Schedule HC–R published by the Federal Reserve Board into proposed revised FFIEC 101 Schedule A.

(Wholesale Exposure: OTC Derivatives No Cross-Product Netting) reflects the new 1.25 asset correlation factor for certain unregulated financial institutions as well as regulated financial institutions with assets of at least $100 billion. The advanced approaches rules introduce the 1.25 multiplier to capture the correlation of financial institutions' common risk factors. The formula for these wholesale exposures is described in section 131 of the revised regulatory capital rules.

Schedules H, I, and J: Internal models methodology (IMM) margin period of risk and specific wrong-way risk: The proposed insertion of memorandum items in Schedule H (Wholesale Exposure: Eligible Margin Loans, Repo-Style Transactions, and OTC Derivatives with Cross-Product Netting), Schedule I (Wholesale Exposure: Eligible Margin Loans and Repo-Style Transactions No Cross-Product Netting) and Schedule J (Wholesale Exposure: OTC Derivatives No Cross-Product Netting) reflects the new capital requirements for the margin period of risk and wrong-way risk in the advanced approaches. The revised advanced approaches rules introduce an increased margin period of risk of 20 days. In addition, for OTC derivative transactions, repo-style transactions, and margin loans that exhibit wrong-way risk, the advanced approaches rules require a banking organization to apply an increased capital requirement rather than the IMM to these exposures. The calculations and requirements associated with margin period of risk and wrong-way risk are described in section 132 of the revised regulatory capital rules.

Schedules B and R: Summary table and equity exposures: The proposed revisions to Schedule B (Summary Risk-weighted Assets Information for Banks) reflect the proposed changes to the schedules described above in this section III.B. In addition, the revised advanced approaches rules remove the prior money market fund approach for equity exposures. Accordingly, in proposed revised Schedule R (Equity Exposures), the agencies propose to remove this approach.

IV. Scope and Frequency of Reporting

The proposed regulatory reporting changes to Call Report Schedule RC–R ultimately would apply to all Call Report filers. The proposed revisions to the FFIEC 101 would apply only to advanced approaches banking organizations. Each reporting entity would continue to submit the applicable quarterly reports on the same due dates as are currently in effect for the reporting entity. In addition, the agencies expect all reporting entities to meet the existing reporting standards for accuracy and other requirements as currently mandated by their primary federal supervisor.

See section I.B of this notice for a detailed discussion of the timing for the implementation of the proposed reporting changes.

V. Request for Comment

Public comment is requested on all aspects of this joint notice. In particular, do advanced approaches institutions expect that making any specific line items on proposed revised FFIEC 101 Schedule A public would cause them competitive or other harm? If so, identify the specific line items and describe in detail the nature of the harm.

Additionally, comments are invited on

(a) Whether the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Comments submitted in response to this joint notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record.

Dated: August 5, 2013.

Stuart Feldstein,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, August 5, 2013.

Robert deV. Frierson,

Secretary of the Board.

Dated at Washington, DC, this 2nd day of August, 2013.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2013–19354 Filed 8–9–13; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0020]

Agency Information Collection (Designation of Beneficiary) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 11, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0020'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. 2900–0020.''

SUPPLEMENTARY INFORMATION:

Title: Designation of Beneficiary, Government Life Insurance, VA Form 29–336.

OMB Control Number: 2900–0020.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–336 is completed by the insured to designate a beneficiary and select an optional settlement to be used when the Government Life Insurance matures by death.

An agency may not conduct or sponsor, and a person is not required to

respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 26, 2013, at pages 18427.

Affected Public: Individuals or households.

Estimated Annual Burden: 13,917 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 83,500.

Dated: August 7, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–19483 Filed 8–9–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0012]

Agency Information Collection (Application for Cash Surrender or Policy Loan) Activities: Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 11, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0012'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. 2900–0012.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Application for Cash Surrender, Government Life Insurance, VA Form 29–1546.

b. Application for Policy Loan, Government Life Insurance, 29–1546–1.

OMB Control Number: 2900–0012.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Forms 29–1546 and 29–1546–1 to request a cash surrender or policy loan on his or her Government Life Insurance.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 26, 2013, at page 18426.

Estimated Annual Burden: 4,939 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,636.

Dated: August 7, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–19480 Filed 8–9–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0495]

Agency Information Collection (Marital Status Questionnaire) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 11, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0495'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. 2900–0495.''

SUPPLEMENTARY INFORMATION:

Title: Marital Status Questionnaire, VA Form 21–0537.

OMB Control Number: 2900–0495.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–0537 is used to confirm the marital status of a surviving spouse receiving dependency and indemnity compensation benefits (DIC). If a surviving spouse remarries, he or she is no longer entitled to DIC unless the marriage began after age 57 or has been terminated.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 25, 2013, at pages 24469–24470.

Affected Public: Individuals or households.

Estimated Annual Burden: 189 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,270.

Dated: August 7, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–19485 Filed 8–9–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Federal Advisory Committee on Prosthetics and Special-Disabilities Programs will be

held on August 13–14, 2013, in room 230 at 810 Vermont Avenue NW., Washington, DC. The meeting will convene at 8:30 a.m. on both days, and will adjourn at 4:30 p.m. on August 13 and at 12 noon on August 14. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetics programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special-disabilities programs, which are defined as any program administered by the Secretary to serve Veterans with spinal cord injuries, blindness or visual impairments, loss of extremities or loss of function, deafness or hearing impairment, and other serious incapacities in terms of daily life functions.

On August 13, the Committee will receive briefings on the Blind Rehabilitation Program, Chiropractic Care, Audiology and Speech Pathology, Veterans Benefits, and Prosthetic and Sensory Aids Service. On August 14, the Committee will receive a briefing on Telemedicine.

No time will be allocated for receiving oral presentations from the public; however, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Mr. Larry N. Long, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation and Prosthetic Services (10P4RD), VA, 810 Vermont Avenue NW., Washington, DC, 20420, or by email at *lonlar@va.gov.* Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins. Any member of the public wishing to attend the meeting should contact Mr. Long at (202) 461–7354.

By Direction of the Secretary.

Dated: August 7, 2013.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–19467 Filed 8–9–13; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Endangered and Threatened Wildlife and Plants; Endangered Species Act Listing Determination for Alewife and Blueback Herring; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 111024651–3630–02]

RIN 0648–XA739

Endangered and Threatened Wildlife and Plants; Endangered Species Act Listing Determination for Alewife and Blueback Herring

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

ACTION: Notice of a listing determination.

SUMMARY: We, NMFS, have completed a comprehensive review of the status of river herring (alewife and blueback herring) in response to a petition submitted by the Natural Resources Defense Council (NRDC) requesting that we list alewife (*Alosa pseudoharengus*) and blueback herring (*Alosa aestivalis*) as threatened under the Endangered Species Act (ESA) throughout all or a significant portion of their range or as specific distinct population segments (DPS) identified in the petition. The Atlantic States Marine Fisheries Commission (ASMFC) completed a comprehensive stock assessment for river herring in May 2012 which covers over 50 river specific stocks throughout the range of the species in the United States. The ASMFC stock assessment contained much of the information necessary to make an ESA listing determination for both species; however, any deficiencies were addressed through focused workshops and working group meetings and review of additional sources of information. Based on the best scientific and commercial information available, we have determined that listing alewife as threatened or endangered under the ESA is not warranted at this time. Additionally, based on the best scientific and commercial information available, we have determined that listing blueback herring as threatened or endangered under the ESA is not warranted at this time.

DATES: This finding is effective on August 12, 2013.

ADDRESSES: The listing determination, list of references used in the listing determination, and other related materials regarding this determination can be obtained via the Internet at: *http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/RiverHerringSOC.htm* or by submitting a request to the Assistant Regional Administrator, Protected Resources Division, Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Kim Damon-Randall, NMFS Northeast Regional Office, (978) 282–8485; or Marta Nammack, NMFS, Office of Protected Resources (301) 427–8469.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2011, we, the National Marine Fisheries Service (NMFS), received a petition from the Natural Resources Defense Council (NRDC), requesting that we list alewife (*Alosa pseudoharengus*) and blueback herring (*Alosa aestivalis*) under the ESA as threatened throughout all or a significant portion of their ranges. In the alternative, they requested that we designate DPSs of alewife and blueback herring as specified in the petition (Central New England, Long Island Sound, Chesapeake Bay, and Carolina for alewives, and Central New England, Long Island Sound, and Chesapeake Bay for blueback herring). The petition contained information on the two species, including the taxonomy, historical and current distribution, physical and biological characteristics of their habitat and ecosystem relationships, population status and trends, and factors contributing to the species' decline. The petition also included information regarding potential DPSs of alewife and blueback herring as described above. The following five factors identified in section 4(a)(1) of the ESA were addressed in the petition: (1) Present or threatened destruction, modification, or curtailment of habitat or range; (2) over-utilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other natural or man-made factors affecting the species' continued existence.

We reviewed the petition and determined that, based on the information in the petition and in our files at the time we received the petition, the petitioned action may be warranted. Therefore, we published a positive 90-day finding on November 2, 2011, and as a result, we were required to review the status of the species (e.g., anadromous alewife and blueback herring) to determine if listing under the ESA is warranted. We formed an internal status review team (SRT) comprised of nine NMFS staff members (Northeast Regional Office (NERO) Protected Resources Division and Northeast Fisheries Science Center staff) to compile the best commercial and scientific data available for alewife and blueback herring throughout their ranges.

In May 2012, the ASMFC completed a river herring stock assessment, which covers over 50 river-specific stocks throughout the ranges of the species in the United States (ASMFC, 2012; hereafter referred to in this determination as ''the stock assessment''). In order to avoid duplicating this extensive effort, we worked cooperatively with ASMFC to use this information in the review of the status of these two species and identify information not in the stock assessment that was needed for our listing determination. We identified the missing required elements and held workshops/working group meetings focused on addressing information on stock structure, extinction risk analysis, and climate change.

Reports from each workshop/working group meeting were compiled and independently peer reviewed (the stock structure and extinction risk reports were peer reviewed by reviewers selected by the Center for Independent Experts, and the climate change report was peer reviewed by 4 experts identified during the workshops). These reports did not contain any listing advice or reach any ESA listing conclusions—such synthesis and analysis for river herring is solely within the agency's purview. We used this information to determine which extinction risk method and stock structure analysis would best inform the listing determination, as well as understand how climate change may impact river herring, and ultimately, we are using these reports along with the stock assessment and all other best available information in this listing determination.

Alewife and blueback herring are collectively referred to as ''river herring.'' Due to difficulties in distinguishing between the species, they are often harvested together in commercial and recreational fisheries, and managed together by the ASMFC. Throughout this finding, where there are similarities, they will be collectively referred to as river herring, and where there are distinctions, they will be identified by species.

Range

River herring can be found along the Atlantic coast of North America, from the Southern Gulf of St. Lawrence, Canada to the southeastern United States (Mullen *et al.,* 1986; Schultz *et al.,* 2009). The coastal ranges of the two

species overlap. Blueback herring range from Nova Scotia south to the St. John's River, Florida; and alewife range from Labrador and Newfoundland south to South Carolina, though their occurrence in the extreme southern range is less common (Collette and Klein-MacPhee, 2002; ASMFC, 2009a; Kocik *et al.,* 2009).

In Canada, river herring (i.e., gaspereau) are most abundant in the Miramichi, Margaree, LaHave, Tusket, Shubenacadie and Saint John Rivers (Gaspereau Management Plan, 2001). They are proportionally less abundant in smaller coastal rivers and streams (Gaspereau Management Plan, 2001). Generally, blueback herring in Canada occur in fewer rivers than alewives and are less abundant in rivers where both species coexist (DFO 2001).

Habitat and Migration

River herring are anadromous, meaning that they mature in the marine environment and then migrate up coastal rivers to estuarine and freshwater rivers, ponds, and lake habitats to spawn (Collette and Klein-MacPhee, 2002; ASMFC, 2009a; Kocik *et al.,* 2009). In general, adult river herring are most often found at depths less than 328 feet (ft) (100 meters (m)) in waters along the continental shelf (Neves, 1981; ASMFC, 2009a; Schultz *et al.,* 2009). They are highly migratory, pelagic, schooling species, with seasonal spawning migrations that are cued by water temperature (Collette and Klein-MacPhee, 2002; Schultz *et al.,* 2009). Depending upon temperature, blueback herring typically spawn from late March through mid-May. However, they spawn in the southern parts of their range as early as December or January, and as late as August in the northern portion of their range (ASMFC, 2009a). Alewives have been documented spawning as early as February in the southern portion of their range, and as late as August in the northern portion of the range (ASMFC, 2009a). The river herring migration in Canada extends from late April through early July, with the peak occurring in late May and early June. Blueback herring generally make their spawning runs about 2 weeks later than alewives do (DFO, 2001). River herring conform to a metapopulation paradigm (e.g., a group of spatially separated populations of the same species which interact at some level) with adults frequently returning to their natal rivers for spawning but with some limited straying occurring between rivers (Jones, 2006; ASMFC, 2009a).

Throughout their life cycle, river herring use many different habitats, including the ocean, estuaries, rivers, and freshwater lakes and ponds. The substrate preferred for spawning varies greatly and can include gravel, detritus, and submerged aquatic vegetation. Blueback herring prefer swifter moving waters than alewives do (ASMFC, 2009a). Nursery areas include freshwater and semi-brackish waters. Little is known about their habitat preference in the marine environment (Meadows, 2008; ASMFC, 2009a).

Landlocked Populations

Landlocked populations of alewives and blueback herring also exist. Landlocked alewife populations occur in many freshwater lakes and ponds from Canada to North Carolina as well as the Great Lakes (Rothschild, 1966; Boaze & Lackey, 1974). Many landlocked populations occur as a result of stocking to provide a forage base for game fish species (Palkovacs *et al.,* 2007).

Landlocked blueback herring occur mostly in the southeastern United States and the Hudson River drainage. The occurrence of landlocked blueback herring is primarily believed to be the result of accidental stockings in reservoirs (Prince and Barwick, 1981), unsanctioned stocking by recreational anglers to provide forage for game fish, and also through the construction of locks, dams and canal systems that have subsequently allowed for blueback herring occupation of several lakes and ponds along the Hudson River drainage up to, and including Lake Ontario (Limburg *et al.,* 2001).

Recent efforts to assess the evolutionary origins of landlocked alewives indicate that they rapidly diverged from their anadromous cousins between 300 and 5,000 years ago, and now represent a discrete life history variant of the species, *Alosa pseudoharengus* (Palkovacs *et al.,* 2007). Though given their relatively recent divergence from anadromous populations, one plausible explanation for the existence of landlocked populations may be the construction of dams by either native Americans or early colonial settlers that precluded the downstream migration of juvenile herring (Palkovacs *et al.,* 2007). Since their divergence, landlocked alewives have evolved to a point they now possess significantly different mouthparts than their anadromous cousins, including narrower gapes and smaller gill raker spacings to take advantage of year round availability of smaller prey in freshwater lakes and ponds (Palkovacs *et al.,* 2007). Furthermore, the landlocked alewife, compared to its anadromous cousin, matures earlier, has a smaller adult body size, and reduced fecundity (Palkovacs *et al.,* 2007). At this time, there is no substantive information that would suggest that landlocked populations can or would revert back to an anadromous life history if they had the opportunity to do so (Gephard, CT DEEP, Pers. comm. 2012; Jordaan, UMASS Amherst, Pers. comm. 2012).

The discrete life history and morphological differences between the two life history variants (anadromous and landlocked) provide substantial evidence that upon becoming landlocked, landlocked populations become largely independent and separate from anadromous populations and occupy largely separate ecological niches (Palkovacs and Post, 2008). There is the possibility that landlocked alewife and blueback herring may have the opportunity to mix with anadromous river herring during high discharge years and through dam removals which could provide passage over dams and access to historic spawning habitats restored for anadromous populations, where it did not previously exist. The implications of this are not known at this time.

In summary, genetics indicate that anadromous alewife populations are discrete from landlocked populations, and that this divergence can be estimated to have taken place from 300 to 5,000 years ago. Some landlocked populations of blueback herring do occur in the Mid-Atlantic and southeastern United States. Given the similarity in life histories between anadromous alewife and blueback herring, we assume that landlocked populations of blueback herring would exhibit a similar divergence from anadromous blueback herring, as has been documented with alewives.

A Memorandum of Understanding (MOU) between the U.S. Fish and Wildlife Service (USFWS) and NMFS (collectively, the Services) regarding jurisdictional responsibilities and listing procedures under the ESA was signed August 28, 1974. This MOU states that NMFS shall have jurisdiction over species ''which either (1) reside the major portion of their lifetimes in marine waters; or (2) are species which spend part of their lifetimes in estuarine waters, if the major portion of the remaining time (the time which is not spent in estuarine waters) is spent in marine waters.''

Given that landlocked populations of river herring remain in freshwater throughout their life history and are genetically divergent from the anadromous species, pursuant to the aforementioned MOU, we did not

include the landlocked populations of alewife and blueback herring in our review of the status of the species and do not consider landlocked populations in this listing determination in response to the petition to list these anadromous species.

Listing Species Under the Endangered Species Act

We are responsible for determining whether alewife and blueback herring are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). Accordingly, based on the statutory, regulatory, and policy provisions described below, the steps we followed in making our listing determination for alewife and blueback herring were to: (1) Determine how alewife and blueback herring meet the definition of ''species''; (2) determine the status of the species and the factors affecting them; and (3) identify and assess efforts being made to protect the species and determine if these efforts are adequate to mitigate existing threats.

To be considered for listing under the ESA, a group of organisms must constitute a ''species.'' Section 3 of the ESA defines a ''species'' as ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' Section 3 of the ESA further defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' Thus, we interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

On February 7, 1996, the Services adopted a policy to clarify our interpretation of the phrase ''distinct population segment of any species of vertebrate fish or wildlife'' (61 FR 4722). The joint DPS policy describes two criteria that must be considered when identifying DPSs: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As further stated in the joint policy, if a population segment is discrete and significant (i.e., it meets the DPS policy criteria), its evaluation for endangered or threatened status will be based on the ESA's definitions of those terms and a review of the five factors enumerated in section 4(a)(1) of the ESA.

As provided in section 4(a) of the ESA, the statute requires us to determine whether any species is endangered or threatened because of any of the following five factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence (section 4(a)(1)(A)(E)). Section 4(b)(1)(A) of the ESA further requires that listing determinations be based solely on the best scientific and commercial data available after taking into account efforts being made to protect the species.

Distribution and Abundance

United States

The stock assessment (described above) was prepared and compiled by the River Herring Stock Assessment Subcommittee, hereafter referred to as the 'subcommittee,' of the ASMFC Shad and River Herring Technical Committee. Data and reports used for this assessment were obtained from Federal and state resource agencies, power generating companies, and universities.

The subcommittee conducted its assessment on the coastal stocks of alewife and blueback herring by individual rivers as well as coast-wide depending on available data. The subcommittee concluded that river herring should ideally be assessed and managed by individual river system, but that the marine portion of their life history likely influences survival through mixing in the marine portion of their range. However, coast-wide assessments are complicated by the complex life history of these species as well, given that factors influencing population dynamics for the freshwater portion of their life history can not readily be separated from marine factors. In addition, it was noted that data quality and availability varies by river and is mostly dependent upon the monitoring efforts that each state dedicates to these species, which further complicated the assessment.

The subcommittee also noted that most state landings records listed alewife and blueback herring together as 'river herring' rather than identifying by species. These landings averaged 30.5 million pounds (lbs) (13,847 metric tons (mt)) per year from 1889 to 1938, and severe declines were noted coast-wide starting in the 1970s. Beginning in 2005, states began enacting moratoria on river herring fisheries, and as of January 2012, all directed harvest of river herring in state waters is prohibited unless states have submitted and obtained approved sustainable fisheries management plans (FMP) under ASMFC's Amendment 2 to the Shad and River Herring FMP.

The subcommittee summarized its findings for trends in commercial catch-per-unit-effort (CPUE); run counts; young-of-the-year (YOY) seine surveys; juvenile-adult fisheries independent seine, gillnet and electrofishing surveys; juvenile-adult trawl surveys; mean length; maximum age; mean length-at-age; repeat spawner frequency; total mortality (Z) estimates; and exploitation rates. Because the stock assessment contains the most recent and comprehensive description of this information and the subcommittee's conclusions, the following sections were taken from the stock assessment (ASMFC, 2012).

Commercial CPUE

Since the mid-1990s, CPUE indices for alewives showed declining trends in the Potomac River and James River (VA), no trend in the Rappahannock River (VA), and increasing trends in the York River (VA) and Chowan River (NC). CPUE indices available for blueback herring showed a declining trend in the Chowan River and no trend in the Santee River (SC). Combined species CPUE indices showed declining trends in Delaware Bay and the Nanticoke River, but CPUE has recently increased in the Hudson River (ASMFC, 2012).

Run Counts

Major declines in run sizes occurred in many rivers from 2001 to 2005. These declines were followed by increasing trends (2006 to 2010) in the Androscoggin River (ME), Damaraiscotta River (ME), Nemasket River (MA), Gilbert-Stuart River (RI), and Nonquit River (RI) for alewife and in the Sebasticook River (ME), Cocheco River (NH), Lamprey River (NH), and Winnicut River (NH) for both species combined. No trends in run sizes were evident following the recent major declines in the Union River (ME), Mattapoisett River (MA), and

Monument River (MA) for alewife and in the Exeter River (NH) for both species combined. Run sizes have declined or are still declining following recent and historical major declines in the Oyster River (NH) and Taylor River (NH) for both species, in the Parker River (MA) for alewife, and in the Monument River (MA) and Connecticut River for blueback herring (ASMFC, 2012).

Young-of-the-Year Seine Surveys

The young-of-the-year (YOY) seine surveys were quite variable and showed differing patterns of trends among rivers. Maine rivers showed similar trends in alewife and blueback herring YOY indices after 1991, with peaks occurring in 1995 and 2004. YOY indices from North Carolina and Connecticut showed declines from the 1980s to the present. New York's Hudson River showed peaks in YOY indices in 1999, 2001, 2005, and 2007. New Jersey and Maryland YOY indices showed peaks in 1994, 1996, and 2001. Virginia YOY surveys showed peaks in 1993, 1996, 2001, and 2003 (ASMFC, 2012).

Juvenile-Adult Fisheries-Independent Seine, Gillnet and Electrofishing Surveys

The juvenile-adult indices from fisheries-independent seine, gillnet and electrofishing surveys showed a variety of trends in the available datasets for the Rappahanock River (1991–2010), James River (2000–2010), St. John's River, FL (2001–2010), and Narragansett Bay (1988–2010). The gillnet indices from the Rappahannock River (alewife and blueback herring) showed a low and stable or decreasing trend after a major decline after 1995 and has remained low since 2000 (except for a rise in alewife CPUE during 2008). The gillnet and electrofishing indices in the James River (alewife and blueback herring) showed a stable or increasing trend. Blueback herring peak catch rates occurred in 2004, and alewife peak catch rates occurred in 2005. The blueback herring index from electrofishing in the St. John's River, FL, showed no trend after a major decline from 2001–2002. The seine indices in Narragansett Bay, RI (combined species) and coastal ponds (combined species) showed no trends over the time series. The CPUE for Narragansett Bay fluctuated without trend from 1988–1997, increased through 2000, declined and then remained stable from 2001–2004. The pond survey CPUE increased during 1993–1996, declined through 1998, increased in 1999, declined through 2002, peaked in 2003 and then declined and fluctuated without trend thereafter. The electrofishing indices showed opposing trends and then declining trends in the Rappahannock River (alewife and blueback herring) with catch rates of blueback herring peaking during 2001–2003, and catch rates of alewives lowest during the same time period (ASMFC, 2012).

Juvenile and Adult Trawl Surveys

Trends in trawl survey indices varied greatly with some surveys showing an increase in recent years, some showing a decrease, and some remaining stable. Trawl survey data were available from 1966–2010 (for a complete description of data see ASMFC (2012)). Trawl surveys in northern areas tended to show either an increasing or stable trend in alewife indices, whereas trawl surveys in southern areas tended to show stable or decreasing trends. Patterns in trends across surveys were less evident for blueback herring. The NMFS surveys showed a consistent increasing trend coast-wide and in the northern regions for alewife and the combined river herring species group (ASMFC, 2012).

Mean Length

Mean sizes for male and female alewife declined in 4 of 10 rivers, and mean sizes for female and male blueback herring declined in 5 of 8 rivers. Data were available from 1960–2010 (for a complete description of data see ASMFC (2012)). The common trait among most rivers in which significant declines in mean sizes were detected is that historical length data were available for years prior to 1990. Mean lengths started to decline in the mid to late 1980s; therefore, it is likely that declines in other rivers were not detected because of the shortness of their time series. Mean lengths for combined sexes in trawl surveys were quite variable through time for both alewives and blueback herring. Despite this variability, alewife mean length tended to be lowest in more recent surveys. This pattern was less apparent for blueback herring. Trend analysis of mean lengths indicated significant declines in mean lengths over time for alewives coast-wide and in the northern region in both seasons, and for blueback coast-wide and in the northern region in fall (ASMFC, 2012).

Maximum Age

Except for Maine and New Hampshire, maximum age of male and female alewife and blueback herring during 2005–2007 was 1 or 2 years lower than historical observations (ASMFC, 2012).

Mean Length-at-Age

Declines in mean length of at least one age were observed in most rivers examined. The lack of significance in some systems is likely due to the absence of data prior to 1990 when the decline in sizes began, similar to the pattern observed for mean length. Declines in mean lengths-at-age for most ages were observed in the north (NH) and the south (NC). There is little indication of a general pattern of size changes along the Atlantic coast (ASMFC, 2012).

Repeat Spawner Frequency

Examination of percentage of repeat spawners in available data revealed significant, declining trends in the Gilbert-Stuart River (RI—combined species), Nonquit River (RI—combined species), and the Nanticoke River (blueback herring). There were no trends in the remaining rivers for which data are available, although scant data suggest that current percentages of repeat spawners are lower than historical percentages in the Monument River (MA) and the Hudson River (NY) (ASMFC, 2012).

Total Mortality (Z) Estimates

With the exception of male blueback herring from the Nanticoke River, which showed a slight increase over time, there were no trends in the Z estimates produced using age data (ASMFC, 2012).

Exploitation Rates

Exploitation of river herring appears to be declining or remaining stable. In-river exploitation estimates have fluctuated, but are lower in recent years. A coast-wide index of relative exploitation showed a decline following a peak in the 1980s, and the index indicates that exploitation has remained fairly stable over the past decade. The majority of depletion-based stock reduction analysis (DB–SRA) model runs showed declining exploitation rates coast-wide. Exploitation rates estimated from the statistical catch-at-age model for blueback herring in the Chowan River also showed a slight declining trend from 1999 to 2007, at which time a moratorium was instituted. There appears to be a consensus among various assessment methodologies that exploitation has decreased in recent times. The decline in exploitation over the past decade is not surprising because river herring populations are at low levels and more restrictive regulations or moratoria have been enacted by states (ASMFC, 2012).

Summary of Stock Assessment Conclusions

Of the in-river stocks of alewife and blueback herring for which data were available and were considered in the stock assessment, 22 were depleted, 1 was increasing, and the status of 28 stocks could not be determined because the time-series of available data was too short. In most recent years, 2 in-river stocks were increasing, 4 were decreasing, and 9 were stable, with 38 rivers not having enough data to assess recent trends. The coast-wide meta-complex of river herring stocks in the United States is depleted to near historical lows. A depleted status indicates that there was evidence for declines in abundance due to a number of factors, but the relative importance of these factors in reducing river herring stocks could not be determined. Commercial landings of river herring peaked in the late 1960s, declined rapidly through the 1970s and 1980s and have remained at levels less than 3 percent of the peak over the past decade. Estimates of run sizes varied among rivers, but in general, declining trends in run size were evident in many rivers over the last decade. Fisheries-independent surveys did not show consistent trends and were quite variable both within and among surveys. Those surveys that showed declines tended to be from areas south of Long Island. A problem with the majority of fisheries-independent surveys was that the length of their time series did not overlap the period of peak commercial landings that occurred prior to 1970. There appears to be a consensus among various assessment methodologies that exploitation has decreased in recent times. The decline in exploitation over the past decade is not surprising because river herring populations are at low levels and more restrictive regulations or moratoria have been enacted by states (ASMFC, 2012).

Canada

The Department of Fisheries and Oceans (DFO) monitors and manages river herring runs in Canada. River herring runs in the Miramichi River in New Brunswick and the Maragree River in Cape Breton, Nova Scotia were monitored intensively from 1983 to 2000 (DFO, 2001). More recently (1997 to 2006) the Gaspereau River alewife run and harvest has been intensively monitored and managed partially in response to a 2002 fisheries management plan that had a goal of increasing spawning escapement to 400,000 adults (DFO, 2007). Elsewhere, river herring runs have been monitored less intensively, though harvest rates are monitored throughout Atlantic Canada through license sales, reporting requirements, and a logbook system that was enacted in 1992 (DFO, 2001).

At the time DFO conducted their last stock assessment in 2001, they identified river herring harvest levels as being low (relative to historical levels) and stable, to low and decreasing across most rivers where data were available (DFO, 2001). With respect to the commercial harvest of river herring, reported landings of river herring peaked in 1980 at slightly less than 25.5 million lbs (11,600 mt) and declined to less than 11 million lbs (5,000 mt) in 1996. Landings data reported through DFO indicate that river herring harvests have continued to decline through 2010.

Consideration as a Species Under the ESA

Distinct Population Segment Background

According to Section 3 of the ESA, the term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature.'' Congress included the term ''distinct population segment'' in the 1978 amendments to the ESA. On February 7, 1996, the Services adopted a policy to clarify their interpretation of the phrase ''distinct population segment'' for the purpose of listing, delisting, and reclassifying species (61 FR 4721). The policy described two criteria a population segment must meet in order to be considered a DPS (61 FR 4721): (1) It must be discrete in relation to the remainder of the species to which it belongs; and (2) it must be significant to the species to which it belongs.

Determining if a population is discrete requires either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA.

If a population is deemed discrete, then the population segment is evaluated in terms of significance. Factors to consider in determining whether a discrete population segment is significant to the species to which it belongs include, but are not limited to, the following: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

If a population segment is deemed discrete and significant, then it qualifies as a DPS.

Information Related to Discreteness

To obtain expert opinion about anadromous alewife and blueback herring stock structure, we convened a working group in Gloucester, MA, on June 20–21, 2012. This working group meeting brought together river herring experts from state and Federal fisheries management agencies and academic institutions. Participants presented information to inform the presence or absence of stock structure such as genetics, life history, and morphometrics. A public workshop was held to present the expert working group's findings on June 22, 2012, and during this workshop, additional information on stock structure was sought from the public. Subsequently, a summary report was developed (NMFS, 2012a), and a peer review of the document was completed by three independent reviewers. The summary report and peer review reports are available on the NMFS Web site (see the **ADDRESSES** section above).

Steve Gephard of the Connecticut Department of Energy and Environmental Protection (CT DEP) presented a preliminary U.S. coast-wide genetic analysis of alewife and blueback herring data (Palkovacs *et al.,* 2012, unpublished report). Palkovacs *et al.,* (2012, unpublished report) used 15 novel microsatellite markers on samples collected from Maine to Florida. For alewife, 778 samples were collected from spawning runs in 15 different rivers, and 1,201 blueback herring samples were collected from 20 rivers.

Bayesian analyses identified five genetically distinguishable stocks for alewife with similar results using both STRUCTURE and Bayesian Analysis of Population Structure (BAPS) software models. The alewife stock complexes identified were: (1) Northern New England; (2) Southern New England; (3)

Connecticut River; (4) Mid-Atlantic; and (5) North Carolina. For blueback herring, no optimum solution was reached using STRUCTURE, while BAPS suggested four genetically identifiable stock complexes. The stock complexes identified for blueback herring were: (1) Northern New England; (2) Southern New England; (3) Mid Atlantic; (4) and Southern. However, it should be noted that these Bayesian inferences of population structure provide a minimum number of genetically distinguishable groups. In the future, in order to better define potential stock complexes, further tests examining structure within designated stocks should be conducted using hierarchical clustering analysis and genetic tests.

The study also examined the effects of geography and found a strong effect of latitude on genetic divergence, suggesting a stepping stone model of population structure, and a strong pattern of isolation by distance, where gene flow is most likely among neighboring spawning populations. The preliminary results from the study found significant differentiation among spawning rivers for both alewife and blueback herring. Based on the results of their study, the authors' preliminary management recommendations suggest that river drainage is the appropriate level of management for both of the species. This inference was also supported by genetic tests which were conducted later. These tests suggest that there is substantial population structure at the drainage scale.

The authors noted a number of caveats for their study including: (1) Collection of specimens on their upstream spawning run may pool samples from what are truly distinct spawning populations within the major river drainages sampled, thereby, underestimating genetic structure within rivers (Hasselman, 2010); (2) a more detailed analysis of population structure within the major stocks identified (i.e., using hierarchical Bayesian clustering methods and genic test) would be useful for identifying any substructure within these major stocks; (3) neutral genetic markers used in this study represent the effects of gene flow and historical population isolation, but not the effects of adaptive processes, which are important to consider in the context of stock identification; (4) the analysis is preliminary, and there are a number of issues that need to be further investigated, including the effect of deviations in the Hardy-Weinberg Equilibrium model encountered in four alewife loci and the failure of STRUCTURE to perform well on the blueback herring dataset; and (5) hybridization may be occurring between alewife and blueback herring and may influence the results of the species-specific analyses.

Following the Stock Structure Workshop, additional analyses were run on the alewife dataset to examine the uniqueness of the (tentatively) designated Connecticut River alewife stock complex. Hybrids and misidentified samples were found and subsequently removed for this analysis, and the results were refined. By removing these samples from the Connecticut River alewife dataset, Palkovacs *et al.* (2012, unpublished report) found that, for alewife, the Connecticut and Hudson Rivers belong to the Southern New England stock. The analyses were further refined and Palkovacs *et al.* (2012, unpublished report) provided an updated map of the alewife genetic stock complexes, combining the tentative North Carolina stock with the Mid-Atlantic stock. This information and analysis is complete and is currently being prepared for publication. Thus, the refined genetic stock complexes for alewife in the coastal United States include Northern New England, Southern New England, and the Mid-Atlantic. For blueback herring, the identified genetic stocks include Northern New England, Southern New England, Mid-Atlantic and Southern (Palcovacs *et al.,* 2012, unpublished report).

Bentzen *et al.* (2012) implemented a two-part genetic analysis of river herring to evaluate the genetic diversity of alewives in Maine and Maritime Canada, and to assess the regional effects of stocking on alewives and blueback herring in Maine. The genetic analysis of alewives and blueback herring along mid-coast Maine revealed significant genetic differentiation among populations. Despite significant differentiation, the patterns of correlation did not closely correspond with geography or drainage affiliation. The genetic analysis of alewives from rivers in Maine and Atlantic Canada detected isolation by distance, suggesting that homing behavior indicative of alewives' metapopulation conformance does produce genetically distinguishable populations. Further testing also suggested that there may be interbreeding between alewives and blueback herring (e.g., hybrids), especially at sample sites with impassible dams.

The unusual genetic groupings of river herring in Maine are likely a result of Maine's complex stocking history, as alewife populations in Maine have been subject to considerable within and out of basin stocking for the purpose of enhancement, recolonization of extirpated populations, and stock introduction. Alewife stocking in Maine dates back at least to 1803 when alewives were reportedly moved from the Pemaquid and St. George Rivers to create a run of alewives in the Damariscotta River (Atkins and Goode, 1887). These efforts were largely responsive to considerable declines in alewife populations following the construction of dams, over exploitation and pollution. Although there has been considerable alewife stocking and relocation throughout Maine, there are very few records documenting these efforts. In contrast, considerably less stocking of alewives has occurred in Maritime Canada. These genetic analyses suggest that river herring from Canadian waters are genetically distinct from Maine river herring.

All of the expert opinions we received during the Stock Structure Workshop suggested evidence of regional stock structure exists for both alewife and blueback herring as shown by the recent genetics data (Palkovacs *et al.,* 2012, unpublished report; Bentzen *et al.,* unpublished data). However, the suggested boundaries of the regional stock complexes differed from expert to expert. Migration and mixing patterns of alewives and blueback herring in the ocean have not been determined, though regional stock mixing is suspected. Therefore, the experts suggested that the ocean phase of alewives and blueback herring should be considered a mixed stock until further tagging and genetic data become available. There is evidence to support regional differences in migration patterns, but not at a level of river-specific stocks.

In the mid-1980s, Rulifson *et al.* (1987) tagged and released approximately 19,000 river herring in the upper Bay of Fundy, Nova Scotia with an overall recapture rate of 0.39 percent. Alewife tag returns were from freshwater locations in Nova Scotia, and marine locations in Nova Scotia and Massachusetts. Blueback herring tag returns were from freshwater locations in Maryland and North Carolina and marine locations in Nova Scotia. Rulifson *et al.* (1987) suspected from recapture data that alewives and blueback herring tagged in the Bay of Fundy were of different origins, hypothesizing that alewives were likely regional fish from as far away as New England, while the blueback herring recaptures were likely not regional fish, but those of U.S. origin from the mid-Atlantic region. However, the low tag return numbers (n = 2) made it difficult to generalize about the natal rivers of

blueback herring caught in the Bay of Fundy. The results of this tagging study show that river herring present in Canadian waters may originate from U.S. waters and vice versa.

Metapopulations of river herring are believed to exist, with adults frequently returning to their natal rivers for spawning and some straying occurring between rivers—straying rates have been estimated up to 20 percent (Jones, 2006; ASMFC, 2009a; Gahagan *et al.,* 2012). Given the available information on genetic differentiation coast-wide for alewife and blueback herring, it appears that stock complexes exist for both species.

River herring originating from Canadian rivers are delimited by international governmental boundaries. Differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist and, therefore, meet the discreteness criterion under the DPS policy; however, intermixing between both alewife and blueback herring from U.S. and Canadian coastal waters occurs, and the extent of this mixing is unknown.

Given the best available information, it is possible to determine that the various stocks of both alewife and blueback herring are discrete. The best available information suggests that the delineation of the stock complexes is as described above; however, future work will likely further refine these preliminary boundaries. Additionally, further information is needed on the oceanic migratory patterns of both species.

Information Related to Significance

If a population is deemed discrete, the population is evaluated in terms of significance. Significance can be determined using the four criteria noted above. Since the best available information indicates that the stock complexes identified for alewives and blueback herring are most likely discrete, the SRT reviewed the available information to determine if they are significant.

In evaluating the significance criterion, the SRT considered all of the above criteria. As indicated earlier, both alewives and blueback herring occupy a large range spanning almost the entire East Coast of the United States and into Canada. They appear to migrate freely throughout their oceanic range and return to freshwater habitats to spawn in streams, lakes and rivers. Therefore, they occupy many different ecological settings throughout their range.

As described earlier, the Palkovacs *et al.* (2012, unpublished report) study assessed the genetic composition of alewife and blueback herring stocks within U.S. rivers using 15 neutral loci and documented that there are at least three stock complexes of alewife in the United States and four stock complexes of blueback herring in the United States. Palkovac *et al.* (2012, unpublished report) showed a strong effect of latitude on genetic divergence, suggesting that although most populations are genetically differentiated, gene flow is greater among neighboring runs than among distant runs. The genetic data are consistent with the recent results of the ASMFC stock assessment (2012), which noted that even among rivers within the same state, there are differences in trends in abundance indices, size-at-age, age structure and other metrics, indicating there are localized factors affecting the population dynamics of both species.

Neutral genetic markers such as microsatellites have a longstanding history of utilization in stock designation for many anadromous fish species (Waples, 1998). However, these markers represent the effects of gene flow and historical population isolation and not the effects of adaptive processes. The effects of adaptive genetic and phenotypic diversity are also extremely important to consider in the context of stock designation, but are not captured by the use of neutral genetic markers. Therefore, the available genetic data are most appropriately used in support of the discreteness criterion, rather than to determine significance.

Determining whether a gap in the range of the taxon would be significant if a stock were extirpated is difficult to determine with anadromous fish such as river herring. River herring are suspected to migrate great distances between their natal rivers and overwintering areas, and therefore, estuarine and marine populations are comprised of mixed stocks. Consequently, the loss of a stock complex would mean the loss of riverine spawning subpopulations, while the marine and estuarine habitat would most likely still be occupied by migratory river herring from other stock complexes. As it has been shown that gene flow is greater among neighboring runs than among distant runs, we might expect that river herring would re-colonize neighboring systems over a relatively short time frame. Thus, the loss of one stock complex in itself may not be significant; the loss of contiguous stock complexes may be. The goal then for river herring stock complexes is to maintain connectivity between genetic groups to support proper metapopulation function (spatially separated populations of the same species that interact, recolonize vacant habitats, and occupy new habitats through dispersal mechanisms (Hanski and Gilpin, 1991)).

DPS Determination

Evidence for genetic differentiation exists for both alewife and blueback herring, allowing for preliminary identification of stock complexes; however, available data are lacking on the significance of each of these individual stock complexes. Therefore, we have determined that there is not enough evidence to suggest that the stock complexes identified through genetics should be treated under the DPS policy as separate DPSs. The stock complexes may be discrete, but under the DPS policy, they are not significant to the species as a whole. Furthermore, given the unknown level of intermixing between Canadian and U.S. river herring in coastal waters, the Canadian stock complex should also not be considered separately under the DPS policy.

Throughout the rest of this determination, the species will be referred to by species (alewife or blueback herring), as river herring where information overlaps, and by the identified stock complexes (Palkovacs *et al.,* 2012, unpublished report) for each species as necessary. While the individual stock complexes do not constitute separate DPSs, they are important components of the overall species and relevant to the evaluation of whether either species may be threatened or endangered in a significant portion of their overall range. Therefore, we have evaluated the threats to, and extinction risk of the overall species and each of the individual stock complexes as presented below. For this analysis, the identified stock complexes for alewife (Figure 1) in the coastal United States for the purposes of this finding will include Northern New England, Southern New England, the Mid-Atlantic, and Canada; and stock complexes for blueback herring (Figure 2) will include Northern New England, Southern New England, Mid-Atlantic, Southern Atlantic, and Canada. While the SRT concluded that there was not sufficient information at this time to determine with any certainty whether alewife or blueback herring stock complexes constitute separate DPSs, they recognized that future information on behavior, ecology and genetic population structure may reveal significant differences, showing fish to be uniquely adapted to each stock complex. We agree with this conclusion. Thus, we are not identifying DPSs for either species.

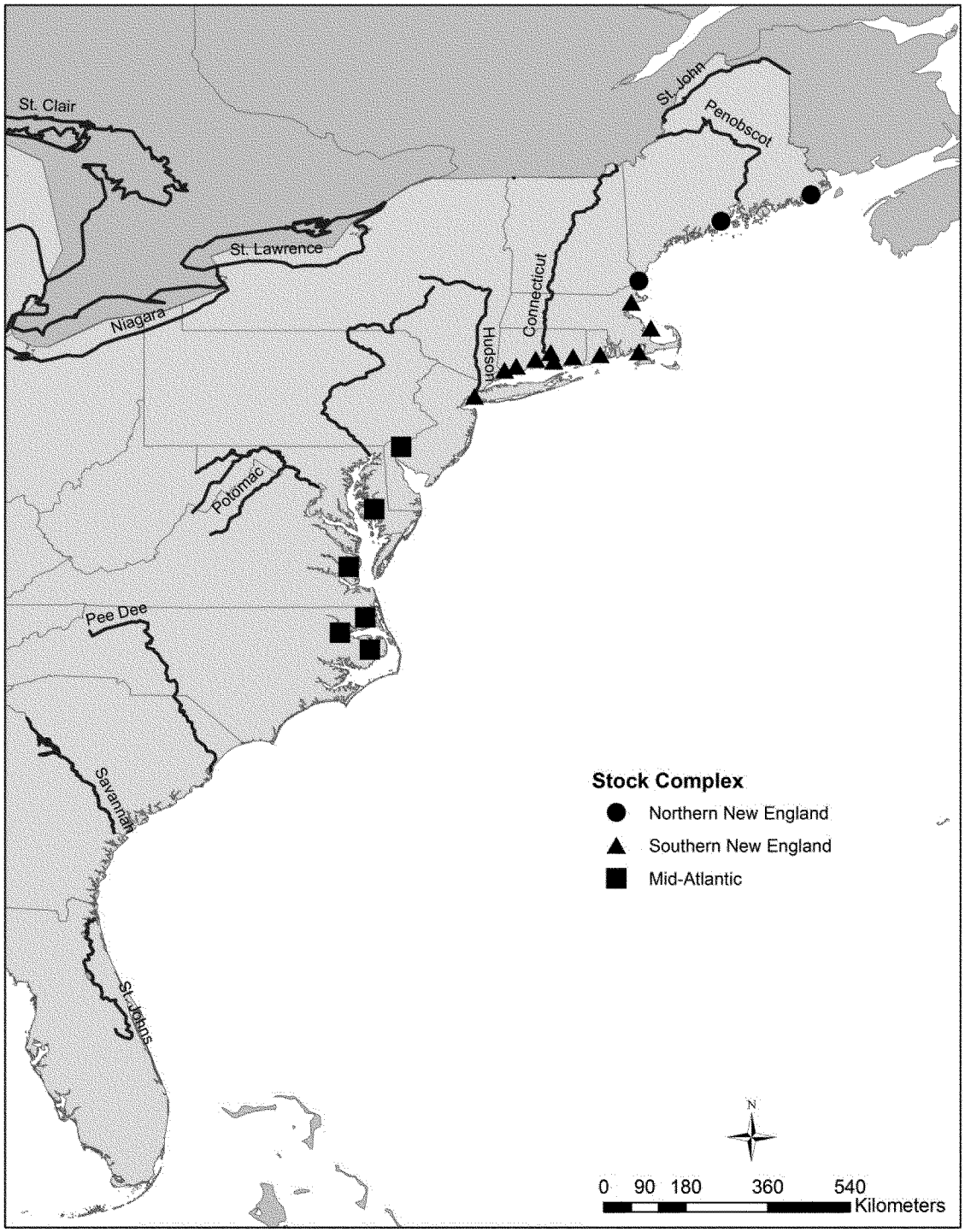

Figure 1. Alewife stock structure identified in Palkovacs et al., 2012, unpublished report.

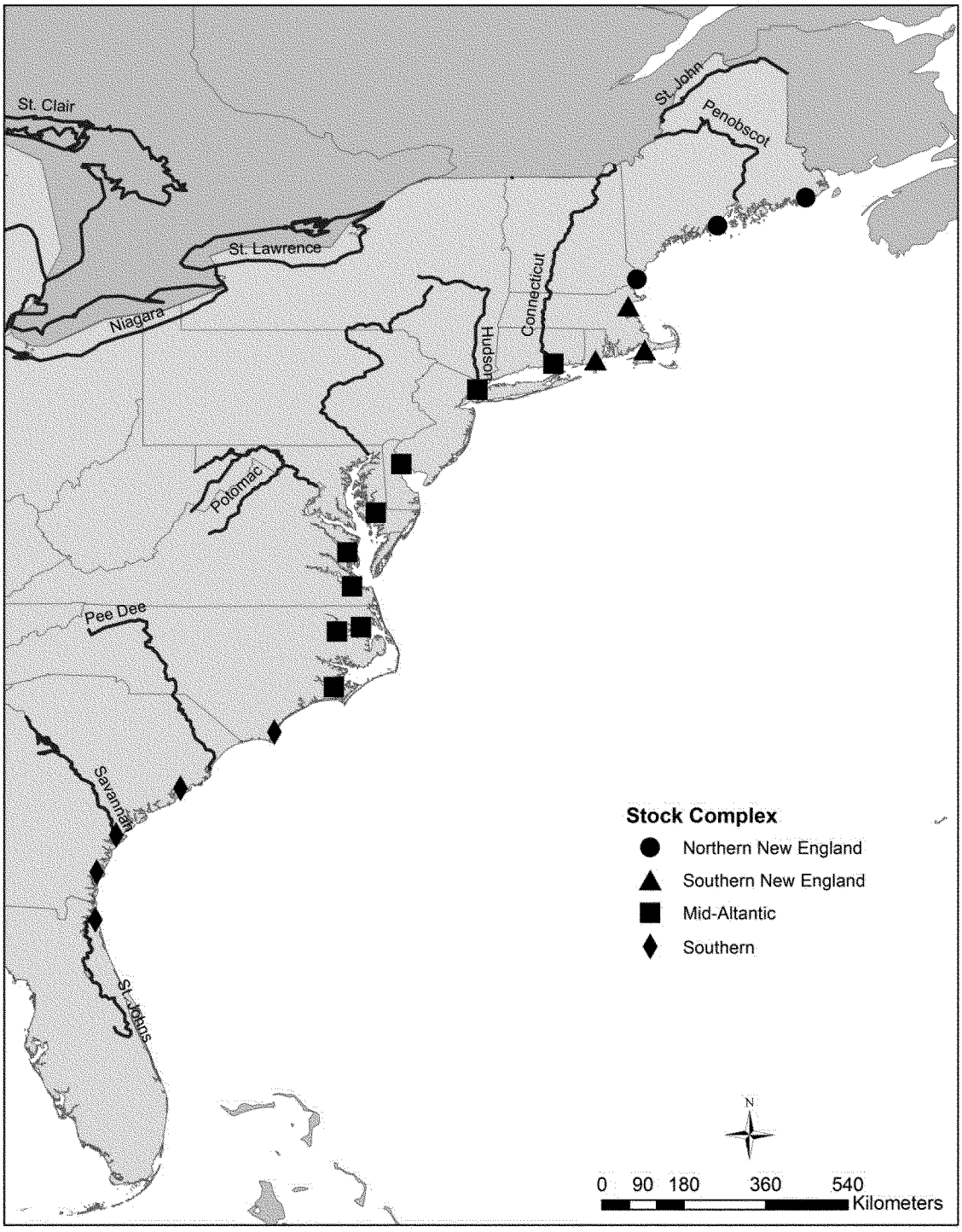

Figure 2. Blueback herring stock structure identified in Palkovacs et al., 2012, unpublished report.

Foreseeable Future and Significant Portion of Its Range

The ESA defines an ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range,'' while a ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' NMFS and the U.S. Fish and Wildlife Servce (USFWS) recently published a draft policy to clarify the interpretation of the phrase ''significant portion of the range'' in the ESA definitions of ''threatened'' and ''endangered'' (76 FR 76987; December 9, 2011). The draft policy provides that: (1) If a species is found to be endangered or threatened in only a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the ESA's protections apply across the species' entire range; (2) a portion of the range of a species is ''significant'' if its

contribution to the viability of the species is so important that, without that portion, the species would be in danger of extinction; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time USFWS or NMFS makes any particular status determination; and (4) if the species is not endangered or threatened throughout all of its range, but it is endangered or threatened within a significant portion of its range, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The Services are currently reviewing public comment received on the draft policy. While the Services' intent is to establish a legally binding interpretation of the term ''significant portion of the range,'' the draft policy does not have legal effect until such time as it may be adopted as final policy. Here, we apply the principles of this draft policy as non-binding guidance in evaluating whether to list alewife or blueback herring under the ESA. If the policy changes in a material way, we will revisit the determination and assess whether the final policy would result in a different outcome.

While we have determined that DPSs cannot be defined for either of these species based on the available information, the stock complexes do represent important groupings within the range of both species. Thus, in our analysis of extinction risk and threats assessment below, we have evaluated whether either species is at risk rangewide and within any of the individual stock complexes so that we can evaluate whether either species is threatened or endangered in a significant portion of its range.

We established that the appropriate period of time corresponding to the foreseeable future is a function of the particular type of threats, the life-history characteristics, and the specific habitat requirements for river herring. The timeframe established for the foreseeable future takes into account the time necessary to provide for the conservation and recovery of each species and the ecosystems upon which they depend, but is also a function of the reliability of available data regarding the identified threats and extends only as far as the data allow for making reasonable predictions about the species' response to those threats. As described below, the SRT determined that dams and other impediments to migration have already created a clear and present threat to river herring that will continue into the future. The SRT also evaluated the threat from climate change from 2060 to 2100 and climate variability in the near term (as described in detail below).

Highly productive species with short generation times are more resilient than less productive, long lived species, as they are quickly able to take advantage of available habitats for reproduction (Mace *et al.,* 2002). Species with shorter generation times, such as river herring (4 to 6 years), experience greater population variability than species with long generation times, because they maintain the capacity to replenish themselves more quickly following a period of low survival (Mace *et al.,* 2002). Given the high population variability among clupeids, projecting out further than three generations could lead to considerable uncertainty in the probability that the model will provide an accurate representation of the population trajectory for each species. Thus, a 12 to 18 year timeframe (e.g., 2024–2030), or a three-generation time period, for each species was determined by the Team to be appropriate for use as the foreseeable future for both alewife and blueback herring. We agree with the Team that a three-generation time period (12–18 years) is a reasonable foreseeable future for both alewife and blueback herring.

Connectivity, population resilience and diversity are important when determining what constitutes a significant portion of the species' range (Waples *et al.,* 2007). Maintaining connectivity between genetic groups supports proper metapopulation function, in this case, anadromy. Ensuring that river herring populations are well represented across diverse habitats helps to maintain and enhance genetic variability and population resilience (McElhany *et al.,* 2000). Additionally, ensuring wide geographic distribution across diverse climate and geographic regions helps to minimize risk from catastrophes (e.g., droughts, floods, hurricanes, etc.; McElhany *et al.,* 2000). Furthermore, preventing isolation of genetic groups protects against population divergence (Allendorf and Luikart, 2007).

Threats Evaluation

As described above, Section 4(a)(1) of the ESA and NMFS implementing regulations (50 CFR 424) states that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: (A) Current or threatened habitat destruction or modification or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or man-made factors affecting the species' continued existence. This section briefly summarizes the findings regarding these factors.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Past, present, and reasonably foreseeable future factors that have the potential to affect river herring habitat include, but are not limited to, dams and hydropower facilities, dredging, water quality (including land use change, water withdrawals, discharge and contaminants), climate change and climate variability. As noted above, river herring occupy a variety of different habitats including freshwater, estuarine and marine environments throughout their lives, and thus, they are subjected to habitat impacts occurring in all of these different habitats.

Dams and Other Barriers

Dams and other barriers to upstream and downstream passage (e.g., culverts) can block or impede access to habitats necessary for spawning and rearing; can cause direct and indirect mortality from injuries incurred while passing over dams, through downstream passage facilities, or through hydropower turbines; and can degrade habitat features necessary to support essential river herring life history functions. Man-made barriers that block or impede access to rivers throughout the entire historical range of river herring have resulted in significant losses of historical spawning habitat for river herring. Dams and other man-made barriers have contributed to the historical and current declines in abundance of both blueback and alewife populations. While estimates of habitat loss over the entire range of river herring are not available, estimates from studies in Maine show that less than 5 percent of lake spawning habitat and 20 percent of river habitat remains accessible for river herring (Hall *et al.,* 2010). As described in more detail below, dams are also known to impact river herring through various mechanisms, such as habitat alteration, fish passage delays, and entrainment and impingement (Ruggles 1980; NRC 2004). River herring can undergo indirect mortality from injuries such as scale loss, lacerations, bruising, eye or fin damage, or internal hemorrhaging when passing through turbines, over spillways, and through bypasses (Amaral *et al.,* 2012).

The following summary of the effects of dams and other barriers on river herring is taken from Amendment 2 to the Interstate Fishery Management Plan for Shad and River Herring (hereafter, referred to as ''Amendment 2'' and cited as ''ASMFC, 2009''). Because it includes a detailed description of barriers to upstream and downstream passage, it is the best source of comprehensive information on this topic. Please refer to Amendment 2 for more information.

Dams and spillways impeding rivers along the East Coast of the United States have resulted in a considerable loss of historical spawning habitat for shad and river herring. Permanent man-made structures pose an ongoing barrier to fish passage unless fishways are installed or structures are removed. Low-head dams can also pose a problem, as fish are unable to pass over them except when tides or river discharges are exceptionally high (Loesch and Atran, 1994). Historically, major dams were often constructed at the site of natural formations conducive to waterpower, such as natural falls. Diversion of water away from rapids at the base of falls can reduce fish habitat, and in some cases cause rivers to run dry at the base for much of the summer (MEOEA, 2005; ASMFC, 2009).

Prior to the early 1990s, it was thought that migrating shad and river herring suffered significant mortality going through turbines during downstream passage (Mathur and Heisey, 1992). Juvenile shad emigrating from rivers have been found to accumulate in larger numbers near the forebay of hydroelectric facilities, where they become entrained in intake flow areas (Martin *et al.,* 1994). Relatively high mortality rates were reported (62 percent to 82 percent) at a hydroelectric dam for juvenile American shad and blueback herring, depending on the power generation levels tested (Taylor and Kynard, 1984). In contrast, Mathur and Heisey (1992) reported a mortality rate of 0 percent to 3 percent for juvenile American shad (2 to 6 in fork length (55 to 140 mm)), and 4 percent for juvenile blueback herring (3 to 4 in fork length (77 to 105 mm)) through Kaplan turbines. Mortality rate increased to 11 percent in passage through a low-head Francis turbine (Mathur and Heisey, 1992). Other studies reported less than 5 percent mortality when large Kaplan and fixed-blade, mixed-flow turbines were used at a facility along the Susquehanna River (RMC, 1990; RMC, 1994). At the same site, using small Kaplan and Francis runners, the mortality rate was as high as 22 percent (NA, 2001). At another site, mortality rate was about 15 percent where higher revolution, Francis-type runners were used (RMC, 1992; ASMFC, 2009).

Additional studies reported that changes in pressure had a more pronounced effect on juveniles with thinner and weaker tissues as they moved through turbines (Taylor and Kynard, 1984). Furthermore, some fish may die later from stress, or become weakened and more susceptible to predation, and as such, losses may not be immediately apparent to researchers (Gloss, 1982) (ASMFC, 2009).

Changes to the river system, resulting in delayed migration among other things, were also identified in Amendment 2 as impacting river herring. Amendment 2 notes that when juvenile alosines delay out-migration, they may concentrate behind dams and become more susceptible to actively feeding predators. They may also be more vulnerable to anglers that target alosines as a source of bait. Delayed out-migration can also make juvenile alosines more susceptible to marine predators that they may have avoided if they had followed their natural migration patterns (McCord, 2005a). In open rivers, juvenile alosines gradually move seaward in groups that are likely spaced according to the spatial separation of spawning and nursery grounds (Limburg, 1996; J. McCord, South Carolina Department of Natural Resources, personal observation). Releasing water from dams and impoundments (or reservoirs) may lead to flow alterations, altered sediment transport, disruption of nutrient availability, changes in downstream water quality (including both reduced and increased temperatures), streambank erosion, concentration of sediment and pollutants, changes in species composition, solubilization of iron and manganese and their absorbed or chelated ions, and hydrogen sulfide in hypolimnetic (water at low level outlets) releases (Yeager, 1995; Erkan, 2002; ASMFC, 2009).

Many dams spill water over the top of the structure where water temperatures are the warmest, essentially creating a series of warm water ponds in place of the natural stream channel (Erkan, 2002). Conversely, water released from deep reservoirs may be poorly oxygenated, at below-normal seasonal water temperature, or both, thereby causing loss of suitable spawning or nursery habitat in otherwise habitable areas (ASMFC, 2009).

Reducing minimum flows can reduce the amount of water available and cause increased water temperature or reduced dissolved oxygen levels (ASMFC, 1985; ASMFC, 1999; USFWS *et al.,* 2001). Such conditions have occurred along the Susquehanna River at the Conowingo Dam, Maryland, from late spring through early fall, and have historically caused large fish kills below the dam (Krauthamer and Richkus, 1987; ASMFC, 2009).

Disruption of seasonal flow rates in rivers can impact upstream and downstream migration patterns for adult and juvenile alosines (ASMFC, 1985; Limburg, 1996; ASMFC, 1999; USFWS *et al.,* 2001). Changes to natural flows can also disrupt natural productivity and availability of zooplankton that larval and early juvenile alosines feed on (Crecco and Savoy, 1987; Limburg, 1996; ASMFC, 2009).

Although most dams that impact diadromous fish are located along the lengths of rivers, fish can also be affected by hydroelectric projects at the mouths of rivers, such as the large tidal hydroelectric project at the Annapolis River in the Bay of Fundy, Canada. This particular basin and other surrounding waters are used as foraging areas during summer months by American shad from all runs along the East Coast of the United States (Dadswell *et al.,* 1983). Because the facilities are tidal hydroelectric projects, fish may move in and out of the impacted areas with each tidal cycle. While turbine mortality is relatively low with each passage, the repeated passage in and out of these facilities may cumulatively result in substantial overall mortalities (Scarratt and Dadswell, 1983; ASMFC, 2009).

Additional man-made structures that may obstruct upstream passage include: tidal and amenity barrages (barriers constructed to alter tidal flow for aesthetic purposes or to harness energy); tidal flaps (used to control tidal flow); mill, gauging, amenity, navigation, diversion, and water intake weirs; fish counting structures; and earthen berms (Durkas, 1992; Solomon and Beach, 2004). The impact of these structures is site-specific and will vary with a number of conditions including head drop, form of the structure, hydrodynamic conditions upstream and downstream, condition of the structure, and presence of edge effects (Solomon and Beach, 2004). Road culverts are also a significant source of blockage. Culverts are popular, low-cost alternatives to bridges when roads must cross small streams and creeks. Although the amount of habitat affected by an individual culvert may be small, the cumulative impact of multiple culverts within a watershed can be substantial (Collier and Odom, 1989; ASMFC, 2009).

Roads and culverts can also impose significant changes in water quality.

Winter runoff in some states may include high concentrations of road salt, while stormwater flows in the summer may cause thermal stress and bring high concentrations of other pollutants (MEOEA, 2005; ASMFC, 2009).

Sampled sites in North Carolina revealed river herring upstream and downstream of bridge crossings, but no herring were found in upstream sections of streams with culverts. Additional study is underway to determine if river herring are absent from these areas because of the culverts (NCDENR, 2000). Even structures only 8 to 12 in (20 to 30 cm) above the water can block shad and river herring migration (ASMFC, 1999; ASMFC, 2009).

Rivers can also be blocked by non-anthropogenic barriers, such as beaver dams, waterfalls, log piles, and vegetative debris. These blockages may hinder migration, but they can also benefit by providing adhesion sites for eggs, protective cover, and feeding sites (Klauda *et al.,* 1991b). Successful passage at these natural barriers often depends on individual stream flow characteristics during the fish migration season (ASMFC, 2009).

Dredging

Wetlands provide migratory corridors and spawning habitat for river herring. The combination of incremental losses of wetland habitat, changes in hydrology, and nutrient and chemical inputs over time, can be extremely harmful, resulting in diseases and declines in the abundance and quality. Wetland loss is a cumulative impact that results from activities related to dredging/dredge spoil placement, port development, marinas, solid waste disposal, ocean disposal, and marine mining. In the late 1970s and early 1980s, the United States was losing wetlands at an estimated rate of 300,000 acres (1,214 sq km) per year. The Clean Water Act and state wetland protection programs helped decrease wetland losses to 117,000 acres (473 sq km) per year, between 1985 and 1995. Estimates of wetlands loss vary according to the different agencies. The U.S. Department of Agriculture (USDA) attributes 57 percent of wetland loss to development, 20 percent to agriculture, 13 percent to the creation of deepwater habitat, and 10 percent to forest land, rangeland, and other uses. Of the wetlands lost between 1985 and 1995, the USFWS estimates that 79 percent of wetlands were lost to upland agriculture. Urban development and other types of land use activities were responsible for 6 percent and 15 percent of wetland loss, respectively.

Amendment 2 identifies channelization and dredging as a threat to river herring habitat. The following section, taken from Amendment 2, describes these threats.

Channelization can cause significant environmental impacts (Simpson *et al.,* 1982; Brookes, 1988), including bank erosion, elevated water velocity, reduced habitat diversity, increased drainage, and poor water quality (Hubbard, 1993). Dredging and disposal of spoils along the shoreline can also create spoil banks, which block access to sloughs, pools, adjacent vegetated areas, and backwater swamps (Frankensteen, 1976). Dredging may also release contaminants, resulting in bioaccumulation, direct toxicity to aquatic organisms, or reduced dissolved oxygen levels (Morton, 1977). Furthermore, careless land use practices may lead to erosion, which can lead to high concentrations of suspended solids (turbidity) and substrate (siltation) in the water following normal and intense rainfall events. This can displace larvae and juveniles to less desirable areas downstream and cause osmotic stress (Klauda *et al.,* 1991b; ASMFC, 2009).

Spoil banks are often unsuitable habitat for fishes. Suitable habitat is often lost when dredge disposal material is placed on natural sand bars and/or point bars. The spoil is too unstable to provide good habitat for the food chain. Draining and filling, or both, of wetlands adjacent to rivers and creeks in which alosines spawn has eliminated spawning areas in North Carolina (NCDENR, 2000; ASMFC, 2009).

Secondary impacts from channel formation include loss of vegetation and debris, which can reduce habitat for invertebrates and result in reduced quantity and diversity of prey for juveniles (Frankensteen, 1976). Additionally, stream channelization often leads to altered substrate in the riverbed and increased sedimentation (Hubbard, 1993), which in turn can reduce the diversity, density, and species richness of aquatic insects (Chutter, 1969; Gammon, 1970; Taylor, 1977). Suspended sediments can reduce feeding success in larval or juvenile fishes that rely on visual cues for plankton feeding (Kortschal *et al.,* 1991). Sediment re-suspension from dredging can also deplete dissolved oxygen, and increase bioavailability of any contaminants that may be bound to the sediments (Clark and Wilber, 2000; ASMFC, 2009).

Migrating adult river herring avoid channelized areas with increased water velocities. Several channelized creeks in the Neuse River basin in North Carolina have reduced river herring distribution and spawning areas (Hawkins, 1979). Frankensteen (1976) found that the channelization of Grindle Creek, North Carolina removed in-creek vegetation and woody debris, which had served as substrate for fertilized eggs (ASMFC, 2009).

Channelization can also reduce the amount of pool and riffle habitat (Hubbard, 1993), which is an important food-producing area for larvae (Keller, 1978; Wesche, 1985; ASMFC, 2009).

Dredging can negatively affect alosine populations by producing suspended sediments (Reine *et al.,* 1998), and migrating alosines are known to avoid waters of high sediment load (ASMFC, 1985; Reine *et al.,* 1998). Fish may also avoid areas that are being dredged because of suspended sediment in the water column. Filter-feeding fishes, such as alosines, can be negatively impacted by suspended sediments on gill tissues (Cronin *et al.,* 1970). Suspended sediments can clog gills that provide oxygen, resulting in lethal and sub-lethal effects to fish (Sherk *et al.,* 1974 and 1975; ASMFC, 2009).

Nursery areas along the shorelines of the rivers in North Carolina have been affected by dredging and filling, as well as by erection of bulkheads; however, the degree of impact has not been measured. In some areas, juvenile alosines were unable to enter channelized sections of a stream due to high water velocities caused by dredging (ASMFC, 2000 and 2009).

Water Quality

Nutrient enrichment has become a major cumulative problem for many coastal waters. Nutrient loading results from the individual activities of coastal development, marinas and recreational boating, sewage treatment and disposal, industrial wastewater and solid waste disposal, ocean disposal, agriculture, and aquaculture. Excess nutrients from land based activities accumulate in the soil, pollute the atmosphere, pollute ground water, or move into streams and coastal waters. Nutrient inputs are known to have a direct effect on water quality. For example, nutrient enrichment can stimulate growth of phytoplankton that consumes oxygen when they decay, which can lead to low dissolved oxygen that may result in fish kills (Correll, 1987; Tuttle *et al.,* 1987; Klauda *et al.,* 1991b); this condition is known as eutrophication.

In addition to the direct cumulative effects incurred by development activities, inshore and coastal habitats are also threatened by persistent increases in certain chemical discharges. The combination of incremental losses of wetland habitat, changes in hydrology, and nutrient and chemical inputs produced over time can

be extremely harmful to marine and estuarine biota, including river herring, resulting in diseases and declines in the abundance and quality of the affected resources.

Amendment 2 identified land use changes including agriculture, logging/forestry, urbanization and non-point source pollution as threats to river herring habitat. The following section, taken from Amendment 2, describes these threats.

The effects of land use and land cover on water quality, stream morphology, and flow regimes are numerous, and may be the most important factors determining quantity and quality of aquatic habitats (Boger, 2002). Studies have shown that land use influences dissolved oxygen (Limburg and Schmidt, 1990), sediments and turbidity (Comeleo *et al.,* 1996; Basnyat *et al.,* 1999), water temperature (Hartman *et al.,* 1996; Mitchell, 1999), pH (Osborne and Wiley, 1988; Schofield, 1992), nutrients (Peterjohn and Correll, 1984; Osborne and Wiley, 1988; Basnyat *et al.,* 1999), and flow regime (Johnston *et al.,* 1990; Webster *et al.,* 1992; ASMFC, 2009).

Siltation, caused by erosion due to land use practices, can kill submerged aquatic vegetation (SAV). SAV can be adversely affected by suspended sediment concentrations of less than 15 ppm (15 mg/L) (Funderburk *et al.,* 1991) and by deposition of excessive sediments (Valdes-Murtha and Price, 1998). SAV is important because it improves water quality (Carter *et al.,* 1991). SAV consumes nutrients in the water and as the plants die and decay, they slowly release the nutrients back into the water column. Additionally, through primary production and respiration, SAV affects the dissolved oxygen and carbon dioxide concentrations, alkalinity, and pH of the waterbody. SAV beds also bind sediments to the bottom resulting in increased water clarity, and they provide refuge habitat for migratory fish and planktonic prey items (Maldeis, 1978; Monk, 1988; Killgore *et al.,* 1989; ASMFC, 2009).

Decreased water quality from sedimentation became a problem with the advent of land-clearing agriculture in the late 18th century (McBride, 2006). Agricultural practices can lead to sedimentation in streams, riparian vegetation loss, influx of nutrients (e.g., inorganic fertilizers and animal wastes), and flow modification (Fajen and Layzer, 1993). Agriculture, silviculture, and other land use practices can lead to sedimentation, which reduces the ability of semi-buoyant eggs and adhesive eggs to adhere to substrates (Mansueti, 1962; ASMFC, 2009).

From the 1950s to the present, increased nutrient loading has made hypoxic conditions more prevalent (Officer *et al.,* 1984; Mackiernan, 1987; Jordan *et al.,* 1992; Kemp *et al.,* 1992; Cooper and Brush, 1993; Secor and Gunderson, 1998). Hypoxia is most likely caused by eutrophication, due mostly to non-point source pollution (e.g., industrial fertilizers used in agriculture) and point source pollution (e.g., urban sewage).

Logging activities can modify hydrologic balances and in-stream flow patterns, create obstructions, modify temperature regimes, and add nutrients, sediments, and toxic substances into river systems. Loss of riparian vegetation can result in fewer refuge areas for fish from fallen trees, fewer insects for fish to feed on, and reduced shade along the river, which can lead to increased water temperatures and reduced dissolved oxygen (EDF, 2003). Threats from deforestation of swamp forests include: siltation from increased erosion and runoff; decreased dissolved oxygen (Lockaby *et al.,* 1997); and disturbance of food-web relationships in adjacent and downstream waterways (Batzer *et al.,* 2005; ASMFC, 2009).

Urbanization can cause elevated concentrations of nutrients, organics, or sediment metals in streams (Wilber and Hunter, 1977; Kelly and Hite, 1984; Lenat and Crawford, 1994). More research is needed on how urbanization affects diadromous fish populations; however, Limburg and Schmidt (1990) found that when the percent of urbanized land increased to about 10 percent of the watershed, the number of alewife eggs and larvae decreased significantly in tributaries of the Hudson River, New York (ASMFC, 2009).

Water Withdrawal/Outfall

Water withdrawal facilities and toxic and thermal discharges have also been identified as impacting river herring, and the following section is summarized from Amendment 2.

Large volume water withdrawals (e.g., drinking water, pumped-storage hydroelectric projects, irrigation, and snow-making) can alter local current characteristics (e.g., reverse river flow), which can result in delayed movement past a facility or entrainment in water intakes (Layzer and O'Leary, 1978). Planktonic eggs and larvae entrained at water withdrawal projects experience high mortality rates due to pressure changes, shear and mechanical stresses, and heat shock (Carlson and McCann, 1969; Marcy, 1973; Morgan *et al.,* 1976). While juvenile mortality rates are generally low at well-screened facilities, large numbers of juveniles can be entrained (Hauck and Edson, 1976; Robbins and Mathur, 1976; ASMFC, 2009).

Fish impinged against water filtration screens can die from asphyxiation, exhaustion, removal from the water for prolonged periods of time, removal of protective mucous, and descaling (DBC, 1980). Studies conducted along the Connecticut River found that larvae and early juveniles of alewife, blueback herring, and American shad suffered 100-percent mortality when temperatures in the cooling system of a power plant were elevated above 82 °F (28°C); 80 percent of the total mortality was caused by mechanical damage, 20 percent by heat shock (Marcy, 1976). Ninety-five percent of the fish near the intake were not captured by the screen, and Marcy (1976) concluded that it did not seem possible to screen fish larvae effectively (ASMFC, 2009).

The physical characteristics of streams (e.g., stream width, depth, and current velocity; substrate; and temperature) can be altered by water withdrawals (Zale *et al.,* 1993). River herring can experience thermal stress, direct mortality, or indirect mortality when water is not released during times of low river flows and water temperatures are higher than normal. Water flow disruption can also result in less freshwater input to estuaries (Rulifson, 1994), which are important nursery areas for river herring and other anadromous species (ASMFC, 2009).

Industrial discharges may contain toxic chemicals, such as heavy metals and various organic chemicals (e.g., insecticides, solvents, herbicides) that are harmful to aquatic life (ASMFC, 1999). Many contaminants can have harmful effects on fish, including reproductive impairment (Safe, 1990; Mac and Edsall, 1991; Longwell *et al.,* 1992). Chemicals and heavy metals can move through the food chain, producing sub-lethal effects such as behavioral and reproductive abnormalities (Matthews *et al.,* 1980). In fish, exposure to polychlorinated biphenyls (PCBs) can cause fin erosion, epidermal lesions, blood anemia, altered immune response, and egg mortality (Post, 1987; Kennish *et al.,* 1992). Steam power plants that use chlorine to prevent bacterial, fungal, and algal growth present a hazard to all aquatic life in the receiving stream, even at low concentrations (Miller *et al.,* 1982; ASMFC, 2009).

Pulp mill effluent and other oxygen-consuming wastes discharged into rivers and streams can reduce dissolved oxygen concentrations below what is

required for river herring survival. Low dissolved oxygen resulting from industrial pollution and sewage discharge can also delay or prevent upstream and downstream migrations. Everett (1983) found that during times of low water flow when pulp mill effluent comprised a large percentage of the flow, river herring avoided the effluent. Pollution may be diluted in the fall when water flows increase, but fish that reach the polluted waters downriver before the water has flushed the area will typically succumb to suffocation (Miller *et al.,* 1982; ASMFC, 2009).

Effluent may also pose a greater threat during times of drought. Such conditions were suspected of interfering with the herring migration along the Chowan River, North Carolina, in 1981. In the years before 1981, the effluent from the pulp mill had passed prior to the river herring run, but drought conditions caused the effluent to remain in the system longer that year. Toxic effects were indicated, and researchers suggested that growth and reproduction might have been disrupted as a result of eutrophication and other factors (Winslow *et al.,* 1983; ASMFC, 2009).

Klauda *et al.* (1991a) provides an extensive review of temperature thresholds for alewife and bluback herring. In summary, the spawning migration for alewives most often occurs when water temperatures range from 50–64 °F (10–18 °C), and for bluebacks when temperatures range from 57–77 °F (14–25 °C). Alewife egg deposition most often occurs when temperatures range between 50–72 °F (10 and 22 °C), and for bluebacks when temperatures range between 70–77 °F (21 and 25 °C). Alewife egg and larval development is optimal when temperatures range from 63—70 °F (17–21 °C), and for bluebacks when temperatures range from 68–75 °F (20–24 °C) (temperature ranges were also presented and discussed at the Climate Workshop (NMFS, 2012b)). Thermal effluent from power plants outside these temperature ranges when river herring are present can disrupt schooling behavior, cause disorientation, and may result in death. Sewage can directly and indirectly affect anadromous fish. Major phytoplankton and algal blooms that reduced light penetration (Dixon, 1996) and ultimately reduced SAV abundance (Orth *et al.,* 1991) in tidal freshwater areas of the Chesapeake Bay in the 1960s and early 1970s may have been caused by ineffective sewage treatment (ASMFC, 2009).

Water withdrawal for irrigation can cause dewatering or reduced streamflow of freshwater streams, which can decrease the quantity of both spawning and nursery habitat for anadromous fish. Reduced streamflow can reduce water quality by concentrating pollutants and/or increasing water temperature (ASMFC, 1985). O'Connell and Angermeier (1999) found that in some Virginia streams, there was an inverse relationship between the proportion of a stream's watershed that was agriculturally developed and the overall tendency of the stream to support river herring runs. In North Carolina, cropland alteration along several creeks and rivers significantly reduced river herring distribution and spawning areas in the Neuse River basin (Hawkins, 1979; ASMFC, 2009).

Atmospheric deposition occurs when pollutants (e.g. nitrates, sulfates, ammonium, and mercury) are transferred from the air to the earth's surface. Pollutants can get from the air into the water through rain and snow, falling particles, and absorption of the gas form of the pollutants into the water. Atmospheric pollutants can result in increased eutrophication (Paerl *et al.,* 1999) and acidification of surface waters (Haines, 1981). Atmospheric nitrogen deposition in coastal estuaries can lead to accelerated algal production (or eutrophication) and water quality declines (e.g., hypoxia, toxicity, and fish kills) (Paerl *et al.,* 1999). Nitrate and sulfate deposition is acidic and can reduce stream pH (measure of the hydronium ion concentration) and elevate toxic forms of aluminum (Haines, 1981). When pH declines, the normal ionic salt balance of the fish is compromised and fish lose body salts to the surrounding water (Southerland *et al.,* 1997). Sensitive fish species can experience acute mortality, reduced growth, skeletal deformities, and reproductive failure (Haines, 1981).

Climate Change and Climate Variability

Possible climate change impacts to river herring were noted in the stock assessment (ASMFC, 2012) based on regional patterns in trends (e.g., trawl surveys in southern regions showed declining trends more frequently compared to those in northern regions). However, additional information was needed on this topic to inform our listing decision, and as noted above, we held a workshop to obtain expert opinion on the potential impacts of climate change on river herring (NMFS, 2012b).

As discussed at the workshop, both natural climate variability and anthropogenic-forced climate change will affect river herring (NMFS, 2012b). Natural climate variability includes the Atlantic Multidecadal Oscillation, the North Atlantic Oscillation, and the El Niño Southern Oscillation. During the workshop, it was noted that impacts from global climate change induced by human activities are likely to become more apparent in future years (Intergovernmental Panel on Climate Change (IPCC), 2007). Results presented from the North American Regional Climate Change Assessment Program (NARCCAP—a group that uses fields from the global climate models to provide boundary conditions for regional atmospheric models covering most of North America and extending over the adjacent oceans) suggest that temperature will warm throughout the years over the northeast, mid-Atlantic and Southeast United States (comparing 1968–1999 to 2038–2069; NMFS, 2012b). Additionally, it was noted that there is an expected but less certain increase in precipitation over the northeast United States during fall and winter during the same years (NMFS, 2012b). In conjunction with increased evaporation from warmer temperatures, the Northeast and mid-Atlantic may experience decrease in runoff and decreased stream flow in late winter and early spring (NMFS, 2012b). Additionally, enhanced ocean stratification could be caused by greater warming at the ocean surface than at depth (NMFS, 2012b).

Many observed changes in river herring biology related to environmental conditions were noted at the workshop, but few detailed analyses were available to distinguish climate change from climate variability. One analysis by Massachusetts Division of Marine Fisheries showed precipitation effects on spawning run recruitment at Monument River, MA (1980–2012; NMFS, 2012b). Jordaan and Kritzer (unpublished data) showed normalized run counts of alewife and blueback herring have a stronger correlation with fisheries and predators than various climate variables at broad scales (NMFS, 2012b). Once fine-scale (flow related to fishways and dams) data were used, results indicate that summer and fall conditions were more important. Nye *et al.* (2012) investigated climate-related mechanisms in the marine habitat of the United States that may impact river herring. Their preliminary results indicate the following: (1) A shift in northern ocean distribution for both blueback herring and alewife depending on the season; (2) decrease in ocean habitat within the preferred temperature for alewife and blueback herring in the spring; and (3) effects of climate change on river herring populations may depend on the current condition (e.g.,

abundance and health) of the population, assumptions, and temperature tolerances (e.g., blueback herring have a higher temperature tolerance than alewife).

Although preliminary, Nye *et al.* (2012) indicate that climate change will impact river herring. The results (also supported by Nye *et al.,* 2009) indicate that both blueback herring and alewife have and will continue to shift their distribution to more northerly waters in the spring, and blueback herring has also shifted its distribution to more northerly waters in the fall (1975–2010) (Nye *et al.,* 2012). Additionally, Nye *et al.* (2012) found a decrease in habitat (bottom waters) within the preferred temperature for alewife and blueback herring in the spring under future climate predictions (2020–2060 and 2060–2100). They concluded that an expected decrease in optimal marine habitat and natal spawning habitat will negatively affect river herring populations at the southern extent of their range. Additionally, Nye *et al.* (2012) infer that this will have negative population level effects and cause population declines in southern rivers, resulting in an observed shift in distribution which has already been observed. Nye *et al.* (2012) also found that the effects of climate change on river herring populations may depend on the current condition (e.g., abundance and health) of the population, assumptions, and temperature tolerances. Using the model, projections of alewife distribution and abundance can be predicted for each year, but for ease of interpretation, 2 years of low and high relative abundance were chosen to illustrate the effects of population abundance and temperature on alewife distribution. The low and high abundance years were objectively chosen as the years closest to −1 and +1 standard deviation from overall mean abundance. Two years closest to the −1 and +1 standard deviation from mean population abundance were selected to reflect the combined effect of warming with low and high abundance of blueback herring. The difference in species response (as noted below) may reflect the different temperature tolerances (9–11 °C for blueback herring and 4–11 °C for alewife) as indicated by the southern limit of their ranges. Blueback herring may be able to tolerate higher temperature as their range extends as far south as Florida, but the southern extent of the alewife's range is limited to North Carolina. For both species, the Nye *et al.* (2012) analysis indicates that, if robust populations of these species are maintained, declines due to the effects of climate change will be reduced. Their specific results include the following:

- Alewife: At low population size, coast-wide abundance is projected to decrease with less suitable habitat and patchy areas of high density in the Gulf of Maine and Georges Bank in 2060–2100. At high population size, abundance is projected to increase slightly from 2020–2060 (+4.64 percent) but is projected to decrease (−39.14 percent) and become more patchy in 2060–2100.
- Blueback herring: Abundance is projected to increase at both high and low population size throughout the Northeast United States, especially in the mid-Atlantic and Georges Bank. However, at low abundance the increase is minimal and remains at a level below the 40-year mean. The percentage change due to climate change (factoring only temperature) is +29.93 percent for the time period 2020–2060 and +55.81 percent from 2060–2100.

We hoped to obtain information during the workshop on potential impacts of climate change by region, including information on species, life stage, indicators, potential impacts, and available data/relevant references (NMFS, 2012b). Although we did obtain information on each of these categories, substantial data gaps in the species information were apparent (NMFS, 2012b). For example, although no specific information on impacts of ocean acidification on river herring was presented, possible effects on larval development, chemical signaling (olfaction), and de-calcification of prey were noted (NMFS, 2012b). Additional research is needed to identify the limiting factor(s) for river herring populations. As Nye *et al.* (2012) noted, the links between climate and river herring biology during freshwater stages are unclear and will require additional time to research and thoroughly analyze. This conclusion is supported by the results of the workshop, which noted numerous potential climate effects on the freshwater stages, but little synthesis has been accomplished to date. The preliminary analysis of Nye *et al.* (2012) indicates that water temperatures in the rivers will be warmer, and there will be a decrease in the river flow in the northeast and Mid-Atlantic in late winter/early spring.

Although current information indicates climate change is and will continue to impact river herring (e.g., Nye *et al.,* 2012), climate variability rather than climate change is expected to have more of an impact on river herring from 2024–2030. Several studies have shown that the climate change signal is readily apparent by the end of the 21st century (Hare *et al.,* 2010; Hare *et al.,* 2012). At intermediate time periods (e.g., 2024–2030), the signal of natural climate variability is likely similar to the signal of climate change. Thus, a large component of the climate effect on river herring in 2024–2030 will be composed of natural climate variability, which could be either warming or cooling.

Summary and Evaluation of Factor A

Dams and hydropower facilities, water quality and water withdrawals from urbanization and agricultural runoff, dredging and other wetland alterations are likely the causes of historical and recent declines in abundance of alewife and blueback herring populations. Climate variability rather than climate change is expected to have more of an impact on river herring from 2024–2030 (NMFS' foreseeable future for river herring). Nye *et al.,* (2012) conducted a preliminary analysis investigating climate-related mechanisms in the marine habitat of the United States that may impact river herring, and found that changes in the amount of preferred habitat and a potential northward shift in distribution as a result of climate change may affect river herring in the future (e.g., 2020–2100). Thus, the level of threat posed by these potential stressors is evaluated further in the qualitative threats assessment as described below.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Directed Commercial Harvest

This following section on river herring fisheries in the United States is from the stock assessment (ASMFC, 2012).

Fisheries for anadromous species have existed in the United States for a very long time. They not only provided sustenance for early settlers but a source of income as the fisheries were commercialized. It is difficult to fully describe the characteristics of these early fisheries because of the lack of quantifiable data.

The earliest commercial river herring data were generally reported in state and town reports or local newspapers. In 1871, the U.S. Fish Commission was founded (later became known as the U.S. Fish and Fisheries Commission in 1881). This organization collected fisheries statistics to characterize the biological and economic aspects of commercial fisheries. Data describing historical river herring fisheries were

available from two of this organization's publications—the Bulletin of the U.S. Fish Commission (renamed Fishery Bulletin in 1971; Collins and Smith, 1890; Smith, 1891) and the U.S. Fish Commission Annual Report (USFC, 1888–1940). In the stock assessment, the river herring data were transcribed and when available, dollar values were converted to 2010 dollar values using conversion factors based on the annual average consumer price index (CPI) values, which were obtained from the U.S. Bureau of Labor Statistics. Note that CPI values are not available for years prior to 1913 so conversion factors could not be calculated for years earlier than 1913 (ASMFC, 2012).

There are several caveats to using the historical fisheries data. There is an apparent bias in the area sampled. In most cases, there was no systematic sampling of all fisheries; instead, sampling appeared to be opportunistic, concentrating on the mid-Atlantic States. It is also difficult to assess the accuracy and precision of these data. In some instances, the pounds were reported at a fine level of detail (e.g., at the state/county/gear level), but details regarding the specific source of the data were often not described. The level of detail provided in the reports varied among states and years. Additionally, not all states and fisheries were canvassed in all years, so absence of landings data does not necessarily indicate the fishery was not active as it is possible that the data just were not collected. For these reasons, these historical river herring landings should not be considered even minimum values because of the variation in detail and coverage over the time series. No attempt was made to estimate missing river herring data since no benchmark or data characteristics could be found, and the stock assessment subcommittee also did not attempt to estimate missing data in a time series at a particular location because of the bias associated with these estimates (ASMFC, 2012).

During 1880 to 1938, reported commercial landings of river herring along the Atlantic Coast averaged approximately 30.5 million lbs (13,835 mt) per year. The majority of river herring landed by commercial fisheries in these early years are attributed to the mid-Atlantic region (NY–VA). The dominance of the mid-Atlantic region is, in part, due to the apparent bias in the spatial coverage of the canvass (see above). From 1920 to 1938, the average annual weight of reported commercial river herring landings was about 22.8 million lbs (10,351 mt). The value of the commercial river herring landings during this same time period was approximately 2.87 million dollars (2010 USD) (ASMFC, 2012).

Domestic commercial landings of river herring were presented in the stock assessment by state and by gear from 1887 to 2010 where available. Landings of alewife and blueback herring were collectively classified as ''river herring'' by most states. Only a few states had species-specific information recorded for a limited range of years. Commercial landings records were available for each state since 1887 except for Florida and the Potomac River Fisheries Commission (PRFC), which began recording landings in 1929 and 1960, respectively. It is important to note that historical landings presented in the stock assessment do not include all landings for all states over the entire time period and are likely underestimated, particularly for the first third of the time series, since not all river landings were reported (ASMFC, 2012).

Total domestic coast-wide landings averaged 18.5 million lb (8,399 mt) from 1887 to 1928 (*See table 2.2* in ASMFC (2012)). During this early time period, landings were predominately from Maryland, North Carolina, Virginia, and Massachusetts (overall harvest is likely underestimated because landings were not recorded consistently during this time). Virginia made up approximately half of the commercial landings from 1929 until the 1970s, and the majority of Virginia's landings came from the Chesapeake Bay, Potomac River, York River, and offshore harvest. Coast-wide landings started increasing sharply in the early 1940s and peaked at over 68.7 million lb (31,160 mt) in 1958 (*See Table 2.2,* ASMFC, 2012). In the 1950s and 1960s, a large proportion of the harvest came from Massachusetts purse seine fisheries that operated offshore on Georges Bank targeting Atlantic herring (G. Nelson, Massachusetts Division of Marine Fisheries, Pers. comm., 2012). Landings from North Carolina were also at their highest during this time and originated primarily from the Chowan River pound net fishery. Severe declines in landings began coast-wide in the early 1970s and domestic landings are now a fraction of what they were at their peak, having remained at persistently low levels since the mid-1990s. Moratoria were enacted in Massachusetts (commercial and recreational in 2005), Rhode Island (commercial and recreational in 2006), Connecticut (commercial and recreational in 2002), Virginia (for waters flowing into North Carolina in 2007), and North Carolina (commercial and recreational in 2007). As of January 1, 2012, river herring fisheries in states or jurisdictions without an approved sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP, were closed. As a result, prohibitions on harvest (commercial or recreational) were extended to the following states: New Jersey, Delaware, Pennsylvania, Maryland, DC, Virginia (for all waters), Georgia and Florida (ASMFC, 2012).

Pound nets were identified as the dominant gear type used to harvest river herring from 1887 through 2010. Seines were more prevalent prior to the 1960s, but by the 1980s, they were rarely used. Purse seines were used only for herring landed in Massachusetts, but made up a large proportion of the landings in the 1950s and 1960s. Historically, gill nets made up a small percentage of the overall harvest. However, even though the actual pounds landed continued to decline, the proportion of gill nets that contributed to the overall harvest has increased in recent years (ASMFC, 2012).

Foreign fleet landings of river herring (reported as alewife and blueback shad) are available through the Northwest Atlantic Fisheries Organization (NAFO). Offshore exploitation of river herring and shad (generally <7.5 in (190 mm) in length) by foreign fleets began in the late 1960s and landings peaked at about 80 million lbs (36,320 mt) in 1969 (ASMFC, 2012).

Total U.S. and foreign fleet harvest of river herring from the waters off the coast of the United States (NAFO areas 5 and 6) peaked at about 140 million lb (63,560 mt) in 1969, after which landings declined dramatically. After 1977 and the formation of the Fishery Conservation Zone, foreign allocation of river herring (to both foreign vessels and joint venture vessels) between 1977 and 1980 was 1.1 million lb (499 mt). The foreign allocation was reduced to 220,000 lb (100 mt) in 1981 because of the condition of the river herring resource. In 1985, a bycatch cap of no more than 0.25 percent of total catch was enacted for the foreign fishery. The cap was exceeded once in 1987, and this shut down the foreign mackerel fishery. In 1991, area restrictions were passed to exclude foreign vessels from within 20 miles (32.2 km) of shore for two reasons: 1) In response to the increased occurrence of river herring bycatch closer to shore and 2) to promote increased fishing opportunities for the domestic mackerel fleet (ASMFC, 2012).

In-river Exploitation

The stock assessment subcommittee calculated in-river exploitation rates of the spawning runs for five rivers (Damariscotta River (ME—alewife),

Union River (ME—alewife), Monument River (MA—both species combined), Mattapoisett River (MA—alewife), and Nemasket River (MA—alewife)) by dividing in-river harvest by total run size (escapement plus harvest) for a given year. Exploitation rates were highest (range: 0.53 to 0.98) in the Damariscotta River and Union River prior to 1985, while exploitation was lowest (range: 0.26 to 0.68) in the Monument River. Exploitation declined in all rivers through 1991 to 1992. Exploitation rates of both species in the Monument River and of alewives in the Mattapoisett River and Nemasket River were variable (average = 0.16) and, except for the Nemasket River, declined generally through 2005 until the Massachusetts moratorium was imposed. Exploitation rates of alewives in the Damariscotta River were low (<0.05) during 1993 to 2000, but they increased steadily through 2004 and remained greater than 0.34 through 2008. Exploitation in the Damariscotta dropped to 0.15 in 2009 to 2010. Exploitation rates of alewives in the Union River declined through 2005 but have remained above 0.50 since 2007 (ASMFC, 2012).

According to the stock assessment, exploitation of river herring appears to be declining or remaining stable. In-river exploitation was highest in Maine rivers (Damariscotta and Union) and has fluctuated, but it is currently lower than levels seen in the 1980s. Also, in-river exploitation in Massachusetts rivers (Monument and Mattapoisett) was declining at the time a moratorium was imposed in 2005. The coast-wide index of relative exploitation also declined following a peak in the late 1980s and has remained fairly stable over the past decade. Exploitation rates declined in the DB–SRA model runs except when the input biomass-to-*K* ratio in 2010 was 0.01. Exploitation rates estimated from the statistical catch-at-age model for blueback herring in the Chowan River (see the NC state report in the stock assessment) also showed a slight declining trend from 1999 to 2007, at which time a moratorium was instituted. There appears to be a consensus among various assessment methodologies that exploitation has decreased in recent times. The stock assessment indicates that the decline in exploitation over the past decade is not surprising because river herring populations are at low levels and more restrictive regulations or moratoria have been enacted by states (ASMFC, 2012).

Past high exploitation may also be a reason for the high amount of variation and inconsistent patterns observed in fisheries-independent indices of abundance. Fishing effort has been shown to increase variation in fish abundance through truncation of the age structure, and recruitment becomes primarily governed by environmental variation (Hsieh *et al.,* 2006; Anderson *et al.,* 2008). When fish species are at very low abundances, as is believed for river herring, it is possible that the only population regulatory processes operating are stochastic fluctuations in the environment (Shepherd and Cushing, 1990) (ASMFC, 2012).

Canadian Harvest

Fisheries in Canada for river herring are regulated through limited seasons, gears, and licenses. Licenses may cover different gear types; however, few new licenses have been issued since 1993 (DFO, 2001). River-specific management plans include closures and restrictions. River herring used locally for bait in other fisheries are not accounted for in river-specific management plans (DFO, 2001). DFO estimated river herring landings at just under 25.5 million lb (11,577 mt) in 1980, 23.1 million lb (10,487 mt) in 1988, and 11 million lb (4,994 mt) in 1996 (DFO, 2001). The largest river herring fisheries in Canadian waters occur in the Bay of Fundy, southern Gulf of Maine, New Brunswick, and in the Saint John and Miramichi Rivers where annual harvest estimates often exceed 2.2 million lb (1,000 mt) (DFO, 2001). Recreational fisheries in Canada for river herring are limited by regulations including area, gear and season closures with limits on the number of fish that can be harvested per day; however, information on recreational catch is limited. Licenses and reporting are not required by Canadian regulations for recreational fisheries, and harvest is not well documented.

Incidental Catch

The following section on river herring incidental catch in the United States is from the stock assessment (ASMFC, 2012).

Three recent studies estimated river herring discards and incidental catch (Cieri *et al.,* 2008; Wigley *et al.,* 2009; Lessard and Bryan, 2011). The discard and incidental catch estimates from these studies cannot be directly compared as they used different ratio estimators based on data from the Northeast Fishery Observer Program (NEFOP), as well as different raising factors to obtain total estimates. Cieri *et al.* (2008) estimated the kept (i.e., landed) portion of river herring incidental catch in the Atlantic herring fishery. Cieri *et al.* (2008) estimated an average annual landed river herring catch of approximately 71,290 lb (32.4 mt) in the Atlantic herring fishery for 2005–2007, and the corresponding coefficient of variation (CV) was 0.56. Cournane *et al.* (2010) extended this analysis with additional years of data. Further work is needed to elucidate how the landed catch of river herring in the directed Atlantic herring fishery compares to total incidental catch across all fisheries. Since this analysis only quantified kept river herring in the Atlantic herring fishery, it underestimates the total catch (kept plus discarded) of river herring across all fishing fleets. Wigley *et al.* (2009) quantified river herring discards across fishing fleets that had sufficient observer coverage from July 2007–August 2008. Wigley *et al.* (2009) estimated that approximately 105,820 lb (48 mt) were discarded during the 12 months (July 2007 to August 2008), and the estimated precision was low (149 percent CV). This analysis estimated only river herring discards (in contrast to total incidental catch), and noted that midwater trawl fleets generally retained river herring while otter trawls typically discarded river herring.

Lessard and Bryan (2011) estimated an average incidental catch of river herring and American shad of 3.3 million lb (1,498 mt)/yr from 2000–2008. The methodology used in this study differed from the Standardized Bycatch Reporting Methodology (SBRM) (the method used by NOAA's Northeast Fisheries Science Center (NEFSC) to quantify bycatch in stock assessments) (Wigley *et al.,* 2007; Wigley *et al.,* 2012). Data from NEFOP were analyzed at the haul level; however, the sampling unit for the NEFOP database is at the trip level. Within each gear and region, all data, including those from high volume fisheries, appeared to be aggregated across years from 2000 through 2008. However, substantial changes in NEFOP sampling methodology for high volume fisheries were implemented in 2005, limiting the interpretability of estimates from these fleets in prior years. Total number of tows from the fishing vessel trip report (VTR) database was used as the raising factor to estimate total incidental catch. The use of effort without standardization makes the implicit assumption that effort is constant across all tows within a gear type, potentially resulting in a biased effort metric. In contrast, the total kept weight of all species is used as the raising factor in SBRM. When quantifying incidental catch across multiple fleets, total kept weight of all species is an appropriate surrogate for effective fishing power because it is

likely that all trips will not exhibit the same attributes. Lessard and Bryan (2011) also did not provide precision estimates, which are imperative for estimation of incidental catch.

The total incidental catch of river herring was estimated as part of the work for Amendment 14 to the Atlantic Mackerel, Squid and Butterfish (MSB) Fishery Management Plan, that includes measures to address incidental catch of river herring and shads. From 2005–2010, the total annual incidental catch of alewife ranged from 41,887 lb (19.0 mt) to 1.04 million lb (472 mt) in New England and 19,620 lb (8.9 mt) to 564,818 lb (256.4 mt) in the Mid-Atlantic. The dominant gear varied across years between paired midwater trawls and bottom trawls. Corresponding estimates of precision (COV) exhibited substantial interannual variation and ranged from 0.28 to 3.12 across gears and regions. Total annual blueback herring incidental catch from 2005 to 2010 ranged from 30,643 lb (13.9 mt) to 389,111 lb (176.6 mt) in New England and 2,645 lb (1.2 mt) to 843,479 lb (382.9 mt) in the Mid-Atlantic. Across years, paired and single midwater trawls exhibited the greatest blueback herring catches, with the exception of 2010 in the mid-Atlantic where bottom trawl was the most dominant gear. Corresponding estimates of precision ranged from 0.27 to 3.65. The temporal distribution of incidental catches was summarized by quarter and fishing region for the most recent 6-year period (2005 to 2010). River herring catches occurred primarily in midwater trawls (76 percent, of which 56 percent were from paired midwater trawls and the rest from single midwater trawls), followed by small mesh bottom trawls (24 percent). Catches of river herring in gillnets were negligible. Across gear types, catches of river herring were greater in New England (56 percent) than in the Mid-Atlantic (44 percent). The percentages of midwater trawl catches of river herring were similar between New England (37 percent) and the Mid-Atlantic (38 percent). However, catches in New England small mesh bottom trawls were three times higher (18 percent) than those from the Mid-Atlantic (6 percent). Overall, the highest quarterly catches of river herring occurred in midwater trawls during Quarter 1 in the Mid-Atlantic (35 percent), followed by catches in New England during Quarter 4 (16 percent) and Quarter 3 (11 percent). Quarterly catches in small mesh bottom trawls were highest in New England during Quarter 1 (7 percent) and totaled 3 to 4 percent during each of the other three quarters.

Recreational Harvest

The Marine Recreational Fishery Statistics Survey (MRFSS) provided estimates of numbers of fish harvested and released by recreational fisheries along the Atlantic coast. The stock assessment subcommittee extracted state harvest and release estimates for alewives and blueback herring from the MRFSS catch and effort estimates files available on the web (*http://www.sefsc.noaa.gov/about/mrfss.htm*). Historically, there were few reports of river herring taken by recreational anglers for food. Most often, river herring were taken for bait. MRFSS estimates of the numbers of river herring harvested and released by anglers are very imprecise and show little trend. Thus, the stock assessment concluded that these data are not useful for management purposes. MRFSS concentrates their sampling strata in coastal water areas and does not capture any data on recreational fisheries that occur in inland waters. Few states conduct creel surveys or other consistent survey instruments (diary or log books) in their inland waters to collect data on recreational catch of river herring. Some data are reported in the state chapters in the stock assessment; but the stock assessment committee concluded that data are too sparse to conduct any systematic comparison of trends (ASMFC, 2012).

Scientific Monitoring and Educational Harvest

Maine, New Hampshire, Massachusetts and Rhode Island estimate run sizes using electronic counters or visual methods. Various counting methods are used at the Holyoke Dam fish lift and fishways on the Connecticut River. Young of year (YOY) surveys are conducted through fixed seine surveys capturing YOY alewife and blueback herring generally during the summer and fall in Maine, Rhode Island, Connecticut, New York, New Jersey, Maryland, District of Columbia, Virginia and North Carolina. Rhode Island conducts surveys for juvenile and adult river herring at large fixed seine stations. Virginia samples river herring using a multi-panel gill net survey and electroshocking surveys. Florida conducts electroshocking surveys to sample river herring. Maine, New Hampshire, Massachusetts, Rhode Island, Maryland, and North Carolina collect age data from commercial and fisheries independent sampling programs, and length-at-age data. All of these scientific monitoring efforts are believed to have minimal impacts on river herring populations.

Summary and Evaluation of Factor B

Historical commercial and recreational fisheries for river herring likely contributed to the decline in abundance of both alewife and blueback herring populations. Current directed commercial and recreational alewife and blueback herring fisheries, as well as commercial fishery incidental catch may continue to pose a threat to these species. Since the 1970s, regulations have been enacted in the United States on the directed harvest of river herring in an attempt to halt or reverse their decline with the most recent regulations being imposed in January 2012. Additionally, there are regulations in Canada on river herring harvest. Historical landings data and current fishery effort is the best available information to describe the impact that the commercial fishery may be having on river herring.

Moratoria are in place on directed catch of these species throughout most of the United States; however, they are taken as incidental catch in several fisheries. The extent to which incidental catch is affecting river herring has not been quantified and is not fully understood. Thus, the level of threat posed by directed and indirect catch is evaluated further in the qualitative threats assessment as described below. Scientific collections or collections for educational purposes do not appear to be significantly affecting the status of river herring, as they result in low mortality.

C. Disease and Predation

Disease

Little information exists on diseases that may affect river herring; however, there are reports of a variety of parasites that have been found in both alewife and blueback herring. The most comprehensive report is that of Landry *et al.* (1992) in which 13 species of parasites were identified in blueback herring and 12 species in alewives from the Miramichi River, New Brunswick, Canada. The parasites found included one monogenetic trematode, four digenetic trematodes, one cestode, three nematodes, one acanthocephalan, one annelid, one copepod and one mollusk. The same species were found in both alewife and blueback herring with the exception of the acanthocephalan, which was absent from alewives.

In other studies, Sherburne (1977) reported piscine erythrocytic necrosis (PEN) in the blood of 56 percent of prespawning and 10 percent of

postspawning alewives in Maine coastal streams. PEN was not found in juvenile alewives from the same locations. Coccidian parasites were found in the livers of alewives and other finfish off the coast of Nova Scotia (Morrison and Marryatt, 1990). Marcogliese and Compagna (1999) reported that most fish species, including alewife, in the St. Lawrence River become infected with trematode metacercariae during the first years of life. Examination of Great Lakes fishes in Canadian waters showed larval *Diplostomum* (trematode) commonly in the eyes of alewife in Lake Superior (Dechtiar and Lawrie, 1988) and Lake Ontario (Dechtiar and Christie, 1988), though intensity of infections was low (<9/host). Heavy infections of *Saprolegnia,* a fresh and brackish water fungus, were found in 25 percent of Lake Superior alewife examined, and light infections were found in 33 percent of Lake Ontario alewife (Dechtiar and Lawrie, 1988). Larval acanthocephala were also found in the guts of alewife from both lakes. *Saprolegnia* typically is a secondary infection, invading open sores and wounds, and eggs in poor environmental conditions, but under the right conditions it can become a primary pathogen. *Saprolegnia* infections usually are lethal to the host.

More recently, alewives were found positive for Cryptosporidium for the first time on record by Ziegler *et al.* (2007). Mycobacteria, which can result in ulcers, emaciation, and sometimes death, have been found in many Chesapeake Bay fish, including blueback herring (Stine *et al.,* 2010).

Predation

Information on predation of river herring was compiled and published in Volume I of the River Herring Benchmark Assessment (2012) by ASMFC. The following section on predation was compiled by Dr. Katie Drew from this assessment.

Alewife and blueback herring are an important forage fish for marine and anadromous predators, such as striped bass, spiny dogfish, bluefish, Atlantic cod, and pollock (Bowman *et al.,* 2000; Smith and Link, 2010). Historically, river herring and striped bass landings have tracked each other quite well, with highs in the 1960s, followed by declines through the 1970s and 1980s. Although populations of Atlantic cod and pollock are currently low, the populations of striped bass and spiny dogfish have increased in recent years (since the early 1980s for striped bass and since 2005 for spiny dogfish), while the landings and run counts of river herring remain at historical lows. This has led to speculation that increased predation may be contributing to the decline of river herring and American shad (Hartman, 2003; Crecco *et al.,* 2007; Heimbuch, 2008). Quantifying the impacts of predation on alewife and blueback herring is difficult. The diet of striped bass has been studied extensively, and the prevalence of alosines varies greatly depending on location, season, and predator size (Walter *et al.,* 2003). Studies from the northeast U.S. continental shelf show low rates of consumption by striped bass (alewife and blueback herring each make up less than 5 percent of striped bass diet by weight) (Smith and Link, 2010), while studies that sampled striped bass in rivers and estuaries during the spring spawning runs found much higher rates of consumption (greater than 60 percent of striped bass diet by weight in some months and size classes) (Walter and Austin, 2003; Rudershausen *et al.,* 2005). Translating these snapshots of diet composition into estimates of total removals requires additional data on both annual per capita consumption rates and estimates of annual abundance for predator species.

The diets of other predators, including other fish (e.g., bluefish, spiny dogfish), along with marine mammals (e.g., seals) and birds (e.g., double-crested cormorant), have not been quantified nearly as extensively, making it more difficult to assess the importance of river herring in the freshwater and marine food webs. As a result, some models predict a significant negative effect from predation (Hartman, 2003; Heimbuch, 2008), while other studies did not find an effect (Tuomikoski *et al.,* 2008; Dalton *et al.,* 2009).

In addition to predators native to the Atlantic coast, river herring are vulnerable to invasive species such as the blue catfish (*Ictalurus furcatus*) and the flathead catfish (*Pylodictis olivaris*). These catfish are large, opportunistic predators native to the Mississippi River drainage that were introduced into rivers on the Atlantic coast. They have been observed to consume a wide range of species, including alosines, and ecological modeling on flathead catfish suggests they may have a large impact on their prey species (Pine, 2003; Schloesser *et al.,* 2011). In August 2011, ASMFC approved a resolution calling for efforts to reduce the population size and ecological impacts of invasive species and named blue and flathead catfish specifically, as species of concern, due to their increasing abundance and potential impacts on native anadromous species. Non-native species are a particular concern because of the lack of native predators, parasites, and competitors to keep their populations in check.

Predation and multispecies models, such as the MS–VPA (NEFSC, 2006), have tremendous data needs, and more research needs to be conducted before they can be applied to river herring. However, given the potential magnitude of predatory interactions, it is an area of research worth pursuing (ASMFC, 2012).

Two papers have become available since the ASMFC (2012) stock assessment that discuss striped bass predation on river herring in Massachusetts and Connecticut estuaries and rivers, showing temporal and spatial patterns in predation (Davis *et al.,* 2012; Ferry and Mather, 2012). Davis *et al.* (2012) estimated that approximately 400,000 blueback herring are consumed annually by striped bass in the Connecticut River spring migration. In this study, striped bass were found in the rivers during the spring spawning migrations of blueback herring and had generally left the system by mid-June (Davis *et al.,* 2012). Many blueback herring in the Connecticut River are thought to be consumed prior to ascending the river on their spawning migration, and are, therefore, being removed from the system before spawning. Alternatively, Ferry and Mather (2012) discuss the results of a similar study conducted in Massachusetts watersheds with drastically different findings for striped bass predation. Striped bass were collected and stomach contents analyzed during three seasons from May through October (Ferry and Mather, 2012). The stomach contents of striped bass from the survey were examined and less than 5 percent of the clupeid category (from 12 categories identified to summarize prey) consisted of anadromous alosines (Ferry and Mather, 2012). Overall, the Ferry and Mather (2012) study observed few anadromous alosines in the striped bass stomach contents during the study period. These two recent studies echo similar contradictory findings from previous studies showing a wide variation in predation by striped bass with spatial and temporal effects; however, they exhibit no consistent trends along the coast.

Summary and Evaluation for Factor C

While data are limited, the best available information indicates that river herring are not likely affected to a large degree by diseases caused by viruses, bacteria, protozoans, metazoans, or microalgae. Much of the

information on diseases in alewife or blueback herring comes from studies on landlocked species; therefore, even if studies indicated that landlocked alewife and blueback herring were highly susceptible to diseases and suffered high mortality rates, it is not known whether anadromous river herring would be affected in the same way. While it may be possible that disease threats to river herring could increase in prevalence or magnitude under various climate change scenarios, there are currently no data available to support this supposition. We have included disease as a threat in the qualitative threats assessment described in detail below.

Alewife and blueback herring are considered to be an important forage fish for many marine and anadromous predators, and therefore, may be affected by predation, especially if some populations of predators (e.g., striped bass, spiny dogfish) continue to increase. There may also be effects from predation by invasive species such as the blue and flathead catfish. Some predation and multispecies models have estimated an effect of predation on river herring, while others have not. In general, the effect of predation on the persistence of river herring is not fully understood; however, predation may be affecting river herring populations and consequently, it is included as a threat in the qualitative threats assessment described below.

D. Inadequacy of Existing Regulatory Mechanisms

As wide-ranging anadromous species, alewife and blueback herring are subject to numerous Federal (U.S. and Canadian), state and provincial, Tribal, and inter-jurisdictional laws, regulations, and agency activities. These regulatory mechanisms are described in detail in the following section.

International

The Canadian DFO manages alewife and blueback herring fisheries that occur in the rivers of the Canadian Maritimes under the Fisheries Act (R.S.C., 1985, c. F–14). The Maritime Provinces Fishery Regulations includes requirements when fishing for or catching and retaining river herring in recreational and commercial fisheries (DFO, 2006; *http://laws-lois.justice.gc.ca*).

Commercial and recreational river herring fisheries in the Canadian Maritimes are regulated by license, fishing gear, season and/or other measures (DFO, 2001). Since 1993, DFO has issued few new licenses for river herring (DFO, 2001). River herring are harvested by various gear types (e.g., gillnet, dip nets, trap) and the regulations depend upon the river and associated location (DFO, 2001). The primary management measures are weekly closed periods and limiting the number of licenses to existing levels in all areas (DFO, 2001). Logbooks are issued to commercial fishermen in some areas as a condition of the license, and pilot programs are being considered in other areas (DFO, 2001). The management objective is to maintain harvest near long-term mean levels when no specific biological and fisheries information is available (DFO, 2001).

DFO (2001) stated that additional management measures may be required if increased effort occurs in response to stock conditions or favorable markets. There has been concern as fishery exploitation rates have been above reference levels and fewer licenses are fished than have been issued (DFO, 2001). In 2001, DFO reported that in some rivers river herring were being harvested at or above reference levels (e.g., Miramichi), while in other rivers river herring were harvested at or below the reference point (e.g., St. John River at Mactaquac Dam). DFO (2001) believes precautionary management involving no increase or decrease in exploitation is important for Maritime river herring fisheries, given that biological and harvest data are not widely available. Additionally, DFO (2001) added that river-specific management plans based on stock assessments should be prioritized over general management initiatives.

Eastern New Brunswick is currently the only area in the Canadian Maritimes with a river herring integrated fishery management plan (DFO, 2006). The DFO uses Integrated Fisheries Management Plans (IFMPs) to guide the conservation and sustainable use of marine resources (DFO, 2010). An IFMP manages a fishery in a given region by combining the best available science on the species with industry data on capacity and methods for harvesting (DFO, 2010). The 6-year management plan (2007–2012) for river herring for Eastern New Brunswick is implemented in conjunction with annual updates to specific fishery management measures (e.g., seasons). For example, it notes a management problem of gear congestion in some rivers and an approach to establish a carrying capacity of the river and find a solution to the gear limit by working with fishermen (DFO, 2006). At this time, an updated Eastern New Brunswick IFMP is not available.

Federal

ASMFC and Enabling Legislation

Authorized under the terms of the Atlantic States Marine Fisheries Compact, as amended (Pub. L. 81–721), the purpose of the ASMFC is to promote the better utilization of the fisheries (marine, shell, and anadromous) of the Atlantic seaboard ''by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause.''

Given management authority in 1993 under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101–5108), the ASMFC may issue interstate FMPs that must be administered by state agencies. If the ASMFC believes that a state is not in compliance with a coastal FMP, it must notify the Secretaries of Commerce and Interior. If the Secretaries find the state not in compliance with the management plan, the Secretaries must declare a moratorium on the fishery in question.

Atlantic Coastal Fisheries Cooperative Management Act

We manage river herring stocks under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) 16 U.S.C. 5101 *et seq.*, which states, in the absence of an approved and implemented FMP under the Magnuson-Stevens Act (MSA, 16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce may implement regulations to govern fishing in the Exclusive Economic Zone (EEZ), i.e., from 3 to 200 nautical mi (nm) offshore. The regulations must be: (1) Compatible with the effective implementation of an Interstate Fishery Management Plan for American Shad and River Herring (ISFMP) developed by the ASMFC; and (2) consistent with the national standards set forth in section 301 of the MSA.

The ASMFC adopted Amendment 2 to the ISFMP in 2009. Amendment 2 establishes the foundation for river herring management. It was developed to address concerns that many Atlantic coast populations of river herring were in decline or are at depressed but stable levels, and that the ability to accurately assess the status of river herring stocks is complicated by a lack of fishery independent data.

Amendment 2 requires states to close their waters to recreational and commercial river herring harvest, unless they have an approved sustainable management plan in place. To be approved, a state's plan must clearly

meet the Amendment's standard of a sustainable fishery defined as ''a commercial and/or recreational fishery that will not diminish the potential future stock reproduction and recruitment.'' The plans must meet the definition of sustainability by developing and maintaining sustainability targets. States without an approved plan were required to close their respective river herring fisheries as of January 1, 2012, until such a plan is submitted and approved by the ASMFC's Shad and River Herring Management Board. Proposals to re-open closed fisheries may be submitted annually as part of a state's annual compliance report. Currently, the states of ME, NH, RI, NY, NC, and SC have approved river herring management plans (see ''State section of Factor D'' for more information).

In addition to the state sustainability plan mandate, Amendment 2 makes recommendations to states for the conservation, restoration, and protection of critical river herring habitat. The Amendment also requires states to implement fisheries-dependent and independent monitoring programs, to provide critical data for use in future river herring stock assessments.

While these measures address problems to the river herring populations in coastal areas, incidental catch in small mesh fisheries, such as those for sea herring, occurs outside state jurisdiction and remains a substantial source of fishing mortality according to the ASMFC. Consequently, the ASMFC has requested that the New England and Mid-Atlantic Fishery Management Councils (NEFMC and MAFMC) increase efforts to monitor river herring incidental catch in small-mesh fisheries (See section on ''NEFMC and MAFMC recommendations for future river herring bycatch reduction efforts'').

Magnuson-Stevens Fishery Conservation and Management Act (MSA)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary law governing marine fisheries management in Federal waters. The MSA was first enacted in 1976 and amended in 1996 and 2006. Most notably, the MSA aided in the development of the domestic fishing industry by phasing out foreign fishing. To manage the fisheries and promote conservation, the MSA created eight regional fishery management councils. A 1996 amendment focused on rebuilding overfished fisheries, protecting Essential Fish Habitat (EFH), and reducing bycatch. A 2006 amendment mandated the use of Annual Catch Limits (ACL) and Accountability Measures (AM) to end overfishing, provided for widespread market-based fishery management through limited access privilege programs, and called for increased international cooperation.

The MSA requires that Federal FMPs contain conservation and management measures that are consistent with the ten National Standards. National Standard #9 states that conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. The MSA defines bycatch as fish that are harvested in a fishery, but which are not sold or kept for personal use. This includes economic discards and regulatory discards. River herring is encountered both as bycatch and incidental catch in Federal fisheries. While there is no directed fishery for river herring in Federal waters, river herring co-occur with other species that have directed fisheries (Atlantic mackerel, Atlantic herring, whiting, squid and butterfish) and are either discarded or retained in those fisheries.

Essential Fish Habitat Under the MSA

Under the MSA, there is a requirement to describe and identify EFH in each Federal FMP. EFH is defined as ''. . . those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' The rules promulgated by the NMFS in 1997 and 2002 further clarify EFH with the following definitions: (1) Waters—aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; (2) substrate—sediment, hard bottom, structures underlying the waters, and associated biological communities; (3) necessary—the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and (4) spawning, breeding, feeding, or growth to maturity—stages representing a species' full life cycle.

EFH has not been designated for alewife or blueback herring, though EFH has been designated for numerous other species in the Northwest Atlantic. Measures to improve habitats and reduce impacts resulting from those EFH designations may directly or indirectly benefit river herring. Conservation measures implemented in response to the designation of Atlantic salmon EFH and Atlantic herring EFH likely provide the most conservation benefit to river herring over any other EFH designation. Habitat features used for spawning, breeding, feeding, growth and maturity by these two species encompasses many of the habitat features selected by river herring to carry out their life history. The geographic range in which river herring may benefit from the designation of Atlantic salmon EFH extends from Connecticut to the Maine/Canada border. The geographic range in which river herring may benefit from the designation of Atlantic herring EFH designation extends from the Maine/Canada border to Cape Hatteras.

The Atlantic salmon EFH includes most freshwater, estuary and bay habitats historically accessible to Atlantic salmon from Connecticut to the Maine/Canada border (NEFMC, 2006). Many of the estuary, bay and freshwater habitats within the current and historical range of Atlantic salmon incorporate habitats used by river herring for spawning, migration and juvenile rearing. Among Atlantic herring EFHs are the pelagic waters in the Gulf of Maine, Georges Bank, Southern New England, and middle Atlantic south to Cape Hatteras out to the offshore U.S. boundary of the EEZ (see NEFMC 1998). These areas incorporate nearly all of the U.S. marine areas most frequently used by river herring for growth and maturity. Subsequently, in areas where EFH designations for Atlantic salmon and Atlantic herring overlap with freshwater and marine habitats used by river herring, conservation benefits afforded through the designation of EFH for these species may provide similar benefits to river herring.

Federal Power Act (FPA) (16 U.S.C. 791–828) and Amendments

The FPA, as amended, provides for protecting, mitigating damages to, and enhancing fish and wildlife resources (including anadromous fish) impacted by hydroelectric facilities regulated by the Federal Energy and Regulatory Commission (FERC). Applicants must consult with state and Federal resource agencies who review proposed hydroelectric projects and make recommendations to FERC concerning fish and wildlife and their habitat, e.g., including spawning habitat, wetlands, instream flows (timing, quality, quantity), reservoir establishment and regulation, project construction and operation, fish entrainment and mortality, and recreational access. Section 10(j) of the FPA provides that licenses issued by FERC contain conditions to protect, mitigate damages to, and enhance fish and wildlife based

on recommendations received from state and Federal agencies during the licensing process. With regard to fish passage, Section 18 requires a FERC licensee to construct, maintain, and operate fishways prescribed by the Secretary of the Interior or the Secretary of Commerce. Under the FPA, others may review proposed projects and make timely recommendations to FERC to represent additional interests. Interested parties may intervene in the FERC proceeding for any project to receive pertinent documentation and to appeal an adverse decision by FERC.

While the construction of hydroelectric dams contributed to some historical losses of river herring spawning habitat, only a few new dams have been constructed in the range of these species in the last 50 years. In some areas, successful fish passage has been created; thus, restoring access to many habitats once blocked. Thus, river herring may often benefit from FPA fishway requirements when prescriptions are made to address anadromous fish passage and during the re-licensing of existing hydroelectric dams when anadromous species are considered.

Anadromous Fish Conservation Act (16 U.S.C. 757a–757f) as Amended

This law authorizes the Secretaries of Interior and Commerce to enter into cost sharing with states and other non-Federal interests for the conservation, development, and enhancement of the nation's anadromous fish. Investigations, engineering, biological surveys, and research, as well as the construction, maintenance, and operations of hatcheries, are authorized. This Act was last authorized in 2002, which provided 5 million dollars for the fiscal years 2005 and 2006 (Pub. L. 107–372). There was an attempt to reauthorize the Act in 2012; however, this action has not yet been authorized.

Fish and Wildlife Coordination Act (FWCA) (16 U.S.C. 661–666)

The FWCA is the primary law providing for consideration of fish and wildlife habitat values in conjunction with Federal water development activities. Under this law, the Secretaries of Interior and Commerce may investigate and advise on the effects of Federal water development projects on fish and wildlife habitat. Such reports and recommendations, which require concurrence of the state fish and wildlife agency(ies) involved, must accompany the construction agency's request for congressional authorization, although the construction agency is not bound by the recommendations.

The FWCA applies to water-related activities proposed by non-Federal entities for which a Federal permit or license is required. The most significant permits or licenses required are Section 404 and discharge permits under the Clean Water Act and Section 10 permits under the Rivers and Harbors Act. The USFWS and NMFS may review the proposed permit action and make recommendations to the permitting agencies to avoid or mitigate any potential adverse effects on fish and wildlife habitat. These recommendations must be given full consideration by the permitting agency, but are not binding.

Federal Water Pollution Control Act, and amendments (FWPCA) (33 U.S.C. 1251–1376)

Also called the ''Clean Water Act,'' the FWPCA mandates Federal protection of water quality. The law also provides for assessment of injury, destruction, or loss of natural resources caused by discharge of pollutants.

Of major significance is Section 404 of the FWPCA, which prohibits the discharge of dredged or fill material into navigable waters without a permit. Navigable waters are defined under the FWPCA to include all waters of the United States, including the territorial seas and wetlands adjacent to such waters. The permit program is administered by the Army Corps of Engineers (ACOE). The Environmental Protection Agency (EPA) may approve delegation of Section 404 permit authority for certain waters (not including traditional navigable waters) to a state agency; however, the EPA retains the authority to prohibit or deny a proposed discharge under Section 404 of the FWPCA.

The FWPCA (Section 401) also authorizes programs to remove or limit the entry of various types of pollutants into the nation's waters. A point source permit system was established by the EPA and is now being administered at the state level in most states. This system, referred to as the National Pollutant Discharge Elimination System (NPDES), sets specific limits on discharge of various types of pollutants from point source outfalls. A non-point source control program focuses primarily on the reduction of agricultural siltation and chemical pollution resulting from rain runoff into the nation's streams. This effort currently relies on the use of land management practices to reduce surface runoff through programs administered primarily by the Department of Agriculture.

Like the Fish and Wildlife Coordination and River and Harbors Acts, Sections 401 and 404 of the FWPCA have played a role in reducing discharges of pollutants, restricting the timing and location of dredge and fill operations, and affecting other changes that have improved river herring habitat in many rivers and estuaries over the last several decades. Examples include reductions in sewage discharges into the Hudson River (A. Kahnle, New York State DEC, Pers. comm. 1998) and nutrient reduction strategies implemented in the Chesapeake Bay (R. St. Pierre, USFWS, Pers. comm. 1998).

Rivers and Harbors Act of 1899

Section 10 of the Rivers and Harbors Act requires a permit from the ACOE to place structures in navigable waters of the United States or modify a navigable stream by excavation or filling activities.

National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347)

The NEPA requires an environmental review process of all Federal actions. This includes preparation of an environmental impact statement for major Federal actions that may affect the quality of the human environment. Less rigorous environmental assessments are reviewed for most other actions, while some actions are categorically excluded from formal review. These reviews provide an opportunity for the agency and the public to comment on projects that may impact fish and wildlife habitat.

Coastal Zone Management Act (16 U.S.C. 1451–1464) and Estuarine Areas Act

Congress passed policy on values of estuaries and coastal areas through these Acts. Comprehensive planning programs, to be carried out at the state level, were established to enhance, protect, and utilize coastal resources. Federal activities must comply with the individual state programs. Habitat may be protected by planning and regulating development that could cause damage to sensitive coastal habitats.

Federal Land Management and Other Protective Designations

Protection and good stewardship of lands and waters managed by Federal agencies, such as the Departments of Defense, Energy and Interior (National Parks and National Wildlife Refuges, as well as state-protected park, wildlife and other natural areas), contributes to the health of nearby aquatic systems that support important river herring

spawning and nursery habitats. Relevant examples include the Great Bay, Rachel Carson's and ACE Basin National Estuarine Research Reserves, Department of Defense properties in the Chesapeake Bay, and many National Wildlife Refuges.

Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA), Titles I and III and the Shore Protection Act of 1988 (SPA)

The MPRSA protects fish habitat through establishment and maintenance of marine sanctuaries. The MPRSA and the SPA regulate ocean transportation and dumping of dredge materials, sewage sludge, and other materials. Criteria that the ACOE uses for issuing permits include considering the effects dumping has on the marine environment, ecological systems and fisheries resources.

Atlantic Salmon ESA Listing and Critical Habitat Designation

In 2009, the Gulf of Maine (GOM) DPS of Atlantic salmon was listed as endangered under the Endangered Species Act (74 FR 29344). The GOM DPS includes all anadromous Atlantic salmon whose freshwater range occurs in the watersheds from the Androscoggin River northward along the Maine coast to the Dennys River. Concurrently in 2009, critical habitat was designated for the Atlantic salmon GOM DPS pursuant to section 4(b)(2) of the ESA (74 FR 29300; August 10, 2009). The critical habitat designation includes 45 specific areas occupied by Atlantic salmon at the time of listing, and includes approximately 12,160 miles (19,600 km) of perennial river, stream, and estuary habitat and 308 square miles (495 sq km) of lake habitat within the range of the GOM DPS in the State of Maine.

Measures to improve habitats and reduce impacts to Atlantic salmon as a result of the ESA listing may directly or indirectly benefit river herring. Atlantic salmon are anadromous and spend a portion of their life in freshwater and the remaining portion in the marine environment. River herring occupy a lot of the same habitats as listed Atlantic salmon for spawning, breeding, feeding, growth and maturity. Therefore, protection measures such as improved fish passage or reduced discharge permits may benefit river herring.

The critical habitat designation provides additional protections beyond classifying a species as endangered by preserving the physical and biological features essential for the conservation of the species in designated waters in Maine. One of the biological features identified in the critical habitat designation for Atlantic salmon was freshwater and estuary migration sites with abundant, diverse native fish communities to serve as a protective buffer against predation. Co-evolved diadromous fish species such as alewives and blueback herring are included in this native fish community. Because the ESA also requires that any Federal agency that funds, authorizes, or carries out an action ensure that the action does not adversely modify or destroy designated critical habitat, the impacts to alewife and blueback herring populations must be considered during consultation with NMFS to ensure that Atlantic salmon critical habitat is not adversely affected by a Federal action.

Atlantic Sturgeon ESA Listing

In 2012, five distinct population segments of Atlantic sturgeon were listed under the ESA (77 FR 5914; 77 FR 5880). The Chesapeake Bay, New York Bight, Carolina, and South Atlantic DPSs of Atlantic sturgeon are listed as endangered, while the Gulf of Maine DPS is listed as threatened.

Measures to improve habitats and reduce impacts to Atlantic sturgeon may directly or indirectly benefit river herring. Atlantic sturgeon are anadromous; adults spawn in freshwater in the spring and early summer and migrate into estuarine and marine waters where they spend most of their lives. As with Atlantic salmon, many of the habitats that Atlantic sturgeon occupy are also habitats that river herring use for spawning, migration and juvenile rearing. The geographic range in which river herring may benefit from Atlantic sturgeon ESA protections extends from the Maine/Canada border to Florida. Therefore, any protection measures within this range such as improved fish passage or a reduction of water withdrawals may also provide a benefit to river herring.

State Regulations

A historical review of state regulations was compiled and published in Volume I of the stock assessment. The following section on state regulations includes current requirements only and is cited from Volume I of the assessment as compiled by Dr. Gary Nelson and Kate Taylor (ASMFC, 2012). Otherwise, updates are provided by Kate Taylor, supplemental information from state river herring plans or state regulations.

Maine

In Maine, the Department of Marine Resources (DMR), along with municipalities granted the rights to harvest river herring resources, cooperatively manage municipal fisheries. Each town must submit an annual harvesting plan to DMR for approval that includes a 3-day per week escapement period or biological equivalent to ensure conservation of the resource. In some instances, an escapement number is calculated and the harvester passes a specific number upstream to meet escapement goals. River herring runs not controlled by a municipality and not approved as sustainable by the ASMFC River Herring and American Shad Management Board, as required under Amendment 2, are closed. Each run and harvest location is unique, either in seasonality, fish composition, or harvesting limitations. Some runs have specific management plans that require continuous escapement and are more restrictive than the 3-day closed period. Others have closed periods shorter than the 3-day requirement, but require an escapement number, irrespective of the number harvested during the season. Maine increased the weekly fishing closure from a 24-hour closure in the 1960s to a 48-hour closure beginning in 1988. The closed period increased to 72 hours beginning in 1995 to protect spawning fish. Most towns operate a weir at one location on each stream and prohibit fishing at any other location on the stream. The state landings program compiles in-river landings of river herring from mandatory reports provided by the municipality under each municipal harvest plan or they lose exclusive fishing rights. The state permitted 22 municipalities to fish for river herring in 2011. The river specific management plans require the remaining municipalities to close their runs for conservation and not harvest. There are several reasons for these state/municipal imposed restrictions on the fishery. Many municipalities voluntarily restrict harvest to increase the numbers of fish that return in subsequent years. Some of these runs are large but have the potential to become even larger. The commercial fishery does not exploit the estimated 1.5 to 2.0 million river herring that return to the East Machias River annually. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP (Taylor, Pers. Comm., 2013).

Recreational fishermen are allowed to fish for river herring year-round. The limit is 25 fish per day and gear is restricted to dip net and hook-and-line. Recreational fishermen may not fish in waters, or in waters upstream, of a

municipality that owns fishing rights. Recreational fishermen are not required to report their catch. The MRFSS and MRIP programs do sample some of these fishermen based on results queried from the database. Recreational fishing for river herring in Maine is limited and landings are low. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP (Taylor, Pers. Comm., 2013).

New Hampshire

The current general regulations are: (1) No person shall take river herring, alewives and blueback herring, from the waters of the state, by any method, between sunrise Wednesday and sunrise Thursday of any week; (2) any trap or weir used during a specified time period, shall be constructed so as to allow total escapement of all river herring; and (3) any river herring taken by any method during the specified time period shall be immediately released back into the waters from which it was taken. Specific river regulations are: Taylor River—from the railroad bridge to the head of tide dam in Hampton shall be closed to the taking of river herring by netting of any method; and Squamscott River—during April, May and June, the taking of river herring in the Squamscott River and its tributaries from the Rt. 108 Bridge to the Great Dam in Exeter is open to the taking of river herring by netting of any method only on Saturdays and Mondays, the daily limit shall be one tote per person (''tote'' means a fish box or container measuring 31.5 in (80.01cm) × 18 in (45.72 cm) × 11.5 in (29.21cm)) and the tote shall have the harvester's coastal harvest permit number plainly visible on the outside of the tote. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP.

Massachusetts

As of January 1, 2012, commercial and recreational harvest of river herring was prohibited in Massachusetts, as required by ASMFC Amendment 2 to the Shad and River Herring FMP (Taylor, Pers. Comm., 2013). The exception is for federally permitted vessels which are allowed to land up to 5 percent of total bait fish per trip (Taylor, Pers. Comm., 2013).

Rhode Island

The Rhode Island Division of Fish and Wildlife (RIDFW) will implement a 5 percent bycatch allowance for Federal vessels fishing in the Atlantic herring fishery in Federal waters. RIDFW will also implement a mandatory permitting process that will require vessels wanting to fish in the Rhode Island waters Atlantic herring fishery to, amongst other requirements, integrate in to the University of Massachusetts Dartmouth, School for Marine Science and Technology, river herring bycatch monitoring program to ensure monitoring of the fishery and minimize bycatch. As of Jan 1, 2013, there is a prohibition to land, catch, take, or attempt to catch or take river herring which is a continuation of measures that RIDFW has had in place since 2006 when a moratorium was originally established (Taylor, Pers. comm., 2013).

Connecticut

Since April 2002, there has been a prohibition on the commercial or recreational taking of migratory alewives and blueback herring from all marine waters and most inland waters. As of January 1, 2012, commercial and recreational harvest of river herring was prohibited in Connecticut, as required by ASMFC Amendment 2 to the Shad and River Herring FMP (Taylor, Pers. Comm., 2013).

New York

Current regulations allow for a restricted river herring commercial and recreational fishery in the Hudson River and tributaries, while all other state waters prohibit river herring fisheries. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP.

New Jersey/Delaware

As of January 1, 2012, commercial harvest of river herring was prohibited in New Jersey and Delaware, as required by ASMFC Amendment 2 to the Shad and River Herring FMP. Additionally, only commercial vessels fishing exclusively in Federal waters while operating with a valid Federal permit for Atlantic mackerel and/or Atlantic herring may possess river herring up to a maximum of five percent by weight of all species possessed (Taylor, Pers. Comm.).

Maryland

As of January 1, 2012, commercial harvest of river herring was prohibited in Maryland, as required by ASMFC Amendment 2 to the Shad and River Herring FMP. However, an exception is provided for anyone in possession of river herring as bait, as long as a receipt indicating where the herring was purchased is in hand (Taylor, Pers. comm). This will allow bait shops to sell, and fishermen to possess, river herring for bait that was harvested from a state whose fishery remains open, as an ASMFC approved sustainable fishery (Taylor, Pers. Comm).

Potomac River Fisheries Commission (PRFC)/District of Columbia

The PRFC regulates only the mainstem of the river, while the tributaries on either side are under Maryland and Virginia jurisdiction. The District of Columbia's Department of the Environment (DDOE) has authority for the Potomac River to the Virginia shore and other waters within District of Columbia. Today, the river herring harvest in the Potomac is almost exclusively taken by pound nets. In 1964, licenses were required to commercially harvest fish in the Potomac River. After Maryland and Virginia established limited entry fisheries in the 1990s, the PRFC responded to industry's request and, in 1995, capped the Potomac River pound net fishery at 100 licenses. As of January 1, 2010, harvest of river herring was prohibited in the Potomac River, with a minimal bycatch provision of 50 lb (22 kg) per licensee per day for pound nets. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP.

Virginia

Virginia's Department of Game and Inland Fisheries (VDGIF) is responsible for the management of fishery resources in the state's inland waters. As of January 1, 2008, possession of alewives and blueback herring was prohibited on rivers draining into North Carolina (4 VAC 15–320–25). The Virginia Marine Resources Commission (VMRC) is responsible for management of fishery resources within the state's marine waters. As of January 1, 2012, commercial and recreational harvest of river herring was prohibited in all waters of Virginia, as required by ASMFC Amendment 2 to the Shad and River Herring FMP. Additionally, it is unlawful for any person to possess river herring aboard a vessel on Virginia tidal waters, or to land any river herring in Virginia (4 VAC 20–1260–30).

North Carolina

A no harvest provision for river herring, commercial and recreational, within North Carolina was approved in 2007. A limited research set aside of 7,500 lb (3.4 mt) was established, and to implement this harvest, a Discretionary Herring Fishing Permit (DHFP) was

created. Individuals interested in participating had to meet the following requirements: (1) Obtain a DHFP, (2) harvest only from the Joint Fishing Waters of Chowan River during the harvest period, (3) must hold a valid North Carolina Standard Commercial Fishing License (SCFL) or a Retired SCFL, and (4) participate in statistical information and data collection programs. Sale of harvested river herring had to be to a licensed and permitted River Herring Dealer. Each permit holder was allocated 125–250 lb (56–113 kg) for the 4-day season during Easter weekend. These regulations were approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP. The North Carolina Wildlife Resources Commission (NCWRC) has authority over the Inland Waters of the state. Since July 1, 2006, harvest of river herring, greater than 6 inches (15.24 cm) has been prohibited in the inland waters of North Carolina's coastal systems.

South Carolina

In South Carolina, the South Carolina Division of Natural Resources (SCDNR) manages commercial herring fisheries using a combination of seasons, gear restrictions, and catch limits. Today, the commercial fishery for blueback herring has a 10-bushel daily limit (500 lb (226 kg)) per boat in the Cooper and Santee Rivers and the Santee-Cooper Rediversion Canal and a 250-lb-per-boat (113 kg) limit in the Santee-Cooper lakes. Seasons generally span the spawning season. All licensed fishermen have been required to report their daily catch and effort to the SCDNR since 1998.

The recreational fishery has a 1-bushel (49 lb (22.7 kg)) fish aggregate daily creel for blueback herring in all rivers; however, very few recreational anglers target blueback herring. These regulations have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP.

Georgia

The take of blueback herring is illegal in freshwater in Georgia. As of January 1, 2012, harvest of river herring was prohibited in Georgia, as required by ASMFC Amendment 2 to the Shad and River Herring FMP.

Florida

The St. Johns River, Florida, harbors the southernmost spawning run of blueback herring. There is currently no active management of blueback herring in Florida. As of January 1, 2012, harvest of river herring was prohibited, as required by ASMFC Amendment 2 to the Shad and River Herring FMP.

Tribal and First Nation Fisheries

We have identified thirteen federally recognized East Coast tribes from Maine to South Carolina that have tribal rights to sustenance and ceremonial fishing, and which may harvest river herring for sustenance and ceremonial purposes and/or engage in other river herring conservation and management activities. The Mashpee Wampanoag tribe is the only East Coast tribe that voluntarily reported harvest numbers to the State of MA that were incorporated into the ASMFC Management Plan as subsistence harvest. The reported harvest for 2006 and 2008 ranged between 1,200 and 3,500 fish per year, with removals coming from several rivers. Aside from the harvest reported by ASMFC for the Mashpee Wampanoag tribe, information as to what tribes may harvest river herring for sustenance and/or ceremonial purposes is not available. Letters have been sent to all 13 potentially affected tribes to solicit any input they may have on the conservation status of the species and/or health of particular riverine populations, tribal conservation and management activities for river herring, biological data for either species, and comments and/or concerns regarding the status review process and potential implications for tribal trust resources and activities. To date, we have not received any information from any tribes.

Summary and Evaluation for Factor D

As described in Factor A, there are multiple threats to habitat that have affected and may continue to affect river herring including dams/culverts, dredging, water quality, water withdrawals and discharge. However, many of these threats are being addressed to some degree through existing Federal legislation such as the Federal Water Pollution Control Act, also known as the Clean Water Act, the Coastal Zone Management Act, the Rivers and Harbors Act, the FPA, Marine Protection, Research and Sanctuaries Act of 1972, the Shore Protection Act of 1988, EFH designations for other species and ESA listings for Atlantic salmon and Atlantic sturgeon.

Commercial harvest of alewife and blueback herring is occurring in Canada with regulations, closures, and quotas in effect. In the United States, commercial harvest of alewife and blueback herring is also currently occurring in a few states with regulations that have been approved through a sustainable fisheries management plan, as required under ASMFC Amendment 2 to the Shad and River Herring FMP. All other states had previously established moratoria or, as of January 1, 2012, harvest of river herring was prohibited, as required by ASMFC Amendment 2 to the Shad and River Herring FMP. However, river herring are incidentally caught in several commercial fisheries, but the extent to which this is occurring has not been fully quantified. The New England and Mid-Atlantic Fishery Management Councils have adopted measures for the Atlantic herring and mackerel fisheries intended to decrease incidental catch and bycatch of alewife and blueback herring. In the United States, thirteen federally recognized East Coast tribes from Maine to South Carolina have tribal rights to sustenance and ceremonial fishing, and may harvest river herring for sustenance and ceremonial purposes and/or engage in other river herring conservation and management activities. We have further evaluated the existing international, Federal, and state management measures in the qualitative threats assessment section below.

E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species

Competition

Intra- and inter-specific competition were considered as potential natural threats to alewife and blueback herring. The earlier spawning time of alewife may lead to differences in prey selection from blueback herring, given that they become more omnivorous with increasing size (Klauda *et al.,* 1991a). This could lead to differences in prey selection given that juvenile alewife would achieve a greater age and size earlier than blueback herring. Juvenile American shad are reported to focus on different prey than blueback herring (Klauda *et al.,* 1991b). However, Smith and Link (2010) found few differences between American shad and blueback herring diets across geographic areas and size categories; therefore, competition between these two species may be occurring. Cannibalism has been observed (rarely) in landlocked systems with alewife. Additionally, evidence of hybridization exists between alewife and blueback herring, but the implications of this are unknown. Competition for habitat or resources has not been documented with alewife/blueback herring hybrids, as there is little documentation of hybridization in published literature, but given the

unknowns about their life history, it is possible that competition between non-hybrids and hybrids could be occurring.

Artificial Propagation and Stocking

Genetics data have shown that stocking alewife and blueback herring within and out of basin in Maine has had an impact on the genetic groupings within Maine (Bentzen, 2012, unpublished data); however, the extent to which this poses a threat to river herring locally or coast-wide is unknown. Stocking river herring directly impacts a specific river/watershed system for river herring in that it can result in passing fish above barriers into suitable spawning and rearing habitat, expanding populations into other watersheds, and introducing fish to newly accessible spawning habitat.

The alewife restoration program in Merrymeeting Bay, Maine, focuses on stocking lakes and ponds in the Sebasticook River watershed and Seven Mile Stream drainage. The highest number of stocked fish was 2,211,658 in 2009 in the Sebasticook River and 93,775 in 2008 in the Kennebec River. The annual stocking goal of the restoration projects range from 120,000 to 500,000 fish, with most fish stocked in the Androscoggin and Sebasticook watersheds. The Union River fishery in Ellsworth, Maine, is sustained through the stocking of adult alewives above the hydropower dam at the head-of-tide. Fish passage is not currently required at this dam, but fish are transported around the dam to spawning habitat in two lakes. The annual adult stocking rate (from 2011 forward) is 150,000 fish. Adult river herring are trapped at a commercial harvest sites below the dam and trucked to waters upstream of the dam. The highest number of stocked fish in the Union River was 1,238,790 in 1986. In the Penobscot River watershed, over 48,000 adult fish were stocked into lakes in 2012, using fish collected from the Kennebec (39,650) and Union Rivers (8,998). The New Hampshire Fish and Game stocks river herring into the Nashua River, the Pine Island Pond, and the Winnisquam Lake using fish from various rivers which have included the Connecticut, Cocheco, Lamprey, Kennebec, and Androscoggin Rivers. MA Division of Marine Fisheries (DMF) conducts a trap and transport stocking program for alewife and blueback herring. Prior to the moratorium in the state, the program transported between 30,000 and 50,000 fish per year into 10–15 different systems. Since the moratorium, effort has been reduced to protect donor populations and approximately 20,000 fish per year have been deposited into five to ten systems. Many of the recent efforts have been within system, moving fish upstream past multiple obstructions to the headwater spawning habitat. Rhode Island's Department of Environmental Management (DEM) has been stocking the Blackstone River with adult broodstock which was acquired from existing Rhode Island river herring runs and other sources out of state. In April 2012, over 2,000 river herring pre-spawned adults were stocked into the Blackstone River. A small number of alewife (200–400 fish) were stocked in the Bronx River, NY, in 2006 and 2007 from Brides Brook in East Lyme, CT. Furthermore, an experimental stocking program exists in Virginia where hatchery broodstock are marked and stocked into the Kimages Creek, a tributary to the James River. A total of 319,856 marked river herring fry were stocked in this creek in 2011.

The Edenton National Fish Hatchery (NFH) in North Carolina and the Harrison Lake NFH in Virginia have propagated blueback herring for restoration purposes. Edenton NFH is currently rearing blueback herring for stocking in Indian Creek and Bennett's Creek in the Chowan River watershed in Virginia. This is a pilot project to see if hatchery contribution makes a significant improvement in runs of returning adults (S. Jackson, USFWS, Pers. comm., 2012). Artificial propagation through the Edenton NFH for the pilot program in the Chowan River watershed is intended for restoration purposes, and it is not thought that negative impacts to anadromous blueback herring populations will be associated with these efforts.

Landlocked Alewife and Blueback Herring

As noted above, alewives and blueback herring maintain two life history variants; anadromous and landlocked. It is believed that they diverged relatively recently (300 to 5,000 years ago) and are now discrete from each other. Landlocked alewife populations occur in many freshwater lakes and ponds from Canada to North Carolina as well as the Great Lakes (Rothschild, 1966; Boaze & Lackey, 1974). Landlocked blueback herring occur mostly in the southeastern United States and the Hudson River drainage. At this time, there is no substantive information that would suggest that landlocked populations can or would revert back to an anadromous life history if they had the opportunity to do so (Gephard and Jordaan, Pers. comm., 2012). The discrete life history and morphological differences between the two life history variants provide substantial evidence that upon becoming landlocked, landlocked herring populations become largely independent and separate from anadromous populations. Landlocked populations and anadromous populations occupy largely separate ecological niches, especially in respect to their contribution to freshwater, estuary and marine food-webs (Palkovacs and Post, 2008). Thus, the existence of landlocked life forms does not appear to pose a significant threat to the anadromous forms.

Interbreeding Among Alewife and Blueback Herring (Hybridization)

Recent genetic studies indicate that hybridization may be occurring in some instances among alewife and blueback herring where populations overlap (discussed in the River Herring Stock Structure Working Group Report, NMFS, 2012a). Though interbreeding among closely related species is uncommon, it does occasionally occur (Levin, 2002). Most often, different reproductive strategies, home ranges, and habitat differences of closely related species either prevent interbreeding, or keep interbreeding at very low levels. In circumstances where interbreeding does occur, natural selection often keeps hybrids in check because hybrids are less fit in terms of survival or their ability to breed successfully (Levin, 2002). Other times, intermediate environmental conditions can provide an environment where hybrids can thrive, and when hybrids breed with the member of the parent species, this can lead to ''mongrelization'' of one or both parent species; a process referred to as introgressive hybridization (Arnold, 1997). Introgressive hybridization can also occur as a result of introductions of closely related species, or man-made or natural disturbances that create environments more suitable for the hybrid offspring than for the parents (e.g., the introduction of mallards has led to the decline of the American black duck through hybridization and introgression) (Anderson, 1949; Rhymer, 2008).

Though evidence has come forward that indicates that some hybridization may be occurring between alewife and blueback herring, there is not enough evidence to conclude whether or not hybridization poses a threat to one or both species of river herring. Most importantly, there is not enough evidence to show whether hybrids survive to maturity and, if so, whether they are capable of breeding with each

other or breeding with either of the parent species.

Summary and Evaluation of Factor E

The potential for inter- and intra-specific competition has been investigated with respect to alewife and blueback herring. Differences have been observed in the diel activity patterns and in spawning times of anadromous alosids, and this may reduce inter- and intra- specific competition. However, it is possible that competition is occurring, as similarities in prey choice have been identified. Stocking is a tool that managers have used for hundreds of years with many different species of fish. This tool has been used as a means of supporting restoration (e.g., passing fish above barriers into suitable spawning and rearing habitat, expanding populations into other watersheds, and introducing fish to newly accessible spawning habitat). In addition, stocking has been used to introduce species to a watershed for recreational purposes. Stocking of river herring has occurred for many years in Maine watersheds, but is less common throughout the rest of the range of both species. Stocking in the United States has consisted primarily of trap and truck operations that move fish from one river system to another or over an impassible dam. Artificial propagation of river herring is not occurring to a significant extent, though blueback herring are being reared on a small scale for experimental stocking in North Carolina.

We have considered natural or manmade factors that may affect river herring, including competition, artificial propagation and stocking, landlocked river herring, and hybrids. Several potential natural or manmade threats to river herring were identified, and we have considered the effects of these potential threats further in the qualitative threats assessment described below.

Threats Evaluation for Alewife and Blueback Herring

During the course of the Status Review for river herring, 22 potential threats to alewife and blueback herring were identified that relate to one or more of the five ESA section 4(a)(1) factors identified above. The SRT conducted a qualitative threats assessment (QTA) to help evaluate the significance of the threats to both species of river herring now and into the foreseeable future. NMFS has used qualitative analyses to estimate extinction risk in previous status reviews on the West Coast (e.g., Pacific salmon, Pacific herring, Pacific hake, rockfish, and eulachon) and East Coast (e.g., Atlantic sturgeon, cusk, Atlantic wolffish), and the River Herring SRT developed a qualitative ranking system that was adapted from these types of qualitative analyses. The results from the threats assessment have been organized and described according to the above mentioned section 4(a)(1) factors. They were used in combination with the results of the extinction risk modeling to make a determination as to whether listing is warranted.

When ranking each threat, Team members considered how various demographic variables (e.g., abundance, population size, productivity, spatial structure and genetic diversity) may be affected by a particular threat. While Factor D, ''inadequacy of existing regulatory mechanisms,'' is a different type of factor, the impacts on the species resulting from unregulated or inadequately regulated threats should be evaluated in the same way as the other four factors.

QTA Methods

All nine SRT members conducted an independent, qualitative ranking of the severity of each of the 22 identified threats to alewives and blueback herring. NERO staff developed fact sheets for the SRT that contained essential information about the particular threats under each of the five ESA section 4(a)(1) factors, attempts to ameliorate these threats, and how the threats are or may be affecting both species. These fact sheets were reviewed by various experts within NMFS to ensure that they contained all of the best available information for each of the factors.

Team members ranked the threats separately for both species at a rangewide scale and at the individual stock complex level. Each Team member was allotted five likelihood points to rank each threat. Team members ranked the severity of each threat through the allocation of these five likelihood points across five ranks ranging from ''low'' to ''high.'' Each Team member could allocate all five likelihood points to one rank or distribute the likelihood points across several ranks to account for any uncertainty. Each individual Team member distributed the likelihood points as he/she deemed appropriate with the condition that all five likelihood points had to be used for each threat. Team members also had the option of ranking the threat as ''0'' to indicate that in their opinion there were insufficient data to assign a rank, or ''N/A'' if in their opinion the threat was not relevant to the species either throughout its range or for individual stock complexes. When a Team member chose either N/A (Not Applicable) or 0 (Unknown) for a threat, all 5 likelihood points had to be assigned to that rank only. Qualitative descriptions of ranks for the threats listed for alewife and blueback herring (Table 1, 2) are:

- N/A—Not Applicable.
- 0—Unknown.
- 1 Low—It is likely that this threat is not significantly affecting the species now and into the foreseeable future, and that this threat is limited in geographic scope or is localized within the species/stock complex' range.
- 2 Moderately Low—Threat falls between rankings 1 and 3.
- 3 Moderate—It is likely that this threat has some effect on the species now and into the foreseeable future, and it is widespread throughout the species/stock complex' range.
- 4 Moderately High—Threat falls between rankings 3 and 5.
- 5 High—It is likely that this threat is significantly affecting the species now and into the foreseeable future, and it is widespread in geographic scope and pervasive throughout the species/stock complex' range.

The SRT identified and ranked 22 threats to both species both rangewide and for the individual stock complexes. Threats included dams and barriers, dredging, water quality and water withdrawals, climate change/variability, harvest (both directed and incidental), disease, predation, management internationally, federally, and at the state level, competition, artificial propagation and stocking, hybrids, and from landlocked populations.

QTA Results

The SRT unequivocally identified dams and barriers as the most important threat to alewife and blueback herring populations both rangewide and across all stock complexes (the qualitative ranking for dams and barriers was between moderately high and high). Incidental catch, climate change, dredging, water quality, water withdrawal/outfall, predation, and existing regulation were among the more important threats after dams for both species, and for all stock complexes (qualitative rankings for these threats ranged between moderately low and moderate). Water quality, water withdrawal/outfall, predation, climate change and climate variability were generally seen as greater threats to both species in the southern portion of their ranges than in the northern portion of their ranges. In addition, the Team identified commercial harvest as being notably

more important in Canada than in the United States. The results of the threats analysis for alewives are presented in Tables 1–5 and Figure 3. The results of the threats analysis for blueback herring are presented in Tables 6–10 and Figure 4.

QTA Conclusion

The distribution of rankings across threat levels provides a way to evaluate certainty in the threat level for each of the threats identified. The amount of certainty for a threat is a reflection of the amount of evidence that links a particular threat to the continued survival of each species. For threats with more data, there tended to be more certainty surrounding the threat level, whereas threats with fewer data tended to have more uncertainty. The same holds true for datasets that were limited over space and/or time.

The results of the threats assessment rangewide and for all stock complexes reveal strong agreement and low uncertainty among the reviewers that dams and barriers are the greatest threat to both alewives and blueback herring. There was also strong agreement that tribal fisheries, scientific monitoring, and educational harvest currently pose little threat to the species. For the threats of state, Federal and international management, dredging, climate change, climate variability, predation, and incidental catch, there was more uncertainty.

Among alewife and blueback stock complexes, Canada, the Mid-Atlantic, and South Atlantic diverged the most from the other stock complexes with respect to certainty of threats. In Canada there was more certainty surrounding the threats of climate change and climate variability for both species, and less certainty surrounding the threat of directed commercial harvest and incidental catch for alewives compared to the certainty surrounding these threats for the other stock complexes. In the mid-Atlantic for alewives and South-Atlantic for bluebacks, there was more uncertainty surrounding climate variability and climate change compared to the certainty surrounding these threats for the other stock complexes.

Based on the Team member rankings, dams and other barriers present the greatest and most persistent threat rangewide to both blueback herring and alewife (Tables 12–13). Dams and culverts block access to historical migratory corridors and spawning locations, in some instances, even when fish passage facilities are present. Centuries of blocked and reduced access to spawning and rearing habitat have resulted in decreased overall production potential of watersheds along the Atlantic coast for alewives and blueback herring (Hall *et al.,* 2012). This reduced production potential has likely been one of the main drivers in the decreased abundance of both species. The recent ASMFC Stock Assessment (2012) attempted to quantify biomass estimates for both alewife and blueback herring but was unable to develop an acceptable model to complete a biomass estimate. Therefore, it is difficult to accurately quantify the declines from historical biomass to present-day biomass, though significant declines have been noted. Studies from Maine show that dams have reduced accessible habitat to a fraction of historical levels, 5 percent for alewives and 20 percent for blueback herring (Hall *et al.,* 2011).

Rangewide, for alewife and blueback herring, no other threats rose to the level of dams, but several other stressors ranked near the moderate threat level. The Team ranked incidental catch, water quality, and predation as threats likely to have some effect on the species now and into the foreseeable future that are widespread throughout the species' range. Incidental catch is primarily from fisheries that use small-mesh mobile gear, such as bottom and midwater trawls. Sources of water quality problems vary from river to river and are therefore unique to each of the stock complexes. And finally, predation by striped bass, seals, double-crested cormorants (and other fish-eating avian species, e.g., northern gannets) and other predators is known to exist, but data are lacking on the overall magnitude. Overall, the degree of certainty associated with these mid-level threats is much lower, primarily due to lack of information on how these stressors are affecting both species.

The SRT's qualitative rankings and analysis of threats for alewife rangewide and for each stock complex:

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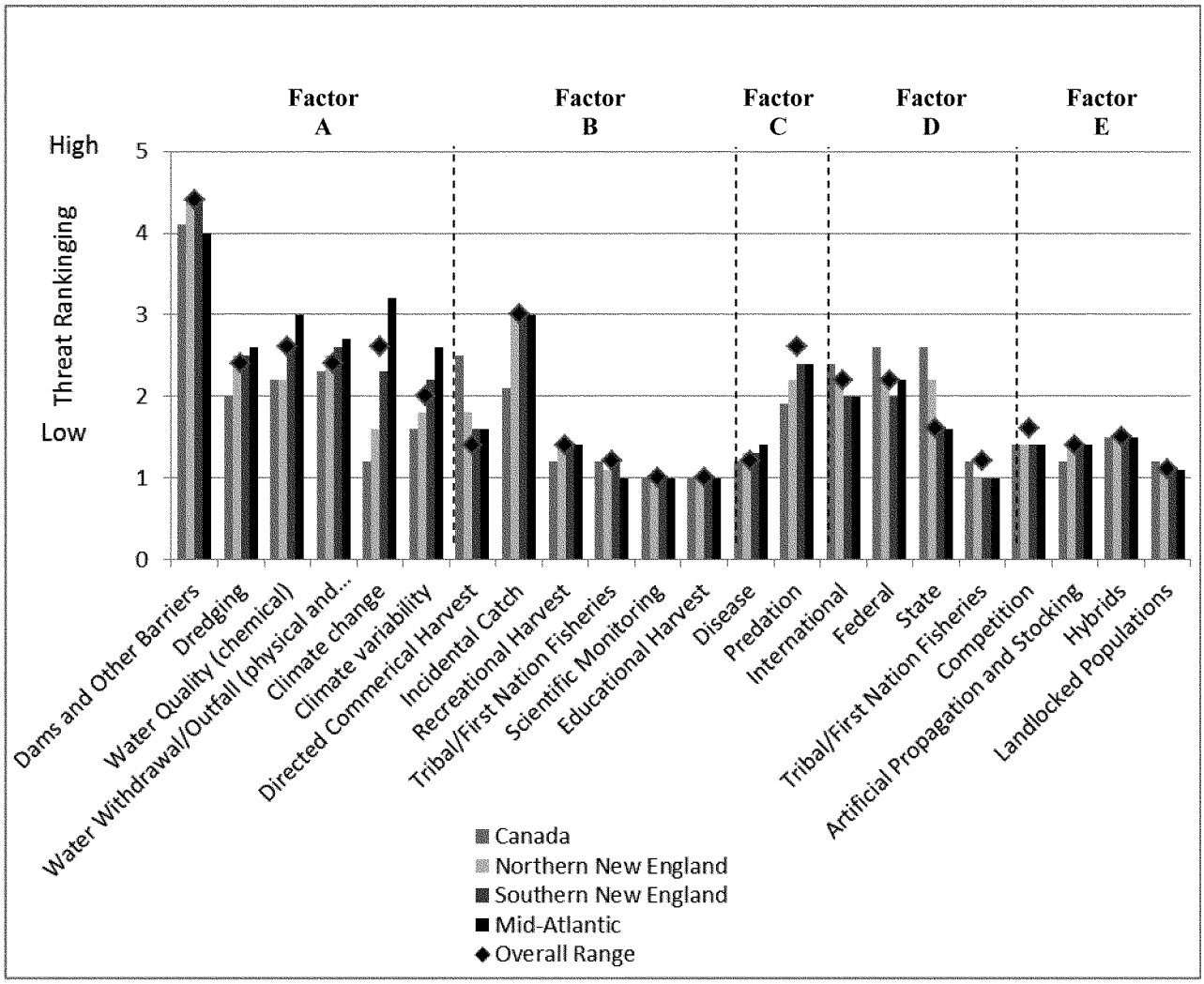

Figure 3. Median qualitative ranking of threats to alewives range-wide and for each stock complex.

Table 1. Qualitative ranking of threats for the alewife rangewide. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2- medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.3	0.7	5	3-5	9
Water Quality (chemical)	2.8	1.0	3	1-5	9
Incidental Catch	2.7	0.9	3	1-5	9
Predation	2.6	1.1	3	1-5	9
Water Withdrawal/Outfall (physical and temp.)	2.4	0.8	2	1-5	9
Dredging	2.4	1.0	2	1-4	9
Climate change	2.4	0.9	3	1-4	8
Climate variability	2.3	1.1	2	1-5	9
Federal Management	2.3	1.1	2	1-5	9
International Management	2.3	1.1	2	1-5	9
State Management	2.2	1.2	1	1-5	9
Directed Commercial Harvest	1.8	0.8	2	1-3	9
Competition	1.6	0.7	1	1-4	9
Artificial Propagation and Stocking	1.5	0.7	1	1-3	9
Hybrids	1.5	0.7	1	1-3	2
Recreational Harvest	1.4	0.6	1	1-3	9
Tribal/First Nation Fisheries Management	1.3	0.5	1	1-3	7
Disease	1.3	0.4	1	1-2	8
Landlocked Populations	1.2	0.5	1	1-3	8
Tribal/First Nation Fisheries Utilization	1.2	0.4	1	1-2	8
Scientific Monitoring	1.0	0.2	1	1-2	9
Educational Harvest	1.0	0.1	1	1-2	9

Table 2. Qualitative ranking of threats for the Canadian stock complex of alewife. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.0	0.9	5	2-5	8
State Management	2.4	0.9	2	1-4	6
Incidental Catch	2.4	1.2	1	1-5	6
Federal Management	2.4	0.9	2	1-4	6
Water Withdrawal/Outfall (physical and temp.)	2.3	0.7	2	1-3	6
Directed Commercial Harvest	2.2	0.9	2	1-4	8
International Management	2.2	0.9	2	1-4	8
Water Quality (chemical)	2.1	0.7	2	1-3	7
Predation	2.1	1.0	2	1-5	8
Dredging	2.0	0.7	2	1-4	6
Climate variability	1.9	0.9	2	1-5	8
Climate change	1.6	0.7	1	1-4	8
Hybrids	1.5	0.7	1	1-3	2
Competition	1.4	0.5	1	1-3	9
Disease	1.3	0.5	1	1-2	7
Artificial Propagation and Stocking	1.3	0.5	1	1-3	7
Tribal/First Nation Fisheries Management	1.2	0.4	1	1-2	5
Recreational Harvest	1.2	0.4	1	1-2	6
Tribal/First Nation Fisheries Utilization	1.2	0.4	1	1-2	6
Landlocked Populations	1.1	0.3	1	1-2	7
Scientific Monitoring	1.0	0.2	1	1-2	6
Educational Harvest	1.0	0.0	1	1	6

Table 3. Qualitative ranking of threats for the Northern New England stock complex of alewife. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.3	0.7	5	3-5	9
Incidental Catch	2.9	0.8	3	1-5	7
Water Withdrawal/Outfall (physical and temp.)	2.5	0.9	3	1-5	8
Dredging	2.4	0.9	2,3	1-4	8
State Management	2.4	1.1	2	1-5	9
Predation	2.4	1.2	2	1-5	9
Federal Management	2.4	1.1	2	1-5	9
International Management	2.2	0.9	2	1-4	9
Water Quality (chemical)	2.1	1.0	1	1-5	9
Climate variability	2.0	1.0	2	1-5	9
Directed Commercial Harvest	1.9	0.9	1	1-4	9
Climate change	1.8	0.8	1	1-4	8
Artificial Propagation and Stocking	1.6	0.7	1	1-3	9
Hybrids	1.5	0.7	1	1-3	2
Competition	1.5	0.6	1	1-3	9
Recreational Harvest	1.3	0.5	1	1-3	9
Disease	1.3	0.5	1	1-2	8
Landlocked Populations	1.2	0.4	1	1-2	8
Tribal/First Nation Fisheries Management	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	8
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 4. Qualitative ranking of threats for the Southern New England stock complex of alewife. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.2	0.7	4	3-5	9
Incidental Catch	2.9	0.8	3	1-5	7
Water Withdrawal/Outfall (physical and temp.)	2.7	0.8	3	1-5	8
Water Quality (chemical)	2.5	0.9	3	1-5	9
Predation	2.5	1.1	2	1-5	9
Dredging	2.5	0.9	3	1-4	8
Federal Management	2.2	1.1	2	1-5	9
Climate variability	2.2	1.0	2	1-5	9
State Management	2.2	1.1	2	1-5	9
Climate change	2.2	1.0	1,3	1-4	8
International Management	2.0	0.8	2	1-4	9
Directed Commercial Harvest	1.7	0.8	1	1-3	9
Hybrids	1.5	0.7	1	1-3	2
Artificial Propagation and Stocking	1.5	0.6	1	1-3	9
Competition	1.4	0.6	1	1-3	9
Disease	1.3	0.5	1	1-2	8
Recreational Harvest	1.3	0.5	1	1-3	9
Landlocked Populations	1.2	0.4	1	1-2	8
Tribal/First Nation Fisheries Management	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.2	0.4	1	1-2	8
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 5. Qualitative ranking of threats for the Mid-Atlantic stock complex of alewife. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	3.8	1.0	4	3-5	9
Incidental Catch	2.9	0.8	3	1-5	7
Water Quality (chemical)	2.9	0.9	3	1-5	9
Water Withdrawal/Outfall (physical and temp.)	2.8	0.8	3	1-5	8
Climate change	2.7	1.2	3	1-5	8
Climate variability	2.6	1.2	2	1-5	9
Predation	2.5	1.1	2	1-5	9
Dredging	2.5	0.9	3	1-4	8
Federal Management	2.3	1.1	2	1-5	9
State Management	2.2	1.1	2	1-5	9
International Management	1.8	0.8	1	1-4	9
Directed Commercial Harvest	1.7	0.8	1	1-3	9
Hybrids	1.5	0.7	1	1-3	2
Artificial Propagation and Stocking	1.5	0.7	1	1-3	9
Competition	1.4	0.6	1	1-3	9
Disease	1.4	0.5	1	1-3	8
Recreational Harvest	1.3	0.5	1	1-3	9
Landlocked Populations	1.2	0.4	1	1-2	8
Tribal/First Nation Fisheries Management	1.2	0.4	1	1-3	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	7
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

The SRT's qualitative rankings of threats for blueback herring rangewide and for each stock complex:

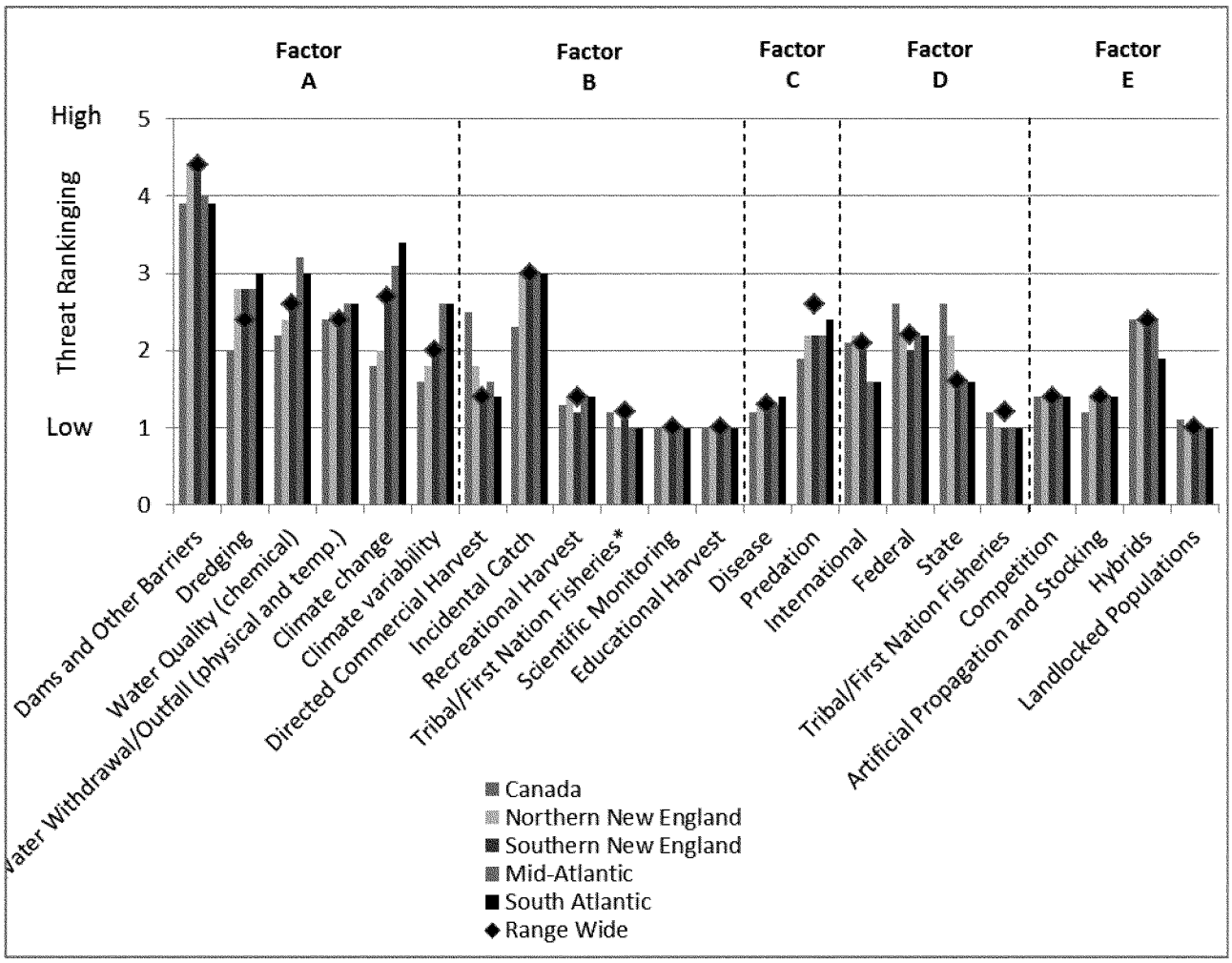

Figure 4. Median qualitative ranking of threats to blueback herring rangewide and for each stock complex.

Table 6. Qualitative ranking of threats for blueback herring rangewide. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.2	0.8	4,5	3-5	9
Water Quality (chemical)	2.8	1.0	3	1-5	9
Incidental Catch	2.7	0.9	3	1-5	9
Climate change	2.7	1.2	3,4	1-5	8
Predation	2.6	1.1	3	1-5	9
Climate variability	2.4	1.2	1,2,3	1-5	9
Water Withdrawal/Outfall (physical and temp.)	2.4	0.8	2	1-5	9
Dredging	2.4	1.0	2	1-4	9
Hybrids	2.4	1.0	3	1-4	2
Federal Management	2.3	1.1	2	1-5	9
International Management	2.3	1.1	2	1-5	8
State Management	2.2	1.1	1	1-5	9
Directed Commercial Harvest	1.8	0.8	1	1-3	9
Competition	1.5	0.6	1	1-3	9
Artificial Propagation and Stocking	1.5	0.7	1	1-3	9
Tribal/First Nation Fisheries Management	1.3	0.5	1	1-3	7
Recreational Harvest	1.3	0.5	1	1-3	9
Disease	1.3	0.5	1	1-2	8
Landlocked Populations	1.2	0.5	1	1-3	7
Tribal/First Nation Fisheries Utilization	1.2	0.4	1	1-2	8
Scientific Monitoring	1.0	0.2	1	1-2	9
Educational Harvest	1.0	0.1	1	1-2	9

Table 7. Qualitative rankings of threats for the Canadian stock complex of blueback herring. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	3.9	0.9	4	2-5	8
Incidental Catch	2.4	1.2	1,3	1-5	6
State Management	2.4	0.9	2	1-4	6
Hybrids	2.4	1.0	3	1-4	2
Water Withdrawal/Outfall (physical and temp.)	2.4	0.6	2	1-3	6
Federal Management	2.4	0.9	2	1-4	6
Directed Commercial Harvest	2.4	0.8	3	1-4	8
Water Quality (chemical)	2.2	0.7	2	1-3	7
Climate variability	2.2	1.2	1	1-5	8
Predation	2.1	1.0	2	1-4	8
International Management	2.1	0.9	2	1-4	8
Dredging	2.0	0.7	2	1-3	6
Climate change	2.0	1.0	1	1-4	8
Competition	1.5	0.6	1	1-4	9
Recreational Harvest	1.3	0.5	1	1-2	6
Disease	1.3	0.5	1	1-2	7
Artificial Propagation and Stocking	1.3	0.5	1	1-3	7
Tribal/First Nation Fisheries Utilization	1.2	0.4	1	1-2	6
Tribal/First Nation Fisheries Regulation	1.2	0.4	1	1-3	5
Landlocked Populations	1.1	0.3	1	1-2	6
Scientific Monitoring	1.0	0.2	1	1-2	6
Educational Harvest	1.0	0.0	1	1	6

Table 8. Qualitative ranking of threats for the Northern New England stock complex of blueback herring. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.3	0.7	5	3-5	9
Incidental Catch	2.8	0.9	3	1-5	7
Dredging	2.6	1.0	3	1-4	8
Water Withdrawal/Outfall (physical and temp.)	2.5	0.9	3	1-5	8
State Management	2.4	1.1	2	1-5	9
Hybrids	2.4	1.0	3	1-4	2
Water Quality (chemical)	2.4	1.1	3	1-5	9
Predation	2.4	1.2	2	1-5	9
Federal Management	2.4	1.1	2	1-5	9
Climate variability	2.2	1.2	2	1-4	9
Climate change	2.1	1.0	2	1-4	8
International Management	2.0	0.9	2	1-4	9
Directed Commercial Harvest	1.9	0.9	1	1-3	9
Artificial Propagation and Stocking	1.6	0.7	1	1-3	9
Competition	1.5	0.7	1	1-3	9
Recreational Harvest	1.3	0.5	1	1-3	9
Disease	1.3	0.5	1	1-2	8
Landlocked Populations	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Management	1.1	0.4	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	8
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 9. Qualitative ranking of threats for the Southern New England stock complex of blueback herring. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	4.3	0.7	4,5	3-5	9
Incidental Catch	2.8	0.9	3	1-5	7
Water Withdrawal/Outfall (physical and temp.)	2.6	0.8	2,3	1-5	8
Dredging	2.6	1.0	3	1-4	8
Water Quality (chemical)	2.6	1.0	3	1-5	9
Predation	2.4	1.1	2	1-5	9
Hybrids	2.4	1.0	3	1-4	2
Climate change	2.3	1.0	2	1-4	8
Climate variability	2.3	1.1	2	1-5	9
Federal Management	2.2	1.1	2	1-5	9
State Management	1.9	1.1	1	1-5	9
International Management	1.9	0.8	2	1-4	9
Directed Commercial Harvest	1.6	0.8	1	1-3	9
Artificial Propagation and Stocking	1.6	0.7	1	1-3	9
Competition	1.5	0.7	1	1-4	9
Disease	1.3	0.5	1	1-2	8
Recreational Harvest	1.2	0.4	1	1-2	9
Landlocked Populations	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Management	1.1	0.4	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	8
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 10. Qualitative ranking of threats for the Mid-Atlantic stock complex of blueback herring. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	3.9	1.0	4	3-5	9
Water Quality (chemical)	3.0	0.9	3	1-5	9
Incidental Catch	2.8	0.9	3	1-5	7
Water Withdrawal/Outfall (physical and temp.)	2.7	0.8	3	1-5	8
Climate change	2.7	1.2	3	1-5	8
Dredging	2.6	1.0	3	1-4	8
Climate variability	2.6	1.2	2,3	1-5	9
Predation	2.4	1.1	2	1-5	9
Hybrids	2.4	1.0	3	1-4	2
Federal Management	2.3	1.1	2	1-5	9
State Management	2.2	1.1	2	1-5	9
Directed Commercial Harvest	1.9	0.9	1	1-4	9
International Management	1.7	0.8	1	1-4	9
Competition	1.5	0.7	1	1-3	9
Artificial Propagation and Stocking	1.5	0.7	1	1-3	9
Disease	1.4	0.5	1	1-3	8
Recreational Harvest	1.3	0.5	1	1-3	9
Landlocked Populations	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Management	1.1	0.4	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	7
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 11. Qualitative ranking of threats for the Southern Atlantic stock complex of blueback herring. Status Review Team members ranked threats by distributing 5 likelihood points among 5 ranks: 1- low, 2-medium/low, 3- medium, 4-medium/high, 5-high. The mean represents the overall Team average rank, mode represents the rank which received the most likelihood points, and range represents the range of ranks that were assigned likelihood points for each threat. N=number of Team members who ranked the threat between 1 and 5; likelihood points for threats that Team members ranked as either unknown or not applicable are not included.

Threats	Mean	SD	Mode	Range	N
Dams and Other Barriers	3.8	1.1	4	3-5	8
Water Quality (chemical)	3.0	0.9	3	1-5	9
Climate change	3.0	1.3	4	1-5	8
Climate variability	2.8	1.4	2,4	1-5	9
Water Withdrawal/Outfall (physical and temp.)	2.8	0.8	3	1-5	8
Dredging	2.7	1.0	3	1-4	8
Incidental Catch	2.6	1.0	3	1-5	7
Predation	2.6	1.2	3	1-5	9
Federal Management	2.3	1.1	2	1-5	9
State Management	2.2	1.1	2	1-5	9
Hybrids	1.9	0.7	2	1-3	2
Directed Commercial Harvest	1.8	0.8	1	1-3	9
International Management	1.7	0.8	1	1-4	9
Competition	1.6	0.7	1	1-3	9
Disease	1.5	0.6	1	1-3	8
Artificial Propagation and Stocking	1.5	0.7	1	1-3	9
Recreational Harvest	1.3	0.5	1	1-3	9
Landlocked Populations	1.2	0.4	1	1-2	7
Tribal/First Nation Fisheries Management	1.1	0.3	1	1-2	7
Tribal/First Nation Fisheries Utilization	1.1	0.3	1	1-2	7
Scientific Monitoring	1.0	0.1	1	1-2	9
Educational Harvest	1.0	0.0	1	1	9

Table 12. Summary table of threat ranking for alewife rangewide.

Threat	Threat Level	Section 4 Factor
Dams and Other Barriers	Medium High	A
Water Quality (chemical)	Medium	A
Incidental Catch	Medium	B
Predation	Medium	C
Dredging	Medium Low	A
Water Withdrawal/Outfall (physical and temp.)	Medium Low	A
Climate change	Medium Low	A
Climate variability	Medium Low	A
Directed Commercial Harvest	Medium Low	B
International Management	Medium Low	D
Federal Management	Medium Low	D
State Management	Medium Low	D
Competition	Medium Low	E
Artificial Propagation and Stocking	Medium Low	E
Recreational Harvest	Low	B
Tribal/First Nation Fisheries Management	Low	B
Scientific Monitoring	Low	B
Educational Harvest	Low	B
Disease	Low	C
Tribal/First Nation Fisheries Utilization	Low	D
Hybrids	Low	E
Landlocked Populations	Low	E

Table 13. Summary table of threat ranking for blueback herring rangewide.

Threat	Threat Level	Section 4 Factor
Dams and Other Barriers	Medium High	A
Climate change	Medium	A
Water Quality (chemical)	Medium	A
Incidental Catch	Medium	B
Predation	Medium	C
Water Withdrawal/Outfall (physical and temp.)	Medium Low	A
Dredging	Medium Low	A
Climate variability	Medium Low	A
Directed Commercial Harvest	Medium Low	B
International Management	Medium Low	D
Federal Management	Medium Low	D
State Management	Medium Low	D
Competition	Medium Low	E
Hybrids	Medium Low	E
Recreational Harvest	Low	B
Tribal/First Nation Fisheries Management	Low	B
Scientific Monitoring	Low	B
Educational Harvest	Low	B
Disease	Low	C
Tribal/First Nation Fisheries Utilization	Low	D
Artificial Propagation and Stocking	Low	E
Landlocked Populations	Low	E

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Extinction Risk Analysis

In order to assess the risk of extinction for alewife and blueback herring, trends in the relative abundance of alewife and blueback herring were assessed for each species rangewide, as well as for each species-specific stock complex. As noted previously, for alewife, the stock complexes include Canada, Northern New England, Southern New England and the mid-Atlantic. For blueback herring, the stock complexes are Canada, Northern New England, Southern New England, mid-Atlantic and Southern.

Criteria Established by SRT for Evaluating Risk

Prior to conducting the trend analysis modeling, the SRT established criteria that would be used to evaluate the risk to both species as well as to the individual stock complexes. At the SRT's request, the NEFSC conducted modeling to develop trends in relative abundance by estimating the population growth rate for both species both rangewide and for each individual stock complex. The SRT established two tiers that could be used separately or in combination to interpret the results of the modeling in order to assess risk to alewife and blueback herring rangewide and for the individual stock complexes. We concur that these tiers are appropriate. Tier A relates to what is known about the geographic distribution, habitat connectivity and genetic diversity of each species, and Tier B relates to the risk thresholds established for the trend analysis that was conducted by the NEFSC. These tiers are subject to change in the future as more information becomes available. For example, Tier A is based on preliminary genetic data addressing possible stock complexes, which could change in the future. Data related to both tiers were assessed to determine if sufficient information was available to make a conclusion under one or both of the tiers. The SRT decided that, because of significant uncertainties associated with the available data and a significant number of data deficiencies for both species, it was not necessary to have information under both tiers in order to make a risk determination, and we concur with this decision.

The goal of Tier A was to maintain three contiguous stock complexes that are stable or increasing as this: (1) Satisfies the need to maintain both geographic closeness and geographic distance for a properly functioning metapopulation (see McElhany *et al.,* 2000); (2) ensures that the recovered population does not include isolated genetic groups that could lead to genetic divergence (McDowall, 2003, Quinn, 1984); (3) provides some assurance that the species persists across a relatively wide geographic area supporting diverse environmental conditions and diverse habitat types; and (4) ensures that the entire population does not share the same risk from localized environmental catastrophe (McElhany *et al.,* 2000).

Tier B information was used to directly interpret the results of the trends in relative abundance modeling

conducted by the NEFSC. As described below, relative abundance of both alewife and blueback herring was used to estimate growth rate (along with the 95 percent confidence intervals for the growth rates) for each species rangewide and for each stock complex. Tier B established risk criteria depending on the outcomes of the population growth rate modeling. As indicated in the foreseeable future section above, a 12- to 18-year timeframe (e.g., 2024–2030) for each species was determined to be appropriate. After subsequent discussions, the SRT decided that the projections into the foreseeable future would not provide meaningful information for the extinction risk analysis. As noted previously, the trend analysis provides a steady population growth rate. If the population growth rate is positive and everything else remains the same into the foreseeable future (e.g., natural and anthropogenic mortality rates do not change), the abundance into the foreseeable future will continue to increase. If the population growth rate is negative, then the abundance into the foreseeable future will continue to decline. Currently, there is insufficient information available to modify any of the factors that may change the growth rates into the foreseeable future, and thus, performing these projections will not provide meaningful information for the extinction risk of either of these species.

The baseline for the overall risk assessment assumes that there has already been a significant decline in abundance in both species due to a reduction in carrying capacity and overfishing as indicated in various publications (Limburg and Waldman, 2009; Hall *et al.,* 2012), as well as other threats. The estimated population growth rates reflect the impacts from the various threats to which the species are currently exposed. The SRT recommended that NEFSC use data from 1976 through the present to minimize the overfishing influence from distant water fleets that occurred in earlier years but has since been curtailed by fisheries management measures. The SRT recommended that the NEFSC also run a trajectory using a plus/minus 10-percent growth rate to test model sensitivity with respect to changes in the model variables. This approach has been used in analyses for other species (e.g., Atlantic croaker, Atlantic cod) and can serve as a means of showing sensitivities in the model to potential variables (e.g., population growth rate changes, climate change) (Hare and Able, 2007; Hare, NMFS Pers. comm., 2012). Following completion of the model results, we determined that the plus/minus 10-percent change in population growth rate would not provide additional information that would change the conclusions as to whether the populations are significantly increasing, stable or decreasing. Without the projections of the population growth rate into the foreseeable future, the plus/minus 10-percent would merely provide an additional set of bounds around the population growth rate estimate, and, therefore, we determined that running the model with the plus/minus 10-percent was not necessary.

The population growth rates derived from the analysis help identify whether stability exists within the population. Mace *et al.* (2002) and Demaster *et al.* (2004) recognized that highly fecund, short generation time species like river herring may be able to withstand a 95 to 99 percent decline in biomass. Both alewives and blueback herring may already be at or less than two percent of the historical baseline (e.g., Limburg and Waldman, 2009), though these estimates are based on commercial landings data, which are dependent upon management and are not a reliable estimate of biomass. However, recognizing historical declines for both species, the modeled population growth rates were used to gauge whether these stock complexes are stable, significantly increasing or decreasing. Relative abundance of a stock is considered to be significantly increasing or decreasing if the 95-percent confidence intervals of the population growth rate do not include zero. In contrast, if the 95-percent confidence intervals do contain zero, then the population is considered to be stable, as the increasing or decreasing trend in abundance is not statistically significant.

The SRT determined and we agree that a stable or significantly increasing trajectory suggests that these species may be within the margins of being self-sustainable and thus, if all of the growth rates for the coast-wide distribution and the stock complexes are stable or significantly increasing, the species is at low risk of extinction (the risk categories were defined by adapting the categories described above for the QTA—Low risk—it is likely that the threats to the species' continued existence are not significant now and/or into the foreseeable future; Moderately Low—risk falls between low and moderate rankings; Moderate—it is likely that the threats are having some effect on the species continued existence now and/or into the foreseeable future; Moderately High—the risk falls between moderate and high; High—it is likely that the threats are significantly affecting the species' continued existence now and/or into the foreseeable future). If the coast wide population growth rate is stable or significantly increasing and one stock complex is significantly decreasing but all others are stable or significantly increasing, the species is at a moderate-low risk. A significantly decreasing population growth rate for several stock complexes would be an indicator that the current abundance may not be sustainable relative to current management measures and, therefore, may warrant further protections. Thus, if the population growth rates for two of the stock complexes are significantly decreasing but the coast-wide index is significantly increasing, the species is at moderate-high risk. If the growth rates for three or more of the stock complexes are significantly decreasing and/or the coast-wide index is significantly decreasing, the species is at high risk.

Risk Scenarios

- Low risk
  - Coast wide trajectory—Stable to significantly increasing
  - Stock complex trajectories—All stable to significantly increasing
- Moderate-Low risk
  - Coast wide trajectory—Stable to significantly increasing
  - Stock complex trajectories—One significantly decreasing, all others stable to significantly increasing
- Moderate-High risk
  - Coast wide trajectory—Stable to significantly increasing
  - Stock complex trajectories—Two or more significantly decreasing
- High risk
  - Coast wide trajectory—Significantly decreasing
  - Stock complex trajectories—Three or more significantly decreasing

Trend Analysis Modeling

The sections below include summaries/excerpts from the NEFSC Report to the SRT, ''Analysis of Trends in Alewife and Blueback Herring Relative Abundance,'' June 17, 2013, 42 pp. (NEFSC, 2013). For detailed information on the modeling conducted, please see the complete report which can be found at *http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/RiverHerringSOC.htm* or see **FOR FURTHER INFORMATION CONTACT** section above for contacts.

Data Used in the Trend Analysis Modeling

Rangewide Data

Relative abundance indices from multiple fishery-independent survey time series were considered as possible data inputs for the rangewide analysis. These time series included the NEFSC spring, fall, and winter bottom trawl surveys as well as the NEFSC shrimp survey. For alewife, two additional time series were available: Canada's DFO summer research vessel (RV) survey of the Scotian Shelf and Bay of Fundy (1970–present), and DFO's Georges Bank RV survey (1987–present, conducted during February and March).

For the NEFSC spring and fall bottom trawl surveys, inshore strata from 8 to 27 m depth and offshore strata from 27 to 366 m depth have been most consistently sampled by the RV *Albatross IV* and RV *Delaware II* since the fall of 1975 and spring of 1976. Prior to these time periods, either only a portion of the survey area was sampled or a different vessel and gear were used to sample the inshore strata (Azarovitz, 1981). Accordingly, seasonal alewife and blueback herring relative abundance indices were derived from these trawl surveys using both inshore and offshore strata for 1976–2012 in the spring and 1975–2011 in the fall. Additional relative abundance indices were derived using only offshore strata for 1968–2012 in the spring and 1967–2011 in the fall (from 1963–1967 the fall survey did not extend south of Hudson Canyon). These time series were developed following the same methodology used in the ASMFC river herring stock assessment (ASMFC, 2012).

Through 2008, standard bottom trawl tows were conducted for 30 minutes at 6.5 km/hour with the RV *Albatross IV* as the primary survey research vessel (Despres-Patanjo *et al.,* 1988). However, vessel, door and net changes did occur during this time, resulting in the need for conversion factors to adjust survey catches for some species. Conversion factors were not available for net and door changes, but a vessel conversion factor for alewife was available to account for years where the RV *Delaware II* was used. A vessel conversion factor of 0.58 was applied to alewife weight-per-tow indices from the RV *Delaware II.* Alewife number-per-tow indices did not require a conversion factor (Byrne and Forrester, 1991).

In 2009, the survey changed primary research vessels from the RV *Albatross IV* to the RV *Henry B. Bigelow.* Due to the deeper draft of the RV *Henry B. Bigelow,* the two shallowest series of inshore strata (8–18 m depth) are no longer sampled. Concurrent with the change in fishing vessel, substantial changes to the characteristics of the sampling protocol and trawl gear were made, including tow speed, net type and tow duration (NEFSC, 2007). Calibration experiments, comprising paired standardized tows of the two fishing vessels, were conducted to measure the relative catchability between the two vessel-gear combinations and develop calibration factors to convert Bigelow survey catches to *RV Albatross* equivalents (Miller *et al.,* 2010). In the modeling, the NEFSC developed species-specific calibration coefficients which were estimated for both catch numbers and weights using the method of Miller *et al.* (2010) (Table 14). The calibration factors were combined across seasons due to low within-season sample sizes from the 2008 calibration studies (fewer than 30 tows with positive catches by one or both vessels).

Table 14. Coefficients and associated standard errors used to convert RV Bigelow catches of alewife and blueback herring to RV Albatross IV equivalents for the 2009-2011 NEFSC bottom trawl surveys.

	Number		Biomass	
Species	**Coefficient**	**SE**	**Coefficient**	**SE**
Alewife	1.05	0.16	0.72	0.11
Blueback herring	0.87	0.17	1.59	0.45

Bottom trawl catches of river herring tend to be higher during the daytime due to diel migration patterns (Loesch *et al.,* 1982; Stone and Jessop, 1992). Accordingly, only daytime tows were used to compute relative abundance and biomass indices. In addition, the calibration factors used to convert RV *Bigelow* catches to RV *Albatross* equivalents were estimated using only catches from daytime tows. Daytime tows, defined as those tows between sunrise and sunset, were identified for each survey station based on sampling date, location, and solar zenith angle using the method of Jacobson *et al.* (2011). Although there is a clear general relationship between solar zenith and time of day, tows carried out at the same time but at different geographic locations may have substantially different irradiance levels that could influence survey catchability (NEFSC, 2011). Preliminary analyses (Lisa Hendrickson, NMFS, 2012—unpublished data) confirmed that river herring catches were generally greater during daylight hours compared to nighttime hours.

In addition to the NEFSC spring and fall trawl surveys, the NEFSC winter and shrimp surveys were considered for inclusion in the analysis. For the winter survey (February), the sampling area extended from Cape Hatteras, NC, through the southern flank of Georges Bank, but did not include the remaining portion of Georges Bank or the Gulf of Maine. With the arrival of the RV *Bigelow* in late 2007, the NEFSC winter survey was merged with the NEFSC spring survey and discontinued. Alewife and blueback herring indices of relative abundance were developed for the winter survey from 1992–2007 using daytime tows from all sampled inshore and offshore strata. The shrimp survey is conducted during the summer (July/August) in the western Gulf of Maine during daylight hours. Relative abundance indices were derived for alewife and blueback herring from 1983–2011 using all strata that were consistently sampled across the survey time series in the NEFSC winter and shrimp surveys.

Stratified mean indices of relative abundance of alewife from Canada's summer RV survey and Georges Bank RV survey were provided by Heath

Stone of Canada's DFO. In these surveys, alewife is the predominant species captured; however, some blueback herring are likely included in the alewife indices because catches are not always separated by river herring species (Heath Stone, DFO Pers. comm., 2012). Furthermore, some Georges Bank strata were not sampled in all years of the survey due to inclement weather and vessel mechanical problems (Stone and Gross, 2012).

Due to the restricted spatial coverage of the winter, shrimp and Canadian Georges Bank surveys, these surveys were not used in the final rangewide analyses. Accordingly, relative abundance (number-per-tow) from the NEFSC spring and fall surveys was used in the rangewide models for blueback herring, and number-per-tow from the NEFSC spring survey, NEFSC fall survey, and the Canadian summer survey were used in the rangewide models for alewife.

Data from 1976 through the present were incorporated into the trend analysis. This time series permitted the inclusion of the spring and fall surveys' inshore strata. In addition, with this time series, the required assumption that the population growth rate will remain the same was reasonable. Prior to 1976, fishing intensity was much greater due to the presence of distant water fleets on the East Coast of the United States.

Years with zero catches were treated as missing data. For alewife, there were no years with zero catches in the spring, fall and Scotian shelf surveys. Zero catches of blueback herring occurred in the fall survey in 1988, 1990, 1992 and 1998.

Stock-Specific Data

Stock-specific time series of alewife and blueback herring relative abundance were obtained from the ASMFC and Canada's DFO. Available time series varied among stocks and included run counts, as well as young-of-year (YOY), juvenile and adult surveys that occurred solely within the bays or sounds of the stock of interest (for alewife see Table 15 in the NEFSC's ''Analysis of Trends in Alewife and Blueback Herring Relative Abundance,'' and for blueback herring, see Table 16). All available datasets were included in the stock-specific analyses, with the exception of run counts from the St. Croix and Union Rivers. These datasets were excluded due to the artificial impacts of management activities on run sizes. The closure of the Woodland Dam and Great Falls fishways in the St. Croix River prevented the upstream passage of alewives to spawning habitat. In contrast, fluctuations in Union River run counts were likely impacted by lifting and stocking activities used to maintain a fishery above the Ellsworth Dam. In the southern Gulf of St. Lawrence trawl survey, all river herring were considered to be alewife because survey catches were not separated by river herring species (Luc Savoie DFO, Pers. comm., 2012). No blueback herring abundance indices were available for the Canadian stock. Select strata were not used to estimate stock-specific indices from the NEFSC trawl surveys because mixing occurs on the continental shelf. Accordingly, any NEFSC trawl survey indices, even estimated using only particular strata, would likely include individuals from more than one stock.

Each available dataset in the stock-specific analyses represented a particular age or stage (spawners, young-of-year, etc.) of fish. Consequently, each time series was transformed using a running sum over 4 years. The selection of 4 years for the running sum was based on the generation time of river herring. For age- and stage-specific data, a running sum transformation is recommended to obtain a time series that more closely approximates the total population (Holmes, 2001). In order to compute the running sums for each dataset, missing data were imputed by computing the means of immediately adjacent years. For both species 4 years were imputed for the Monument River, and 1 year was imputed for the DC seine survey. For alewife, 1 year was also imputed for the Mattapoisett River, Nemasket River, and the southern Gulf of St. Lawrence trawl survey. For blueback herring, 1 year was also imputed for the Long Island Sound (LIS) trawl survey and Santee-Cooper catch-per-unit-effort (CPUE).

If possible data from 1976 through the present were incorporated into each stock-specific model, with the first running sum incorporating data from 1976 through 1979. However, for some stocks, observation time series began after 1976. In these cases, the first modeled year coincided with the first running sum of the earliest survey.

MARRS Model Description

Multivariate Autoregressive State-Space models (MARSS) were developed using the MARSS package in R (Holmes *et al.,* 2012a). This package fits linear MARSS models to time series data using a maximum likelihood framework based on the Kalman smoother and an Expectation Maximization algorithm (Holmes *et al.,* 2012b).

Each MARSS model is comprised of a process model and an observation model (Holmes and Ward, 2010; Holmes *et al.,* 2012b). The model is described in detail in the NEFSC (2013) final report to the SRT (posted on the Northeast Regional Office's Web site—*http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/RiverHerringSOC.htm*). *Population projections and model analysis.*

For each stock complex, the estimated population growth rate and associated 95 percent confidence intervals were used to classify whether the stock's relative abundance was stable, significantly increasing or decreasing. As noted previously, relative abundance of a stock was considered to be significantly increasing or decreasing if the 95 percent confidence intervals of the population growth rate did not include zero. In contrast, if the 95 percent confidence intervals included zero, the population was considered to be stable because the increasing or decreasing trend in abundance was not significant.

Model Results

Rangewide Analyses

For the rangewide analysis, as shown in Table 15 below, the preferred model run for alewife indicates that the 95-percent confidence intervals spanning the estimated population growth rate do not include 0 and are statistically significantly increasing. For blueback herring rangewide, however, the 95-percent confidence intervals do include 0, and thus, it is not possible to state that the trend rangewide for this species is increasing. We, therefore, conclude based on our criteria described above that blueback herring rangewide are stable.

Table 15. Population growth rate maximum likelihood estimates (ML.Est), associated standard errors (Std.Err) and lower and upper 95 percent confidence intervals (low.CI, up.CI) for each rangewide model run. The preferred model run (lowest AIC) for each species is highlighted in grey.

Species	Run	ML.Est	Std.Err	low.CI	up.CI
Alewife	Independent with equal variances	0.034	0.006	0.022	0.046
	Independent with unequal variances	0.032	0.006	0.020	0.043
	Unconstrained	0.030	0.005	0.020	0.041
	Unequal variances with one covariance term	0.035	0.013	0.009	0.062
	Equal variance and covariance	0.034	0.005	0.023	0.045
Blueback herring	Independent with equal variances	0.039	0.040	-0.040	0.119
	Independent with unequal variances	0.022	0.036	-0.047	0.093
	Unconstrained	0.026	0.045	-0.063	0.112
	Equal variance and covariance	0.040	0.052	-0.064	0.144

Stock-Specific Analyses

As shown in Table 16 below, the 95-percent confidence intervals spanning the estimated population growth rate for the Canadian stock complex do not include 0 and are statistically significantly increasing. For the other three stock complexes, however, the confidence intervals do include 0, and thus, the Northern New England, Southern New England and mid-Atlantic alewife stock complexes are stable.

As Canada does not separate alewife and blueback herring in their surveys (e.g., they indicate that all fish are alewife), we were unable to obtain data from Canada specifically for blueback herring. For three of the remaining four stock complexes, the 95-percent confidence intervals spanning the estimated population growth rate do include 0 and thus, the trend for these stock complexes is stable. For the mid-Atlantic stock complex, the population growth rate and both 95-percent confidence intervals are all statistically significantly decreasing. Thus, we conclude that this stock complex is significantly decreasing.

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Table 16. Population growth rate maximum likelihood estimates (ML.Est), associated standard errors (Std.Err) and lower and upper 95-percent confidence intervals (low.CI, up.CI) for each stock-specific model run. The preferred model run (lowest AIC) for each stock is highlighted in grey.

Species	Stock	Run	ML.Est	Std.Err	low.CI	up.CI
Alewife	Mid Atlantic	Independent with equal variances	0.004	0.034	-0.061	0.073
		Independent with unequal variances	-0.021	0.036	-0.092	0.048
		Unconstrained	-0.013	0.029	-0.071	0.044
		Unequal variances with one covariance term	-0.021	0.035	-0.088	0.054
		Equal variance and covariance	-0.004	0.046	-0.092	0.088
	Southern New England	Independent with equal variances	0.008	0.032	-0.052	0.072
		Independent with unequal variances	0.017	0.028	-0.038	0.071
		Equal variance and covariance	0.005	0.032	-0.057	0.069
	Northern New England	Independent with equal variances	0.036	0.038	-0.041	0.109
		Unconstrained	0.038	0.036	-0.034	0.108
		Equal variance and covariance	0.036	0.041	-0.048	0.114
	Canada	Independent with equal variances	0.111	0.031	0.050	0.170
Blueback herring	Southern	Independent with equal variances	-0.004	0.047	-0.091	0.091
		Independent with unequal variances	0.022	0.041	-0.058	0.102
		Unconstrained	0.024	0.042	-0.058	0.103
		Equal variance and covariance	-0.001	0.046	-0.091	0.092
	Mid Atlantic	Independent with equal variances	-0.070	0.008	-0.085	-0.055
		Independent with unequal variances	-0.048	0.003	-0.054	-0.042
		Equal variance and covariance	-0.072	0.013	-0.097	-0.046
	Southern New England	Independent with equal variances	-0.033	0.035	-0.101	0.036
	Northern New England	Independent with equal variances	-0.076	0.058	-0.185	0.041

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Model Assumptions and Limitations

The available data for each analysis varied considerably among species and stocks. Some stocks such as Southern New England blueback herring had only one available data set; however, other stocks such as Southern New England alewife and mid-Atlantic blueback herring had eight or more available time series. Within each analysis, all input time series must be weighted equally, regardless of the variability in the dataset. Furthermore, only the annual point estimates of relative abundance are inputs to the model; associated standard errors for the time series are not inputted.

However, some observation time series may be more representative of the stock of interest than other time series. For example, for Northern New England alewife, available datasets included run counts from five rivers and Maine's juvenile alosine seine survey. Each time series of run counts represents the spawning population in one particular river, whereas the juvenile seine survey samples six Maine rivers including Merrymeeting Bay (ASMFC, 2012). Accordingly, it is possible that the juvenile seine survey provides a better representation of Northern New England alewife than the run counts from any particular river because the seine survey samples multiple populations. Likewise, for Southern New England alewife, available datasets included the Long Island Sound (LIS) trawl survey, New York juvenile seine survey, and run counts from six rivers. The LIS trawl survey samples Long Island Sound from New London to Greenwich Connecticut with stations in both Connecticut and New York state waters, including the mouths of several rivers including the Thames, Connecticut, Housatonic, East and Quinnipiac (CTDEP, 2011; ASMFC, 2012). The NY juvenile seine survey samples the Hudson River estuary (ASMFC, 2012), and run counts are specific to particular rivers. As a consequence, the LIS trawl survey may be more representative of the Southern New England alewife stock because it samples not only a greater proportion of the stock, but also samples LIS where mixing of river-specific populations likely occurs.

Several sources of uncertainty are described in detail in the modeling report. It is important to understand and document these sources of uncertainty. However, even with several assumptions and these sources of uncertainty, we are confident that the model results are useful in determining the population growth rates both coast-wide and for the individual stock complexes, and thus, for providing information to be used in assessing the risk to these species and stock complexes.

Extinction Risk Conclusion

In performing our analysis of the risk of extinction to the species, we considered the current status and trends and the threats as they are impacting the species at this time. Currently, neither species is experiencing high rates of decline coast-wide as evidenced by the rangewide trends (significantly increasing for alewife and stable for blueback herring). Thus, using the extinction risk tiers identified by the SRT, we have concluded the following:

Alewife—

- Tier A: There is sufficient information available to conclude that there are at least three contiguous populations that are stable to significantly increasing.
- Tier B: The species is at ''Low risk'' as the coast-wide trajectory is significantly increasing and all of the stock complexes are stable or significantly increasing.

Blueback herring—

- Tier A: There is insufficient information available to make a conclusion under Tier A as we were unable to obtain data from Canada to determine the population growth rate for rivers in Canada. Thus, we were only able to obtain information for four of the five stock complexes identified for the species.
- Tier B: The species is at ''Moderate-low risk ''as the coast-wide trajectory is stable and three of the four stock complexes are stable. The estimated population growth rate of the mid-Atlantic stock complex is significantly decreasing based on the available information. However, the relative abundance of the species throughout its range (as demonstrated through the coast-wide population growth rate) is stable, and thus, the SRT concluded that the mid-Atlantic stock complex does not constitute a significant portion of the species range. We concur with this conclusion. In other words, the data indicate that the mid-Atlantic stock complex does not contribute so much to the species that, without it, the entire species would be in danger of extinction.

Many conservation efforts are underway that may lessen the impact of some of these threats into the foreseeable future. One of the significant threats identified for both species is bycatch in Federal fisheries, such as the Atlantic herring and mackerel fisheries. The New England and Mid Atlantic Fishery Management Councils have recommended management measures under the MSA that are expected to decrease the risk from this particular threat. Under both the Atlantic Herring Fishery Management Plan and the Mackerel/Squid/Butterfish Fishery Management Plan, the Councils have recommended a suite of reporting, vessel operation, river herring catch cap provisions, and observer provisions that would improve information on the amount and extent of river herring catch in the Atlantic herring and mackerel fisheries. NMFS has partially approved the measures as recommended by the New England Council and will be implementing the measures in September or October 2013. Another threat that has been identified for both species is loss of habitat or loss of access to spawning habitats. We have been working to restore access to spawning habitats for river herring and other diadromous fish species through habitat restoration projects. While several threats may lessen in the future, given the extensive decline from historical levels, neither species is thought to be capable of withstanding continued high rates of decline.

Research Needs

As noted above, there is insufficient information available on river herring in many areas. Research needs were recently identified in the ASMFC River Herring Stock Assessment Report (ASMFC, 2012); NMFS Stock Structure, Climate Change and Extinction Risk Workshop/Working Group Reports (NMFSa, 2012; NMFSb, 2012; NMFSc, 2012) and associated peer reviews; and New England and Mid-Atlantic Fishery Management Council documents (NEFMC, 2012; MAFMC, 2012). We have identified below some of the most critical and immediate research needs to conserve river herring taking the recently identified needs into consideration, as well as information from this determination. However, these are subject to refinement as a coordinated and prioritized coast-wide approach to continue to fill in data gaps and conserve river herring and their habitat is developed (see ''Listing Determination'' below).

- Gather additional information on life history for all stages and habitat areas using consistent and comprehensive coast-wide protocols (i.e., within and between the United States and Canada). This includes information on movements such as straying rates and migrations at sea. Improve methods to develop biological benchmarks used in assessment modeling.

• Continue genetic analyses to assess genetic diversity, determine population stock structure along the coast (U.S. and Canada) and determination of river origin of incidental catch in non-targeted ocean fisheries. Also, obtain information on hybridization and understand the effects of stocking on genetic diversity.

• Further assess human impacts on river herring (e.g., quantifying bycatch through expanded observer and port sampling coverage to quantify fishing impact in the ocean environment and improve reporting of commercial and recreational harvest by waterbody and gear, ocean acidification)

• Continue developing models to predict the potential impacts of climate change on river herring. This includes, as needed to support these efforts, environmental tolerances and thresholds (e.g., temperature) for all life stages in various habitats.

• Develop and implement monitoring protocols and analyses to determine river herring population responses and targets for rivers undergoing restoration (e.g., dam removals, fishways, supplemental stocking). Also, estimate spawning habitat by watershed (with and without dams).

• Assess the frequency and occurrence of hybridization between alewife and blueback herring and possible conditions that contribute to its occurrence (e.g., occurs naturally or in response to climate change, dams, or other anthropogenic factors).

• Continue investigating predator prey relationships.

Listing Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species.

We have considered the available information on the abundance of alewife and blueback herring, and whether any one or a combination of the five ESA factors significantly affect the long-term persistence of these species now or into the foreseeable future. We have reviewed the information received following the positive 90-day finding on the petition, the reports from the stock structure, extinction risk analysis, and climate change workshops/working groups, the population growth rates from the trends in relative abundance estimates and qualitative threats assessment, the Center for Independent Experts peer reviewers' comments, other qualified peer reviewer submissions, and consulted with scientists, fishermen, fishery resource managers, and Native American Tribes familiar with river herring and related research areas, and all other information encompassing the best available information on river herring. Based on the best available information, the SRT concluded that alewife are at a low risk of extinction from the threats identified in the QTA (e.g., dams and other barriers to migration, incidental catch, climate change, dredging, water quality, water withdrawal/outfall, predation, and existing regulation), and blueback herring are at a moderate-low risk of extinction from similar threats identified and discussed in the QTA discussion above. We concur with this conclusion, and we have determined that as a result of the extinction risk analysis for both species, these two species are not in danger of extinction or likely to become so in the foreseeable future. Therefore, listing alewife and blueback herring as either endangered or threatened throughout all of their ranges is not warranted at this time.

Significant Portion of the Range Evaluation

Under the ESA and our implementing regulations, a species warrants listing if it is threatened or endangered throughout all or a significant portion of its range. In our analysis for this listing determination, we initially evaluated the status of and threats to the alewife and blueback herring throughout the entire range of both species. As stated previously, we have concluded that there was not sufficient evidence to suggest that the genetically distinct stock complexes of alewife or blueback constitute DPSs. We also then assessed the status of each of the individual stock complexes in order to determine whether either species is threatened or endangered in a significant portion of its range.

As noted above in the QTA section, the SRT determined that the threats to both species are similar and the threats to each of the individual stock complexes are similar with some slight variation based on geography. Water quality, water withdrawal/outfall, predation, climate change and climate variability were generally seen as greater threats to both species in the southern portion of their ranges than in the northern portion of their ranges. In light of the potential differences in the magnitude of the threats to specific areas or populations, we next evaluated whether alewife or blueback herring might be threatened or endangered in any significant portion of its range. In accordance with our draft policy on ''significant portion of its range,'' our first step in this evaluation was to review the entire supporting record for this listing determination to ''identify any portions of the range[s] of the species that warrant further consideration'' (76 FR 77002; December 9, 2011). Therefore, we evaluated whether there is substantial information suggesting that the hypothetical loss of any of the individual stock complexes for either species (e.g., portions of the species' ranges) would reasonably be expected to increase the demographic risks to the point that the species would then be in danger of extinction, (i.e., whether any of the stock complexes within either species' range should be considered ''significant''). As noted in the extinction risk analysis section, all of the alewife stock complexes as well as the coastwide trend are either stable or increasing. For blueback herring, 3 of the stock complexes and the coastwide trend are all stable, but the mid-Atlantic stock complex is decreasing. The SRT determined that the mid-Atlantic stock complex is not significant to the species, given that even though it is decreasing, the overall coastwide trend is stable. Thus, the loss of this stock complex would not place the entire species at risk of extinction. We concur with this conclusion. Because the portion of the blueback herring stock complex residing in the mid-Atlantic is not so significant that its hypothetical loss would render the species endangered, we conclude that the mid-Atlantic stock complex does not constitute a significant portion of the blueback herring's range. Consequently, we need not address the question of whether the portion of the species occupying this portion of the range of blueback herring is threatened or endangered.

Conclusion

Our review of the information pertaining to the five ESA section 4(a)(1) factors does not support the assertion that there are threats acting on either alewife or blueback herring or their habitat that have rendered either species to be in danger of extinction or likely to become so in the foreseeable future, throughout all or a significant portion of its range. Therefore, listing alewife or blueback herring as threatened or endangered under the ESA is not warranted at this time.

While neither species is currently endangered or threatened, both species are at low abundance compared to historical levels, and monitoring both species is warranted. We agree with the SRT that there are significant data deficiencies for both species, and there is uncertainty associated with available data. There are many ongoing restoration and conservation efforts and new management measures that are being initiated/considered that are expected to benefit the species; however, it is not possible at this time to quantify the positive benefit from these efforts. Given the uncertainties and data deficiencies for both species, we commit to revisiting both species in 3 to 5 years. We have determined that this is an appropriate timeframe for considering this information in the future as a 3- to 5-year timeframe equates to approximately one generation time for each species, and it is therefore unlikely that a detrimental impact to either species could occur within this period. Additionally, it allows for time to complete ongoing scientific studies (e.g., genetic analyses, ocean migration patterns, climate change impacts) and for the results to be fully considered. Also, it allows for the assessment of data to determine whether the preliminary reports of increased river counts in many areas along the coast in the last 2 years represent sustained trends. During this 3- to 5-year period, we intend to coordinate with ASMFC on a strategy to develop a long-term and dynamic conservation plan (e.g., priority activities and areas) for river herring considering the full range of both species and with the goal of addressing many of the high priority data gaps for river herring. We welcome input and involvement from the public. Any information that could help this effort should be sent to us (see **ADDRESSES** section above).

References Cited

A complete list of all references cited in this rulemaking can be found on our Web site at *http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/RiverHerringSOC.htm* and is available upon request from the NMFS office in Gloucester, MA (see **ADDRESSES**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 6, 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. 2013–19380 Filed 8–9–13; 8:45 am]

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Part III

Department of Health and Human Services

Center for Medicare & Medicaid Services

42 CFR Parts 410, 414, 415, et al.

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, DME Face-to-Face Encounters, Elimination of the Requirement for Termination of Non-Random Prepayment Complex Medical Review and Other Revisions to Part B for CY 2013; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 414, 415, 421, 423, 425, 486, and 495

[CMS–1590–CN]

RIN 0938–AR11

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, DME Face-to-Face Encounters, Elimination of the Requirement for Termination of Non-Random Prepayment Complex Medical Review and Other Revisions to Part B for CY 2013

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 16, 2012, entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, DME Face-to-Face Encounters, Elimination of the Requirement for Termination of Non-Random Prepayment Complex Medical Review and Other Revisions to Part B for CY 2013.''

DATES: The correcting document is effective August 12, 2013 and is applicable beginning January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Elliott Isaac, (410) 786–4735.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–26900 of November 16, 2012 (77 FR 68892 through 69373), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. These corrections are effective January 1, 2013. We note that the Addenda A through H for the CY 2013 PFS final rule with comment period as corrected in this correction notice are available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/*.

II. Summary of Errors

A. Summary of Errors in the Preamble

On pages 68904 through 68906, in Table 3: Calculation of PE RVUs under Methodology for Selected Codes, the PE RVUs listed in the table are incorrect.

On page 68907, in our discussion of the changes to direct PE inputs for specific services, we made a typographical error in identifying the calendar years.

On page 68957, in our discussion of Medicare telehealth services, we inadvertently omitted a discussion of psychotherapy services.

On page 68958, in our discussion of therapy services, we inadvertently omitted language regarding the claims-based data collection strategy for therapy services.

On page 68965, we inadvertently omitted language in our discussion on non-payable G-codes on beneficiary functional status.

On page 68966, we inadvertently included language.

On pages 68967 and 68968, we inadvertently made errors in the descriptors for G-codes in Table 21: G-Codes for Claims-Based Functional Reporting for CY 2013.

On page 69033, we inadvertently omitted a code-specific direct PE input.

On pages 69042 and 69043, in our discussion of the global period for CPT code 22586, we made a typographical error in the code descriptor.

On page 69051,

a. We inadvertently used the wrong descriptor for CPT 36221.

b. We inadvertently omitted two paragraphs regarding our treatment of CPT codes 37197 and 37214.

On pages 69071 through 69073, we made clerical errors in table references.

On page 69074, in our discussion of pricing supply and equipment items, we inadvertently omitted a paragraph detailing the items for which we did not receive adequate information and therefore could not price them for the interim final values in the CY 2013 rule.

On pages 69077 through 69128, we made numerous typographical errors and technical errors in Table 74: CPT Codes with Refined direct PE Recommendations for CY 2013 Interim Codes and therefore are correcting the table.

On page 69138, we made typographical errors in the CY 2013 PFS conversion factor (CF).

On page 69138, we made typographical errors in the CY 2013 PFS CF in Table 87: Calculation of the CY 2013 PFS CF.

On page 69139, in Table 88: Calculation of the CY 2013 Anesthesia CF, we inadvertently listed the incorrect anesthesia CF.

On page 69145, we inadvertently referred to ''physician's order'' instead of ''valid prescription.''

On page 69212, due to a typographical error, the title of PQRS Measure 190 referred to in the comment bullet was not correct.

On pages 69215 through 69267, the notes after Table 95: Individual Quality Measures for the Physician Quality Reporting System Proposed to be Available for Reporting via Claims, Registry, EHR, or GRPO Web Interface Beginning in 2013 or 2014* were inadvertently omitted.

On page 69237, in Table 95: Individual Quality Measures for the Physician Quality Reporting System Proposed to be Available for Reporting via Claims, Registry, EHR, or GRPO Web Interface Beginning in 2013 or 2014*, due to a typographical error, Measures #189 and 190 were incorrectly listed as available for reporting under PQRS.

On page 69269, in Table 96: PQRS Quality Measures Available for Reporting for Group Practices Using the GPRO Web Interface for 2013 and Beyond, due to a typographical error, the description of the measure ''Medication Reconciliation'' is incorrect.

On page 69277, in Table 108: HIV/AIDS Measures Group, due to a clerical error, there are measures listed that have lost their NQF endorsement and are therefore no longer being maintained by the respective measure owner.

On page 69300, due to a clerical error, we stated the deadlines for requesting an informal review for the 2012 and 2013 eRx incentives incorrectly. The regulation at § 414.92(g) correctly states that eligible professionals and group practices must submit an informal review request for the 2012 and 2013 incentives within 90 days of the release of the feedback reports. The preamble does not reflect this same regulation text. Therefore, we are revising the preamble to reflect the regulation text at § 414.92(g).

On pages 69344 through 69345, in Table 134: CY 2013 PFS Final Rule with Comment Period Estimated Impact on Total Allowed Charges by Specialty, due to technical errors in the calculations of the impacts, there were errors in the total estimated impacts and the estimated impacts for the following specialties: 01—ALLERGY/IMMUNOLOGY, 02—ANESTHESIOLOGY, 10—FAMILY PRACTICE, 13—GENERAL SURGERY, 18—INTERNAL MEDICINE, 19—INTERVENTIONAL PAIN MANAGEMENT, 21—MULTISPECIALTY CLINIC/OTHER PHY, 34—PLASTIC SURGERY, 41—UROLOGY, 49—NURSE ANES/ANES ASST.

On page 69345, at the end of Table 134: CY 2013 PFS Final Rule with Comment Period Estimated Impact on Total Allowed Charges by Specialty, we made clerical errors in the first footnote.

On pages 69347 through 69348, in Table 135: CY 2013 PFS Final Rule with

Comment Period Estimated Impact on Total Allowed Charges by Specialty by Selected Policy, due to technical errors in calculations of the impacts, there were errors in the estimates of the total impact and on the impact for the following specialties: 01—ALLERGY/IMMUNOLOGY, 02—ANESTHESIOLOGY, 13—GENERAL SURGERY, 18—INTERNAL MEDICINE, 19—INTERVENTIONAL PAIN MANAGEMENT, 21—MULTISPECIALTY CLINIC/OTHER PHY, 41—UROLOGY, 49—NURSE ANES/ANES ASST.

On page 69348, at the end of Table 135: CY 2013 PFS Final Rule with Comment Period Estimated Impact on Total Allowed Charges by Specialty by Selected Policy, we made a clerical error in the first footnote.

On page 69350 through 69351, in Table 136: Impact of Final Rule with Comment Period on CY 2013 Payment for Selected Procedures, we made technical errors in the calculation of the impacts.

On page 69351, in footnotes 3 and 4 at the end of Table 136: Impact of Final Rule with Comment Period on CY 2013 Payment for Selected Procedures, we inadvertently listed the incorrect 2012 conversion factor.

B. Summary and Correction of Errors in the Addenda on the CMS Web site

Technical errors in the creation of the direct practice expense database resulted in incorrect direct PE inputs for CPT codes: 11307, 11313, 13100, 13101, 13102, 13120, 13121, 13122, 13131, 13132, 13133, 13150, 13151, 13152, 31231, 32554, 32555, 32556, 32557, 35475, 35476, 36221, 36222, 36223, 36224, 36225, 36226, 37197, 52224, 64612, 65800, 72040, 72050, 72052, 72069, 72193, 72194, 74160, 74170, 74177, 74178, 76872, 77301, 92081, 92082, 92083, 92235, 92286, 93925, 93970, 95010, 95015, 95017, 95018, 95782, 95783, and 97150. As a result of these errors, the budget neutrality adjustment used in calculating PE RVUs was incorrect, resulting in incorrect values for other PE RVUs in Addenda B and C. These errors are corrected in the revised Direct PE Input Database available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/*. Resulting changes to PE RVUs are reflected in the corrected Addenda B and C posted on the CMS Web site at *www.cms.gov//PhysicianFeeSched/*.

Due to a technical error, although the physician time records for CPT codes 22841, 51798, 95990, 96913, and 97602 were properly removed from the physician time file per final policy discussed in the CY 2013 final rule with comment period (77 FR 68926), these time records were inadvertently used in the creation of the PE RVUs. This technical error is corrected in the revised CY 2013 Addendum B posted to the CMS Web site at *www.cms.gov//PhysicianFeeSched/*.

Due a technical error in applying a change made in the final rule in calculating the impact of the ophthalmology MPPR used in the PE methodology, as described on page 68901, the ''CY 2012 Utilization data Crosswalk to CY 2013'' file posted on the CMS Web site contained errors. This also resulted in errors in Addenda B and C files posted on the CMS Web site. These addenda have been corrected as a result of the changes made in this correction notice and the corrected Addenda B and C files are posted on the CMS Web site. *www.cms.gov//PhysicianFeeSched/*.

Due to a technical error in calculating the anesthesia inputs, the PE RVUs for all services reflected in Addenda B and C posted on the CMS Web site were inaccurate. Resulting changes to the PE RVUs are reflected in the corrected Addenda B and C.

Due to a technical error, in Addendum B, row 8744 containing CPT/HCPC 92287 did not list RVUs for use with both the TC and 26 modifiers. The corrected Addendum B, which is posted on the CMS Web site at *www.cms.gov//PhysicianFeeSched/*, includes these services and related information.

Due to a technical error in Addendum B, row 9180 containing CPT/HCPC 93657 did not list a PE RVU. The corrected Addendum B, which is posted on the CMS Web site at *www.cms.gov//PhysicianFeeSched/* reflects this change.

Due to a technical error in the posting of Addendum C, the ''NA'' flags did not display for services when either the facility or nonfacility setting did not contain a value. The corrected Addendum C, which is posted on the CMS Web site at *www.cms.gov//PhysicianFeeSched/*, reflects the ''NA'' flags for services that are not valued in the indicated setting.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects typographical and technical errors in the preamble and addenda of the CY 2013 Physician Fee Schedule final rule with comment period. The provisions of that final rule with comment period have been subjected to notice and comment procedures. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted in the CY 2013 PFS final rule with comment period. As a result, the corrections made through this correcting document are intended to ensure that the CY 2013 PFS final rule with comment period accurately reflects the policies adopted in that rule. Therefore, we find for good cause that it is unnecessary and would be contrary to the public interest to undertake further notice and comment procedures to incorporate the corrections in this document into the CY 2013 PFS final rule with comment period. For the same reasons, we find that there is good cause to waive the 30-day delay in the effective date for these corrections.

Further, we believe that it is in the public interest to ensure that the CY 2013 PFS final rule with comment period accurately reflects our policies as of the date they take effect. Therefore, we find that delaying the effective date of these corrections beyond the effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in effective date.

IV. Correction of Errors

In FR Doc. 2012–26900 of November 16, 2012 (77 FR 68892), make the following corrections:

A. Correction of Errors in the Preamble

1. On pages 68904 through 68906, in Table 3: Calculation of PE RVUs Under Methodology for Selected Codes, the table is corrected to read as follows:

TABLE 3—CALCULATION OF PE RVUS UNDER METHODOLOGY FOR SELECTED CODES

	Step	Source	Formula	99213 Office visit, est nonfacility	33533 CABG, arterial, single facility	71020 Chest x-ray nonfacility	71020–TC Chest x-ray nonfacility	71020–26 Chest x-ray nonfacility	93000 ECG, complete nonfacility	93005 ECG, tracing nonfacility	93010 ECG, report nonfacility
(1) Labor cost (Lab).	Step 1	AMA		13.32	77.52	5.74	5.74	0.00	6.12	6.12	0.00
(2) Supply cost (Sup).	Step 1	AMA		2.98	0.00	3.39	3.39	0.00	1.19	1.19	0.00
(3) Equipment cost (Eqp).	Step 1	AMA		0.17	0.58	7.24	7.24	0.00	0.11	0.11	0.00
(4) Direct cost (Dir).	Step 1		=(1)+(2)+(3)	16.48	78.10	16.38	16.38	0.00	7.42	7.42	0.00
(5) Direct adjustment (Dir. Adj.).	Steps 2–4	See footnote*		0.5973	0.5973	0.5973	0.5973	0.5973	0.5973	0.5973	0.5973
(6) Adjusted Labor.	Steps 2–4	=Labor * Dir Adj.	=(1)*(5)	7.96	46.30	3.43	3.43	0.00	3.66	3.66	0.00
(7) Adjusted Supplies.	Steps 2–4	=Eqp * Dir Adj	=(2)*(5)	1.78	0.00	2.03	2.03	0.00	0.71	0.71	0.00
(8) Adjusted Equipment.	Steps 2–4	=Sup * Dir Adj	=(3)*(5)	0.10	0.35	4.33	4.33	0.00	0.06	0.06	0.00
(9) Adjusted Direct.	Steps 2–4		=(6)+(7)+(8)	9.84	46.65	9.78	9.78	0.00	4.43	4.43	0.00
(10) Conversion Factor (CF).	Step 5	PFS		34.0376	34.0376	34.0376	34.0376	34.0376	34.0376	34.0376	34.0376
(11) Adj. labor cost converted.	Step 5	=(Lab * Dir Adj)/CF.	=(6)/(10)	0.23	1.36	0.10	0.10	0.00	0.11	0.11	0.00
(12) Adj. supply cost converted.	Step 5	=(Sup * Dir Adj)/CF.	=(7)/(10)	0.05	0.00	0.06	0.06	0.00	0.02	0.02	0.00
(13) Adj. equipment cost converted.	Step 5	=(Eqp * Dir Adj)/CF.	=(8)/(10)	0.00	0.01	0.13	0.13	0.00	0.00	0.00	0.00
(14) Adj. direct cost converted.	Step 5		=(11)+(12)+(13)	0.29	1.37	0.29	0.29	0.00	0.13	0.13	0.00
(15) Work RVU.	Setup File	PFS		0.97	33.75	0.22	0.00	0.22	0.17	0.00	0.17
(16) Dir_pct	Steps 6,7	Surveys		0.31	0.18	0.31	0.31	0.31	0.31	0.31	0.31
(17) Ind_pct	Steps 6,7	Surveys		0.69	0.82	0.69	0.69	0.69	0.69	0.69	0.69
(18) Ind. Alloc. Formula (1st part).	Step 8	See Step 8		((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)	((14)/(16)*(17)
(19) Ind. Alloc.(1st part).	Step 8		See 18	0.87	6.41	0.7	0.7	0	0.32	0.32	0
(20) Ind. Alloc. Formula (2nd part).	Step 8	See Step 8		(15)	(15)	(15+11)	(11)	(15)	(15+11)	(11)	(15)
(21) Ind. Alloc.(2nd part).	Step 8		See 20	0.97	33.75	0.32	0.10	0.22	0.28	0.11	0.17
(22) Indirect Allocator (1st + 2nd).	Step 8		=(19)+(21)	1.84	40.16	1.03	0.81	0.22	0.60	0.43	0.17
(23) Indirect Adjustment (Ind. Adj.).	Steps 9–11	See Footnote**.		0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

(24) Adjusted Indirect Allocator.	Steps 9–11	=Ind Alloc * Ind Adj.	.....	0.75	16.25	0.42	0.33	0.09	0.24	0.17	0.07
(25) Ind. Practice Cost Index (IPCI).	Steps 12–16 ..	.....	.....	1.08	0.79	0.92	0.92	0.92	0.92	0.92	0.92
(26) Adjusted Indirect.	Step 17	= Adj.Ind Alloc * PCI.	=(24)*(25)	0.81	12.76	0.38	0.30	0.08	0.22	0.16	0.06
(27) PE RVU ..	Step 18	=(Adj Dir + Adj Ind) * budn.	=((14)+(26)) * budn	1.10	14.15	0.67	0.59	0.08	0.35	0.29	0.06

2. On page 68907, first column, first paragraph,

a. Line 6, the phrase ''CY 2012'' is corrected to read ''CY 2013.''

b. Line 8, the phrase ''CY 2012'' is corrected to read ''CY 2013.''

3. On page 68957, second column, following Table 18 is corrected by adding the following:

''6. Psychiatry Services

For CY 2013, the CPT Editorial Panel replaced the current psychiatry/psychotherapy CPT codes with a new structure that allows for the separate reporting of E/M codes, eliminates codes based upon the site-of-service, establishes CPT codes for crisis, and creates a series of psychotherapy add-on CPT codes to describe interactive complexity and medication management. Many of these services are included in the list of Medicare telehealth services. For CY 2013, we did not propose any changes in Medicare telehealth payment policies related to the existing services described by these new codes. Therefore, the new codes describing services currently included on the CY 2012 list of Medicare telehealth services will be included on the CY 2013 list of Medicare telehealth services.

In the case of pharmacologic management services, currently on the CY 2012 list of Medicare telehealth services, we note that the CPT Editorial Panel deleted CPT code 90862 (Pharmacologic management, including prescription, use, and review of medication with no more than minimal medical psychotherapy), and that for CY 2013, psychiatrists will bill the appropriate E/M code when furnishing pharmacologic management services. In order to maintain current telehealth policy for these services when furnished to inpatients, we are establishing a new HCPCS G-code, G0459 (Inpatient telehealth, pharmacologic management, including prescription use and review of medication with no more than minimal medical psychotherapy), on an interim basis for CY 2013 that will describe the pharmacologic management service when furnished via telehealth to inpatients.

We will address any other change in telehealth policy regarding psychiatry services in future rulemaking.''.

4. On page 68959, first column, partial line 5, before the phrase ''Between 1998–2008,'' is corrected to read as follows: ''We note that this number does not represent a discrete number of beneficiaries; rather, it represents the total number of beneficiaries receiving therapy services under plans of care from different disciplines and different providers.''.

5. On page 68965, third column, third paragraph, lines 4 and 5, the phrase ''a composite score'' is corrected to read ''an overall composite score.''

6. On page 68966, third column, second full paragraph, lines 19 through 21, the phrase ''…functional measures, such as is done with the FOTO Patient tool, for example.'' is corrected to read ''functional measures.''

7. On page 68967 and 68968, in Table 21: G-Codes for Claims-Based Functional Reporting for CY 2013, the listed entries are corrected to read as follows:

Other PT/OT Primary Functional Limitation	
G8990	Other physical or occupational therapy primary functional limitation, current status, at therapy episode outset and at reporting intervals.
G8991	Other physical or occupational therapy primary functional limitation, projected goal status, at therapy episode outset, at reporting intervals, and at discharge or to end reporting.
G8992	Other physical or occupational therapy primary functional limitation, discharge status, at discharge from therapy or to end reporting.
Other PT/OT Primary Functional Limitation	
G8993	Other physical or occupational therapy subsequent functional limitation, current status, at therapy episode outset and at reporting intervals.
G8994	Other physical or occupational therapy subsequent functional limitation, projected goal status, at therapy episode outset, at reporting intervals, and at discharge or to end reporting.
G8995	Other physical or occupational therapy subsequent functional limitation, discharge status, at discharge from therapy or to end reporting.
Swallowing	
G8996	Swallowing functional limitation, current status at therapy episode outset and at reporting intervals.
G8997	Swallowing functional limitation, projected goal status, at therapy episode outset, at reporting intervals, and at discharge or to end reporting.
G8998	Swallowing functional limitation, discharge status, at discharge from therapy or to end reporting.
Motor Speech	
G8999	Motor speech functional limitation, current status at therapy episode outset and at reporting intervals.
G9186	Motor speech functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
Spoken Language Comprehension	
G9159	Spoken language comprehension functional limitation, current status at therapy episode outset and at reporting intervals.
G9160	Spoken language comprehension functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
G9161	Spoken language comprehension functional limitation, discharge status at discharge from therapy or to end reporting.
Spoken Language Expression	
G9162	Spoken language expression functional limitation, current status at therapy episode outset and at reporting intervals.
G9163	Spoken language expression functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.

G9164	Spoken language expression functional limitation, discharge status at discharge from therapy or to end reporting.
Attention	
G9165	Attention functional limitation, current status at therapy episode outset and at reporting intervals.
G9166	Attention functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
G9167	Attention functional limitation, discharge status at discharge from therapy or to end reporting.
Memory	
G9168	Memory functional limitation, current status at therapy episode outset and at reporting intervals.
G9169	Memory functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
G9170	Memory functional limitation, discharge status at discharge from therapy or to end reporting.
Voice	
G9171	Voice functional limitation, current status at therapy episode outset and at reporting intervals.
G9172	Voice functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
G9173	Voice functional limitation, discharge status at discharge from therapy or to end reporting.
Other SLP Functional Limitation	
G9174	Other speech language pathology functional limitation, current status at therapy episode outset and at reporting intervals.
G9175	Other speech language pathology functional limitation, projected goal status at therapy episode outset, at reporting intervals, and at discharge from or to end reporting.
G9176	Other speech language pathology functional limitation, discharge status at discharge from therapy or to end reporting.

8. On page 69033, in the third column, after second full paragraph, is corrected by adding the following:

''(14) Needle EMG: Electromyography (CPT Codes 95886, 95887)

In establishing interim final direct PE inputs for 2012, CMS refined the AMA RUC's recommendation for CPT codes 95886 (Needle electromyography, each extremity, with related paraspinal areas, when performed, done with nerve conduction, amplitude and latency/velocity study; complete, five or more muscles studied, innervated by three or more nerves or four or more spinal levels (list separately in addition to code for primary procedure)) and 95887 (Needle electromyography, non-extremity (cranial nerve supplied or axial) muscle(s) done with nerve conduction, amplitude and latency/velocity study (list separately in addition to code for primary procedure)) by reducing the number of service period clinical labor minutes to account for preparatory clinical labor tasks associated with both the base and add-on codes. CMS also refined the corresponding equipment minutes.

Comment: Several commenters explained that clinical labor typically requires additional time to prepare the distinct equipment used in furnishing the services described by the add-on codes.

Response: After reviewing the information provided by the commenters, we agree that it would be appropriate to incorporate additional minutes for these codes. Therefore, we are finalizing the direct PE inputs for CPT codes 95886 and 95887 with the additional refinement of adding two minutes to both the service period clinical labor time and the corresponding equipment time. The direct PE inputs are displayed in the final CY 2013 direct PE input database, available on the CMS Web site under downloads for the CY 2013 PFS final rule at *www.cms.gov/PhysicianFeeSched/*.''.

9. On page 69042, bottom half of the page, last paragraph, last line, the phrase CPT code 99231 visits is corrected to read ''99231 (subsequent hospital care, per day, for the evaluation and management of a patient, which requires at least 2 of these 3 key components: A problem focused interval history; a problem focused examination; medical decision making that is straightforward or of low complexity) visits,''.

10. On page 69043, top of page, first column, first partial paragraph, lines 1 and 2, the phrase 99323 visit is corrected to read ''99232 (subsequent hospital care, per day, for the evaluation and management of a patient, which requires at least 2 of these 3 key components: An expanded problem focused interval history; an expanded problem focused examination; medical decision making of moderate complexity) visit, 1 CPT code 99238 (hospital discharge day management; 30 minutes or less) visit, and 4 CPT code 99213 (office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: an expanded problem focused history; an expanded problem focused examination; medical decision making of low complexity) visits.''.

11. On page 69051,

a. First column, first full paragraph, lines 2 through 10, the parenthetical ((Non-selective catheter placement, thoracic aorta, with angiography of the extracranial carotid, vertebral, and/or intracranial vessels, unilateral or bilateral, and all associated radiological supervision and interpretation, includes angiography of the cervicocerebral arch, when performed).), is corrected to read: ''((Selective catheter placement, common carotid or innominate artery, unilateral, any approach, with angiography of the ipsilateral extracranial carotid circulation and all associated radiological supervision and interpretation, includes angiography of the cervicocerebral arch, when performed).)''.

b. Third column, after last full paragraph, is corrected by adding the following:

''CPT codes 37620, 75940, and 36010 were identified as potentially misvalued through the Codes Reported Together 75 percent or More screen. In response, the CPT Editorial Panel created CPT codes 37191 through 37193 and 37197 to bundle the services together. After clinical review of CPT code 37197 (Transcatheter retrieval, percutaneous, of intravascular foreign body (for example, fractured venous or arterial

catheter), includes radiological supervision and interpretation, and imaging guidance (ultrasound or fluoroscopy), when performed), along with the other related bundled services, we believe a work RVU of 6.29 accurately reflects the work involved in furnishing this service. We believe CPT code 37197 involves similar work as CPT code 36247 (Selective catheter placement, arterial system; initial third order or more selective abdominal, pelvic, or lower extremity artery branch, within a vascular family) and should be valued the same. Furthermore, we believe a work RVU of 6.29 appropriately reflects the relative difference in work between this service and related CPT codes 37191, 37192, and 37193. The AMA RUC recommended a work RVU of 6.72 for CPT code 37197, a direct crosswalk to CPT code 36475 (Endovenous ablation therapy of incompetent vein, extremity, inclusive of all imaging guidance and monitoring, percutaneous, radiofrequency; first vein treated). On an interim final basis for CY 2013, we are assigning a work RVU of 6.29 to CPT code 37197.''.

12. On page 69071, lower half of the page, third column,

a. Lines 3 and 4, the phrase ''Table KK6 is corrected to read ''Table 73.''.

b. Line 10, the phrase ''Table KK7'' is corrected to read ''Table 74.''.

13. On page 69072,

a. First column, first full paragraph, line 1, the phrase ''Table KK7'' is corrected to read ''Table 74.''

b. Second column,

(1) First full paragraph, last line, the phrase ''Table 73'' is corrected to read ''Table 74.''.

(2) Second full paragraph, last line, the phrase ''Table 73'' is corrected to read ''Table 74.''.

c. Third column,

(1) First paragraph, last line, the phrase ''Table 73'' is corrected to read ''Table 74.''.

(2) Second paragraph, lines 23 and 24, the phrase ''Table 73'' is corrected to read ''Table 74.''

14. On page 69073, second column, second full paragraph, last line, the phrase ''Table 73'' is corrected to read, ''Table 74.''

15. On page 69074, first column, following first partial paragraph, is corrected to read as follows:

''We note that we did not receive adequate information for pricing the following new supply and equipment items included in the AMA RUC's CY 2013 direct PE input recommendations: SD276 (Indicator powder), SK115 (Reproduced patient worksheet), SL464 (Atomizer tips, disposable), and ER088 (Infrared illuminator). Therefore, for CY 2013, these supply and equipment items have no price inputs associated with them in the direct PE database. We will consider any newly submitted information regarding appropriate pricing for these supply items as part of our annual supply and equipment price update process.''

16. On pages 69077 through 69128, in Table 74: CPT Codes with Refined Direct PE Recommendations for CY 2013 Interim Codes is corrected to read as follows:

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
11300	Shave skin lesion 0.5 cm/<	ED004	camera, digital (6 mexapixel).	NF		29	14	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		29	14	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		29	14	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		29	14	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		29	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500-$1499).	NF		29	24	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator(tubing, covering, etc.) with stand.	NF		29	14	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11301	Shave skin lesion 0.6–1.0 cm.	ED004	camera, digital (6 mexapixel).	NF		32	17	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		32	17	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		32	17	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		32	17	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		32	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500-$1499).	NF		32	27	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		32	17	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11302	Shave skin lesion 1.1–2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		37	20	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		37	20	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		37	20	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		37	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		37	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500-$1499).	NF		37	30	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		37	20	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11303	Shave skin lesion >2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		41	22	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		41	22	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		41	22	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		41	22	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		41	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		41	32	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		41	22	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11305	Shave skin lesion 0.5 cm/<	ED004	camera, digital (6 mexapixel).	NF		29	17	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		29	17	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		29	17	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EF031	table, power	NF		29	17	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		29	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		29	27	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		29	17	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11306	Shave skin lesion 0.6–1.0 cm.	ED004	camera, digital (6 mexapixel).	NF		31	25	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		31	25	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		31	25	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		31	25	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		31	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		31	35	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		31	25	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Assist physician in performing procedure.	10	18	Conforming to physician time.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
11307	Shave skin lesion 1.1–2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		37	21	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		37	21	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		37	21	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		37	21	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		37	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		37	31	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		37	21	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11308	Shave skin lesion >2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		42	24	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		42	24	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		42	24	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		42	24	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		42	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		42	34	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		42	24	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11310	Shave skin lesion 0.5 cm/<	ED004	camera, digital (6 mexapixel).	NF		34	20	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		34	20	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		34	20	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		34	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		34	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		34	30	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		34	20	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11311	Shave skin lesion 0.6–1.0 cm.	ED004	camera, digital (6 mexapixel).	NF		34	24	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		34	24	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		34	24	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EF031	table, power	NF		34	24	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		34	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		34	34	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		34	24	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Assist physician in performing procedure.	11	17	Conforming to physician time.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11312	Shave skin lesion 1.1–2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		43	17	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		43	17	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		43	17	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		43	17	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		43	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		43	37	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		43	17	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
11313	Shave skin lesion >2.0 cm.	ED004	camera, digital (6 mexapixel).	NF		48	30	Refined equipment time to reflect typical use exclusive to patient.
		EF014	light, surgical	NF		48	30	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		48	30	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		48	30	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		48	0	CMS clinical review; not described as typical in work vignette.
		EQ137	instrument pack, basic ($500–$1499).	NF		48	40	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		48	30	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	1	10	Standardized time input.
		SB003	cover, probe (cryosurgery).	NF		1	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	1	Duplicative.
		SB033	mask, surgical	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
11719	Trim nail(s) any number.	L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	3	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent.	2	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Prepare room, equipment, supplies.	2	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean room/equipment by physician staff.	3	1	CMS clinical review.
		SJ028	hydrogen peroxide	NF		10	0	CMS clinical review.
		SJ053	swab-pad, alcohol	NF		10	0	CMS clinical review.
13100	Cmplx rpr trunk 1.1–2.5 cm.	EF014	light, surgical	NF		32	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		32	39	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EF023	table, exam	NF		32	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		32	39	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		32	39	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		32	46	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		32	39	Refined equipment time to reflect typical use exclusive to patient.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13101	Cmplx rpr trunk 2.6–7.5 cm.	EF014	light, surgical	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		45	47	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		45	47	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		45	47	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		45	54	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		45	47	CMS clinical review.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB027	gown, staff, impervious.	F		2	0	CMS clinical review.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SB034	mask, surgical, with face shield.	F		2	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		10	0	Duplicative.
13102	Cmplx rpr trunk addl 5cm/<	EF015	mayo stand	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13120	Cmplx rpr s/a/l 1.1–2.5 cm.	EF014	light, surgical	NF		86	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		86	41	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		86	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		86	41	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		86	41	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		86	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		86	41	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB027	gown, staff, impervious.	F		2	0	CMS clinical review.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SB034	mask, surgical, with face shield.	F		2	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13121	Cmplx rpr s/a/l 2.6–7.5 cm.	EF014	light, surgical	NF		129	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		129	48	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		129	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		129	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		129	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		129	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		129	48	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	15	10	Standardized time input.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		10	0	Duplicative.
13122	Cmplx rpr s/a/l addl 5 cm/>	EF015	mayo stand	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EF031	table, power	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		30	20	Refined equipment time to reflect typical use exclusive to patient.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13131	Cmplx rpr f/c/c/m/n/ax/g/h/f.	EF014	light, surgical	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		45	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
13132	Cmplx rpr f/c/c/m/n/ax/g/h/f.	EF014	light, surgical	NF		50	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		50	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		50	58	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		10	0	Duplicative.
13133	Cmplx rpr f/c/c/m/n/ax/g/h/f.	EF015	mayo stand	NF		35	23	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		35	23	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		35	23	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		35	23	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		35	23	Refined equipment time to reflect typical use exclusive to patient.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13150	Cmplx rpr e/n/e/l 1.0 cm/<	EF014	light, surgical	NF		30	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		30	44	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		30	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		30	44	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		30	44	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		30	51	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		30	44	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Assist physician in performing procedure.	20	26	Conforming to physician time.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13151	Cmplx rpr e/n/e/l 1.1–2.5 cm.	EF014	light, surgical	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		45	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ114	electrosurgical generator, up to 120 watts.	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		45	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		45	48	Refined equipment time to reflect typical use exclusive to patient.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
13152	Cmplx rpr e/n/e/l 2.6–7.5 cm.	EF014	light, surgical	NF		50	27	Refined equipment time to reflect typical use exclusive to patient.
		EF015	mayo stand	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EF023	table, exam	NF		50	27	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		50	58	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		50	51	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF		15	10	Standardized time input.
		SB016	drape-cover, sterile, OR light handle.	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		2	0	Duplicative.
		SB034	mask, surgical, with face shield.	NF		2	1	Duplicative.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		10	0	Duplicative.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
13153	Cmplx rpr e/n/e/l addl 5cm/<	EF015	mayo stand	NF		45	30	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		45	30	Refined equipment time to reflect typical use exclusive to patient.
		EQ114	electrosurgical generator, up to 120 watts.	NF		45	30	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		45	30	Refined equipment time to reflect typical use exclusive to patient.
		EQ351	Smoke Evacuator (tubing, covering, etc.) with stand.	NF		45	30	Refined equipment time to reflect typical use exclusive to patient.
		SC029	needle, 18–27g	NF		2	0	CMS clinical review.
			Electrocautery Supply Pack.	NF		1	0	Non-standard direct practice expense input.
		SJ041	povidone soln (Betadine).	NF		5	0	Duplicative.
20600	Drain/inject joint/bursa.	EF023	table, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	F	Discharge day management.	6	0	CMS clinical review.
		L037D	RN/LPN/MTA	F	Conduct phone calls/call in prescriptions.	0	3	CMS clinical review.
		SC029	needle, 18–27g	NF		4	2	CMS clinical review.
		SC055	syringe 3ml	NF		2	1	CMS clinical review.
20605	Drain/inject joint/bursa.	EF023	table, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	F	Discharge day management.	6	0	CMS clinical review.
		L037D	RN/LPN/MTA	F	Conduct phone calls/call in prescriptions.	0	3	CMS clinical review.
		SC029	needle, 18–27g	NF		4	2	CMS clinical review.
		SC055	syringe 3ml	NF		2	1	CMS clinical review.
20610	Drain/inject joint/bursa.	EF023	table, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ168	light, exam	NF		19	16	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	F	Discharge day management.	6	0	CMS clinical review.
		L037D	RN/LPN/MTA	F	Conduct phone calls/call in prescriptions.	0	3	CMS clinical review.
		SC029	needle, 18–27g	NF		4	2	CMS clinical review.
		SC057	syringe 5–6ml	NF		2	1	CMS clinical review.
23472	Reconstruct shoulder joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
23473	Revis reconst shoulder joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
23474	Revis reconst shoulder joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
24363	Replace elbow joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
24370	Revise reconst elbow joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
24371	Revise reconst elbow joint.	SA052	pack, post-op incision care (staple).	F		0	1	CMS clinical review.
		SA053	pack, post-op incision care (suture & staple).	F		1	0	CMS clinical review.
31231	Nasal endoscopy dx.	ED032	printer, laser, paper.	NF		43	35	Refined equipment time to reflect typical use exclusive to patient.
		EF008	chair with headrest, exam, reclining.	NF		43	35	Refined equipment time to reflect typical use exclusive to patient.
		EQ138	instrument pack, medium ($1500 and up).	NF		0	47	Refined equipment time to reflect typical use exclusive to patient.
		EQ167	light source, xenon	NF		43	35	Refined equipment time to reflect typical use exclusive to patient.
		EQ170	light, fiberoptic headlight w-source.	NF		43	35	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ234	suction and pressure cabinet, ENT (SMR).	NF	.....	43	35	Refined equipment time to reflect typical use exclusive to patient.
		ES013	endoscope, rigid, sinoscopy.	NF	.....	63	42	Refined equipment time to reflect typical use exclusive to patient.
		ES013	endoscope, rigid, sinoscopy.	NF	.....	63	0	CMS clinical review.
		ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart).	NF	.....	43	35	Refined equipment time to reflect typical use exclusive to patient.
		ES036	Nasal Endoscopy Instrument Package.	NF	.....	63	0	Non-standard direct practice expense input.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	2	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	1	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean Surgical Instrument Package.	10	15	Standardized time input.
		L037D	RN/LPN/MTA	NF	Review/read X-ray, lab, and pathology reports.	5	0	CMS clinical review.
		SB027	gown, staff, impervious.	NF	.....	2	1	Duplicative.
		SB034	mask, surgical, with face shield.	NF	.....	2	1	Duplicative.
31647	Bronchial valve init insert.	L047C	RN/Respiratory Therapist.	F	Complete pre-service diagnostic & referral forms.	3	5	CMS clinical review.
		L047C	RN/Respiratory Therapist.	F	Coordinate pre-surgery services.	5	3	CMS clinical review.
32554	Aspirate pleura w/o imaging.	EF023	table, exam	NF	.....	56	52	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF	.....	0	52	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic & referral forms.	5	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Coordinate pre-surgery services.	3	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Monitor pt. following service/check tubes, monitors, drains.	5	10	CMS clinical review.
		SA048	pack, minimum multi-specialty visit.	NF	.....	0	1	CMS clinical review.
		SA067	tray, shave prep ...	NF	.....	0	1	CMS clinical review.
		.....	kit, thoracentesis ..	NF	.....	1	0	CMS clincial review.
		SA070	tray, thoracentesis	NF	.....	0	1	CMS clincial review.
		SA077	kit, pleural catheter insertion.	NF	.....	0	1	CMS clinical review.
		SB001	cap, surgical	NF	.....	0	2	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB006	drape, non-sterile, sheet 40in x 60in.	NF		1	0	CMS clinical review.
		SB024	gloves, sterile	NF		1	2	CMS clinical review.
		SB034	mask, surgical, with face shield.	NF		0	2	CMS clinical review.
		SB039	shoe covers, surgical.	NF		0	2	CMS clinical review.
		SB044	underpad 2ft x 3ft (Chux).	NF		0	1	CMS clinical review.
		SG056	gauze, sterile 4in x 4in (10 pack uou).	NF		1	0	CMS clinical review.
32555	Aspirate pleura w/ imaging.	ED024	film processor, dry, laser.	NF		58	7	Refined equipment time to reflect typical use exclusive to patient.
		EF019	stretcher chair	NF		15	10	CMS clinical review.
		EL015	room, ultrasound, general.	NF		33	30	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		58	7	Refined equipment time to reflect typical use exclusive to patient.
		L041B	Radiologic Technologist.	NF	Complete pre-service diagnostic & referral forms.	5	0	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Coordinate pre-surgery services.	3	1	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Monitor pt. following service/check tubes, monitors, drains.	15	10	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Process images, complete data sheet, present images and data to the interpreting physician.	5	2	CMS clinical review.
			kit, thoracentesis	NF		1	0	CMS clinical review.
		SA070	tray, thoracentesis	NF		0	1	CMS clinical review.
		SA077	kit, pleural catheter insertion.	NF		0	1	CMS clinical review.
		SB001	cap, surgical	NF		0	3	CMS clinical review.
		SB027	gown, staff, impervious.	NF		0	1	CMS clinical review.
		SB039	shoe covers, surgical.	NF		0	3	CMS clinical review.
		SB044	underpad 2ft x 3ft (Chux).	NF		0	1	CMS clinical review.
		SG078	tape, surgical occlusive 1in (Blenderm).	NF		0	15	CMS clinical review.
		SM012	disinfectant spray (Transeptic).	NF		10	0	CMS clinical review.
		SM021	sanitizing cloth-wipe (patient).	NF		2	0	CMS clinical review.
32556	Insert cath pleura w/o image.	EQ168	light, exam	NF		0	76	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic & referral forms.	5	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L037D	RN/LPN/MTA	NF	Coordinate pre-surgery services.	3	1	CMS clinical review.
		SA044	pack, moderate sedation.	NF		0	1	CMS clinical review.
		SA048	pack, minimum multi-specialty visit.	NF		0	1	CMS clinical review.
		SA067	tray, shave prep	NF		0	1	CMS clinical review.
		SB001	cap, surgical	NF		0	2	CMS clinical review.
		SB006	drape, non-sterile, sheet 40in x 60in.	NF		1	0	CMS clinical review.
		SB034	mask, surgical, with face shield.	NF		0	2	CMS clinical review.
		SB039	shoe covers, surgical.	NF		0	2	CMS clinical review.
		SB044	underpad 2ft x 3ft (Chux).	NF		0	1	CMS clinical review.
		SC010	closed flush system, angiography.	NF		0	1	CMS clinical review.
		SG056	gauze, sterile 4in x 4in (10 pack uou).	NF		1	0	CMS clinical review.
		SH065	sodium chloride 0.9% flush syringe.	NF		0	1	CMS clinical review.
		SH069	sodium chloride 0.9% irrigation (500–1000ml uou).	NF		0	1	CMS clinical review.
		SL157	cup, sterile, 8 oz	NF		0	1	CMS clinical review.
32557	Insert cath pleura w/image.	ED024	film processor, dry, laser.	NF		58	7	CMS clinical review.
		EF019	stretcher chair	NF		15	10	CMS clinical review.
		EL007	room, CT	NF		43	40	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		60	40	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		58	7	CMS clinical review.
		L046A	CT Technologist	NF	Complete pre-service diagnostic & referral forms.	5	0	CMS clinical review.
		L046A	CT Technologist	NF	Coordinate pre-surgery services.	3	1	CMS clinical review.
		L046A	CT Technologist	NF	Check dressings & wound/home care instructions/coordinate office visits/prescriptions.	3	5	CMS clinical review.
		L046A	CT Technologist	NF	Assist physician in performing procedure.	28	30	Conforming to physician time.
		SA071	kit, AccuStick II Introducer System with RO Marker.	NF		1	0	CMS clinical review.
		SA077	kit, pleural catheter insertion.	NF		0	1	CMS clinical review.
		SB001	cap, surgical	NF		2	3	CMS clinical review.
		SB011	drape, sterile, fenestrated 16in x 29in.	NF		1	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB014	drape, sterile, three-quarter sheet.	NF		1	0	CMS clinical review.
		SB019	drape-towel, sterile 18in x 26in.	NF		4	0	CMS clinical review.
		SB024	gloves, sterile	NF		2	1	CMS clinical review.
		SB027	gown, staff, impervious.	NF		0	1	CMS clinical review.
		SB039	shoe covers, surgical.	NF		2	3	CMS clinical review.
		SC049	stop cock, 3-way	NF		1	0	CMS clinical review.
		SC056	syringe 50–60ml	NF		2	0	CMS clinical review.
		SC058	syringe w-needle, OSHA compliant (SafetyGlide).	NF		1	0	CMS clinical review.
		SD043	dilator, vessel, angiographic.	NF		1	0	CMS clinical review.
		SD088	guidewire	NF		1	0	CMS clinical review.
		SD146	catheter percutaneous fastener (Percu-Stay).	NF		1	0	CMS clinical review.
		SD161	drainage catheter, all purpose.	NF		1	0	CMS clinical review.
		SD163	drainage pouch, nephrostomy-biliary.	NF		1	0	CMS clinical review.
		SF007	blade, surgical (Bard-Parker).	NF		1	0	CMS clinical review.
		SG009	applicator, sponge-tipped.	NF		4	0	CMS clinical review.
		SG078	tape, surgical occlusive 1in (Blenderm).	NF		0	25	CMS clinical review.
		SH047	lidocaine 1%–2% inj (Xylocaine).	NF		10	0	CMS clinical review.
		SJ041	povidone soln (Betadine).	NF		60	0	CMS clinical review.
		SL036	cup, biopsy-specimen sterile 4oz.	NF		1	0	CMS clinical review.
		SL156	cup, sterile, 12–16 oz.	NF		1	0	CMS clinical review.
33361	Replace aortic valve perq.	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.
33362	Replace aortic valve open.	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.
33363	Replace aortic valve open.	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
33364	Replace aortic valve open.	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.
33365	Replace aortic valve open.	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.
33366	#N/A	L037D	RN/LPN/MTA	F	Coordinate pre-surgery services.	40	10	Standardized time input.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	8	5	Standardized time input.
		L037D	RN/LPN/MTA	F	Provide pre-service education/obtain consent.	20	7	Standardized time input.
		L037D	RN/LPN/MTA	F	Follow-up phone calls & prescriptions.	7	3	Standardized time input.
33405	Replacement of aortic valve.	L051A	RN	F	Other Clinical Activity—specify: for reference code 33406 and codes 33405 and 33430: Additional coordination between multiple specialties for complex procedures (tests, meds, scheduling, etc) prior to patient arrival at site of service..	15	0	CMS clinical review.
		L051A	RN	F	Other Clinical Activity—specify: for reference code 33406 and codes 33405 and 33430: Additional coordination between multiple specialties for complex procedures (tests, meds, scheduling, etc) prior to patient arrival at site of service..	15	0	CMS clinical review.
35475	Repair arterial blockage.	EL011	room, angiography	NF		51	52	Refined equipment time to reflect typical use exclusive to patient.
		EQ011	ECG, 3-channel (with SpO2, NIBP, temp, resp).	NF		212	285	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ032	IV infusion pump ..	NF	.....	212	285	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EQ168	light, exam	NF	.....	120	52	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	F	Complete preservice diagnostic & referral forms.	5	3	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	4	2	Standardized time input.
		SB019	drape-towel, sterile 18in x 26in.	NF	.....	4	2	CMS clinical review.
35476	Repair venous blockage.	Ef027	table, instrument, mobile.	NF	.....	302	277	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EL011	room, angiography	NF	.....	43	44	Refined equipment time to reflect typical use exclusive to patient.
		EQ011	ECG, 3-channel (with SpO2, NIBP, temp, resp).	NF	.....	137	277	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EQ032	IV infusion pump ..	NF	.....	137	277	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EQ168	light, exam	NF	.....	120	44	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	F	Schedule space and equipment in facility.	3	5	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	4	2	Standardized time input.
		SB019	drape-towel, sterile 18in x 26in.	NF	.....	4	2	CMS clinical review.
36221	Place cath thoracic aorta.	EF018	stretcher	NF	.....	272	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF	.....	0	272	CMS Code correction.
		EL011	room, angiography	NF	.....	49	45	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ088	contrast media warmer.	NF	.....	49	45	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	49	45	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		L041A	Angio Technician	NF	Image Post Processing.	5	0	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	2	7	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare and position patient/monitor patient/set up IV.	2	7	CMS clinical review.
		SD249	Sterile Radio-opaque ruler (le Maitre, documentation available).	NF	.....	1	0	CMS clinical review.
36222	Place cath carotid/inom art.	EF018	stretcher	NF	.....	282	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF	.....	0	282	CMS Code correction.
		EL011	room, angiography	NF	.....	59	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ088	contrast media warmer.	NF	.....	59	55	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	59	55	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		SD147	catheter, (Glide) ...	NF	.....	1	0	CMS clinical review.
		SD249	Sterile Radio-opaque ruler (le Maitre, documentation available).	NF	.....	1	0	CMS clinical review.
36223	Place cath carotid/inom art.	EF018	stretcher	NF	.....	287	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF	.....	0	287	CMS Code correction.
		EL011	room, angiography	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ088	contrast media warmer.	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		SD249	Sterile Radio-opaque ruler (le Maitre, documentation available).	NF	.....	1	0	CMS clinical review.
36224	Place cath carotd art.	EF018	stretcher	NF	.....	292	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF	.....	0	292	CMS Code correction.
		EL011	room, angiography	NF	.....	69	65	Refined equipment time to reflect typical use exclusive to patient.
		EQ088	contrast media warmer.	NF	.....	69	65	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	69	65	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
36225	Place cath subclavian art.	EF018	stretcher	NF	.....	287	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF	.....	0	287	CMS Code correction.
		EL011	room, angiography	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.
		EQ088	contrast media warmer.	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	64	60	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
36226	Place cath vertebral art.	EF018	stretcher	NF		292	0	CMS Code correction.
		EF027	table, instrument, mobile.	NF		0	292	CMS Code correction.
		EL011	room, angiography	NF		69	65	Refined equipment time to reflect typical use exclusive to patient.
		EQ088	contrast media warmer.	NF		69	65	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		69	65	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
36228	Place cath intracranial art.	L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	1	0	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Assisting with flouroscopy/image acquisition (75%).	23	22	CMS clinical review.
		SC057	syringe 5–6ml	NF		4	0	CMS clinical review.
37197	Remove intrvas foreign body.	EF027	table, instrument, mobile.	NF		305	302	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EL011	room, angiography	NF		77	72	Refined equipment time to reflect typical use exclusive to patient.
		EQ011	ECG, 3-channel (with SpO2, NIBP, temp, resp).	NF		305	302	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EQ032	IV infusion pump	NF		305	302	Moderate Sedation equipment—Time includes administering anesthesia, procedure time, and monitoring patient.
		EQ088	contrast media warmer.	NF		77	0	CMS clinical review.
		EQ250	ultrasound unit, portable.	NF		77	0	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF		77	72	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L037D	RN/LPN/MTA	NF	Greet patient, provide gowning, assure appropriate medical records are available.	5	3	Standardized time input.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	5	3	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies (including imaging equipment).	7	5	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare and position patient/monitor patient/set up IV.	5	2	Standardized time input.
		SB005	cover-condom, transducer or ultrasound probe.	NF	.....	1	0	CMS clinical review.
		SB048	sheath-cover, sterile, 96in x 6in (transducer).	NF	.....	1	0	CMS clinical review.
		SD147	catheter, (Glide) ...	NF	.....	1	0	CMS clinical review.
		SD252	guidewire, Amplatz wire 260 cm.	NF	.....	1	0	CMS clinical review.
		SH065	sodium chloride 0.9% flush syringe.	NF	.....	2	0	CMS clinical review.
47600	Removal of gallbladder.	SA053	pack, post-op incision care (suture & staple).	F	.....	1	0	CMS clinical review.
		SA054	pack, post-op incision care (suture).	F	.....	0	1	CMS clinical review.
47605	Removal of gallbladder.	SA053	pack, post-op incision care (suture & staple).	F	.....	1	0	CMS clinical review.
		SA054	pack, post-op incision care (suture).	F	.....	0	1	CMS clinical review.
50590	Fragmenting of kidney stone.	EL014	room, radiographic-fluoroscopic.	NF	.....	86	0	Consistent with the AMA RUC's CY2011 recommendation.
		EQ175	lithotriptor, with C-arm (ESWL).	NF	.....	86	67	Refined equipment time to reflect typical use exclusive to patient.
52214	Cystoscopy and treatment.	EF027	table, instrument, mobile.	NF	.....	100	65	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF	.....	100	65	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF	.....	100	65	Refined equipment time to reflect typical use exclusive to patient.
		EQ153	laser (gs, uro, obg, ge) (Indigo Optima).	NF	.....	100	65	Refined equipment time to reflect typical use exclusive to patient.
		EQ167	light source, xenon	NF	.....	100	65	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		ES006	endoscope forceps, biopsy.	NF		100	65	Refined equipment time to reflect typical use exclusive to patient.
		ES007	endoscope forceps, grasping.	NF		100	65	Refined equipment time to reflect typical use exclusive to patient.
		ES018	fiberscope, flexible, cystoscopy.	NF		100	92	Refined equipment time to reflect typical use exclusive to patient.
		ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart).	NF		100	65	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Review Chart	3	0	CMS clinical review.
		SB019	drape-towel, sterile 18in x 26in.	NF		1	0	Duplicative.
		SB024	gloves, sterile	NF		0	1	CMS clinical review.
		SD270	Penis clamp	NF		1	0	Not a disposable according to submitted invoice.
		SH047	lidocaine 1%–2% inj (Xylocaine).	NF		50	0	Duplicative.
52224	Cystoscopy and treatment.	EF027	table, instrument, mobile.	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		EQ153	laser (gs, uro, obg, ge) (Indigo Optima).	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		EQ167	light source, xenon	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		ES006	endoscope forceps, biopsy.	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		ES007	endoscope forceps, grasping.	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.
		ES018	fiberscope, flexible, cystoscopy.	NF		105	94	Refined equipment time to reflect typical use exclusive to patient.
		ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart).	NF		105	67	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L037D	RN/LPN/MTA	NF	Review Chart	3	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Prepare biopsy Specimen.	5	2	CMS clinical review.
		SB019	drape-towel, sterile 18in x 26in.	NF		1	0	Duplicative.
		SB024	gloves, sterile	NF		3	1	CMS clinical review.
		SD270	Penis clamp	NF		1	0	Not a disposable according to submitted invoice.
		SH047	lidocaine 1%–2% inj (Xylocaine).	NF		50	0	Duplicative.
		SL036	cup, biopsy-specimen sterile 4oz.	NF		6	3	CMS clinical review.
52287	Cystoscopy chemodenervation.	EF027	table, instrument, mobile.	NF		78	49	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		78	49	Refined equipment time to reflect typical use exclusive to patient.
		EQ170	light, fiberoptic headlight w-source.	NF		78	49	Refined equipment time to reflect typical use exclusive to patient.
		ES018	fiberscope, flexible, cystoscopy.	NF		78	76	Refined equipment time to reflect typical use exclusive to patient.
		ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart).	NF		78	49	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Assist physician in performing procedure.	20	21	Conforming to physician time.
		SH048	lidocaine 2% jelly, topical (Xylocaine).	NF		10	0	Duplicative.
53850	Prostatic microwave thermotx.	EF020	stretcher, endoscopy.	NF		99	85	Refined equipment time to reflect typical use exclusive to patient.
		EF027	table, instrument, mobile.	NF		99	85	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		169	152	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	F		169	152	Refined equipment time to reflect typical use exclusive to patient.
		EQ037	TUMT system control unit.	NF		99	85	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		169	152	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ168	light, exam	F		169	152	Refined equipment time to reflect typical use exclusive to patient.
		EQ250	ultrasound unit, portable.	NF		99	85	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Prepare room, equipment, supplies.	2	4	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Setup ultrasound probe.	5	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Setup TUMT machine.	5	0	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean TUMT machine.	3	0	CMS clinical review.
		SB022	gloves, non-sterile	NF		3	2	CMS clinical review.
		SB024	gloves, sterile	NF		3	2	CMS clinical review.
		SH047	lidocaine 1%–2% inj (Xylocaine).	NF		3	30	CMS clinical review.
64612	Destroy nerve face muscle.	EL006	lane, screening (oph).	F		39	27	Refined equipment time to reflect typical use exclusive to patient.
		EL006	lane, screening (oph).	NF		48	45	Refined equipment time to reflect typical use exclusive to patient.
		SC031	needle, 30g	F		0	1	CMS clinical review.
64615	Chemodenerv musc migraine.	EF023	table, exam	NF		24	18	Refined equipment time to reflect typical use exclusive to patient.
65800	Drainage of eye	EL006	Lane, Screening	NF		21	22	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		21	22	Refined equipment time to reflect typical use exclusive to patient.
67810	Biopsy eyelid & lid margin.	EF014	light, surgical	NF		20	22	Refined equipment time to reflect typical use exclusive to patient.
		EF031	table, power	NF		20	22	Refined equipment time to reflect typical use exclusive to patient.
		EQ110	electrocautery-hyfrecator, up to 45 watts.	NF		1	22	Refined equipment time to reflect typical use exclusive to patient.
		EQ137	instrument pack, basic ($500–$1499).	NF		1	30	Refined equipment time to reflect typical use exclusive to patient.
		SB011	drape, sterile, fenestrated 16in x 29in.	NF		0	1	CMS clinical review.
		SB019	drape-towel, sterile 18in x 26in.	NF		4	1	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SC029	needle, 18–27g	NF	.....	1	0	Standardized time input.
72040	X-ray exam neck spine 3/<vws.	ED025	film processor, wet	NF	.....	20	4	Refined equipment time to reflect typical use exclusive to patient.
		EL012	room, basic radiology.	NF	.....	20	13	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	20	4	Refined equipment time to reflect typical use exclusive to patient.
			Film jacket or jacket insert.	NF	.....	1	0	Non-standard direct practice expense input.
72050	X-ray exam neck spine 4/5vws.	ED025	film processor, wet	NF	.....	28	6	Refined equipment time to reflect typical use exclusive to patient.
		EL012	room, basic radiology.	NF	.....	28	19	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	28	6	Refined equipment time to reflect typical use exclusive to patient.
			Film jacket or jacket insert.	NF	.....	1	0	Non-standard direct practice expense input.
72052	X-ray exam neck spine 6/>vws.	ED025	film processor, wet	NF	.....	36	8	Refined equipment time to reflect typical use exclusive to patient.
		EL012	room, basic radiology.	NF	.....	36	25	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	36	8	Refined equipment time to reflect typical use exclusive to patient.
			Film jacket or jacket insert.	NF	.....	1	0	Non-standard direct practice expense input.
72191	Ct angiograph pelv w/o&w/dye.	EL007	room, CT	NF	.....	101	40	Refined equipment time to reflect typical use exclusive to patient.
		L041B	Radiologic Technologist.	NF	Retrieve prior appropriate imaging exams and hang for MD review, verify orders, review the chart to incorporate relevant clinical information.	0	5	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Greet patient, provide gowning, assure appropriate medical records are available.	0	3	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L041B	Radiologic Technologist.	NF	Education/instruction/counseling/obtain consent.	0	2	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	0	2	Standardized time input.
		L041B	Radiologic Technologist.	NF	Prepare and position patient/monitor patient/set up IV.	0	7	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Aquire images	0	28	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Clean room/equipment by physician staff.	0	3	CMS clinical review.
		L046A	CT Technologist ..	NF	Retrieve prior appropriate imaging exams and hang for MD review, verify orders, review the chart to incorporate relevant clinical information.	5	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Greet patient, provide gowning, assure appropriate medical records are available.	3	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Education/instruction/counseling/obtain consent.	2	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Prepare room, equipment, supplies.	5	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Prepare and position patient/monitor patient/set up IV.	7	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Aquire images	28	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Clean room/equipment by physician staff.	3	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	1	0.1	CMS clinical review.
72192	Ct pelvis w/o dye	ED024	film processor, dry, laser.	NF	.....	5	0	CMS clinical review.
		ED032	printer, laser, paper.	NF	.....	0	5	CMS clinical review.
		EL007	room, CT	NF	.....	45	22	CMS clinical review.
		L046A	CT Technologist ..	NF	Pre-Service Period	6	4	CMS clinical review.
		SK013	computer media, dvd.	NF	.....	1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF	.....	0	1	CMS clinical review.
		SK091	x-ray envelope	NF	.....	1	0	CMS clinical review.
		SK098	film, x-ray, laser print.	NF	.....	4	8	CMS clinical review.
72193	Ct pelvis w/dye	ED024	film processor, dry, laser.	NF	.....	5	0	CMS clinical review.
		ED032	printer, laser, paper.	NF	.....	0	5	CMS clinical review.
		EL007	room, CT	NF	.....	40	32	CMS clinical review.
		L046A	CT Technologist ..	NF	Pre-Service Period	7	4	CMS clinical review.
		L046A	CT Technologist ..	NF	Service Period	40	43	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB006	drape, non-sterile, sheet 40in x 60in.	NF		1	0	CMS clinical review.
		SB014	drape, sterile, three-quarter sheet.	NF		0	1	CMS clinical review.
		SC001	angiocatheter 14g–24g.	NF		1	0	CMS clinical review.
		SC002	angiocatheter set	NF		0	1	CMS clinical review.
		SC025	needle, 14–20g, biopsy.	NF		0	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
		SC059	syringe, 25ml (MRI power injector).	NF		0	1	CMS clinical review.
		SG068	plaster bandage (4in x 5yd uou).	NF		1	0	CMS clinical review.
		SG075	tape, elastic, 1in (Elastoplast, Elasticon) (5yd uou).	NF		0	6	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		6	0	CMS clinical review.
		SH065	sodium chloride 0.9% flush syringe.	NF		0	15	CMS clinical review.
		SK013	computer media, dvd.	NF		1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF		0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK091	x-ray envelope	NF		1	0	CMS clinical review.
72194	Ct pelvis w/o & w/ dye.	ED024	film processor, dry, laser.	NF		10	7	CMS clinical review.
		EL007	room, CT	NF		54	39	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF		10	7	CMS clinical review.
		L046A	CT Technologist	NF	Pre-Service Period	7	4	CMS clinical review.
		L046A	CT Technologist	NF	Service Period	54	52	CMS clinical review.
		SC025	needle, 14–20g, biopsy.	NF		0	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
		SK013	computer media, dvd.	NF		1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF		0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK091	x-ray envelope	NF		1	0	CMS clinical review.
		SK098	film, x-ray, laser print.	NF		0	8	CMS clinical review.
73221	Mri joint upr extrem w/o dye.	ED024	film processor, dry, laser.	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.
		EL008	room, MR	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L047A	MRI Technologist	NF	Prepare room, equipment, supplies.	5	3	CMS clinical review.
		L047A	MRI Technologist	NF	Prepare and position patient/monitor patient/set up IV.	3	2	Standardized time input.
		L047A	MRI Technologist	NF	Escort patient from exam room due to magnetic sensitivity.	2	0	Non-standard direct practice expense input.
			Insert folder	NF		1	0	Non-standard direct practice expense input.
73721	Mri jnt of lwr extre w/o dye.	ED024	film processor, dry, laser.	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.
		EL008	room, MR	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		63	33	Refined equipment time to reflect typical use exclusive to patient.
		L047A	MRI Technologist	NF	Prepare room, equipment, supplies.	5	3	CMS clinical review.
		L047A	MRI Technologist	NF	Prepare and position patient/monitor patient/set up IV.	3	2	Standardized time input.
		L047A	MRI Technologist	NF	Escort patient from exam room due to magnetic sensitivity.	2	0	Non-standard direct practice expense input.
			Insert folder	NF		1	0	Non-standard direct practice expense input.
74150	Ct abdomen w/o dye.	ED024	film processor, dry, laser.	NF		5	0	CMS clinical review.
		ED032	printer, laser, paper.	NF		0	5	CMS clinical review.
		EL007	room, CT	NF		32	22	CMS clinical review.
		L046A	CT Technologist	NF	Pre-Service Period	6	4	CMS clinical review.
		SK013	computer media, dvd.	NF		1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF		0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK091	x-ray envelope	NF		1	0	CMS clinical review.
		SK098	film, x-ray, laser print.	NF		4	8	CMS clinical review.
74160	Ct abdomen w/dye	ED024	film processor, dry, laser.	NF		7	0	CMS clinical review.
		ED032	printer, laser, paper.	NF		0	5	CMS clinical review.
		EL007	room, CT	NF		47	32	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF		7	5	CMS clinical review.
		L046A	CT Technologist	NF	Pre-Service Period	7	4	CMS clinical review.
		L046A	CT Technologist	NF	Service Period	47	43	CMS clinical review.
		SB006	drape, non-sterile, sheet 40in x 60in.	NF		1	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SB014	drape, sterile, three-quarter sheet.	NF		0	1	CMS clinical review.
		SC001	angiocatheter 14g–24g.	NF		1	0	CMS clinical review.
		SC002	angiocatheter set	NF		0	1	CMS clinical review.
		SC025	needle, 14–20g, biopsy.	NF		0	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
		SC059	syringe, 25ml (MRI power injector).	NF		0	1	CMS clinical review.
		SG075	tape, elastic, 1in (Elastoplast, Elasticon) (5yd uou).	NF		0	6	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		6	0	CMS clinical review.
		SH065	sodium chloride 0.9% flush syringe.	NF		0	15	CMS clinical review.
		SH068	sodium chloride 0.9% inj bacteriostatic (30ml uou).	NF		1	0	CMS clinical review.
		SK013	computer media, dvd.	NF		1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF		0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK091	x-ray envelope	NF		1	0	CMS clinical review.
		SK098	film, x-ray, laser print.	NF		6	4	CMS clinical review.
74170	Ct abdomen w/o & w/dye.	ED024	film processor, dry, laser.	NF		15	7	Refined equipment time to reflect typical use exclusive to patient.
		EL007	room, CT	NF		65	39	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		15	7	Refined equipment time to reflect typical use exclusive to patient.
		L046A	CT Technologist	NF	Retrieve prior appropriate imaging exams and hang for MD review, verify orders, review the chart to incorporate relevant clinical information and confirm contrast protocol with interpreting MD.	7	4	CMS clinical review.
		L046A	CT Technologist	NF	Assist physician in performing procedure.	32	27	CMS clinical review.
		L046A	CT Technologist	NF	Image Post Processing.	15	7	CMS clinical review.
		SB006	drape, non-sterile, sheet 40in x 60in.	NF		1	0	CMS clinical review.
		SB014	drape, sterile, three-quarter sheet.	NF		0	1	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SC001	angiocatheter 14g–24g.	NF		1	0	CMS clinical review.
		SC002	angiocatheter set	NF		0	1	CMS clinical review.
		SC025	needle, 14–20g, biopsy.	NF		0	1	CMS clinical review.
		SC029	needle, 18–27g	NF		1	0	CMS clinical review.
		SC059	syringe, 25ml (MRI power injector).	NF		0	1	CMS clinical review.
		SG050	gauze, non-sterile 2in x 2in.	NF		0	1	CMS clinical review.
		SG075	tape, elastic, 1in (Elastoplast, Elasticon) (5yd uou).	NF		0	6	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		6	0	CMS clinical review.
		SH016	barium suspension (Polibar).	NF		900	0	CMS clinical review.
		SH065	sodium chloride 0.9% flush syringe.	NF		0	15	CMS clinical review.
		SH068	sodium chloride 0.9% inj bacteriostatic (30ml uou).	NF		1	0	CMS clinical review.
		SK013	computer media, dvd.	NF		1	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF		0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK091	x-ray envelope	NF		1	0	CMS clinical review.
		SK098	film, x-ray, laser print.	NF		14	8	CMS clinical review.
74175	Ct angio abdom w/o & w/dye.	EL007	room, CT	NF		101	40	Refined equipment time to reflect typical use exclusive to patient.
		L041B	Radiologic Technologist.	NF	Retrieve prior appropriate imaging exams and hang for MD review, verify orders, review the chart to incorporate relevant clinical information.	0	5	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Greet patient, provide gowning, assure appropriate medical records are available.	0	3	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Education/instruction/counseling/obtain consent.	0	2	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Prepare room, equipment, supplies.	0	2	Standardized time input.
		L041B	Radiologic Technologist.	NF	Prepare and position patient/monitor patient/set up IV.	0	7	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Aquire images	0	28	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Clean room/equipment by physician staff.	0	3	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L046A	CT Technologist ..	NF	Retrieve prior appropriate imaging exams and hang for MD review, verify orders, review the chart to incorporate relevant clinical information.	5	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Greet patient, provide gowning, assure appropriate medical records are available.	3	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Education/instruction/counseling/obtain consent.	2	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Prepare room, equipment, supplies.	5	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Prepare and position patient/monitor patient/set up IV.	7	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Aquire images	28	0	CMS clinical review.
		L046A	CT Technologist ..	NF	Clean room/equipment by physician staff.	3	0	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	1	0.1	CMS clinical review.
74176	Ct abd & pelvis	ED032	printer, laser, paper.	NF	.....	8	7	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF	.....	27	7	CMS clinical review.
		L046A	CT Technologist ..	NF	Service Period	40	39	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF	.....	0	1	CMS clinical review.
74177	Ct abd & pelv w/ contrast.	ED032	printer, laser, paper.	NF	.....	10	7	CMS clinical review.
		EL007	room, CT	NF	.....	42	39	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF	.....	42	7	CMS clinical review.
		L046A	CT Technologist ..	NF	Pre-Service Period	7	6	CMS clinical review.
		L046A	CT Technologist ..	NF	Service Period	58	52	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	0	0.1	CMS clinical review.
		SK076	slide sleeve (photo slides).	NF	.....	0	1	CMS clinical review.
		SK098	film, x-ray, laser print.	NF	.....	10	8	CMS clinical review.
74178	Ct abd & pelv 1/> regns.	ED032	printer, laser, paper.	NF	.....	20	10	CMS clinical review.
		EL007	room, CT	NF	.....	57	48	CMS clinical review.
		ER029	film alternator (motorized film viewbox).	NF	.....	57	10	CMS clinical review.
		L046A	CT Technologist ..	NF	Pre-Service Period	7	6	CMS clinical review.
		L046A	CT Technologist ..	NF	Service Period	83	64	CMS clinical review.
		SK016	computer media, optical disk 2.6gb.	NF	.....	0	0.1	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SK076	slide sleeve (photo slides).	NF		0	1	CMS clinical review.
		SK098	film, x-ray, laser print.	NF		23	16	CMS clinical review.
76830	Transvaginal us non-ob.	ED024	film processor, dry, laser.	NF		5	0	CMS clinical review.
		ED032	printer, laser, paper.	NF		1	0	CMS clinical review.
		EF027	table, instrument, mobile.	NF		0	36	Refined equipment time to reflect typical use exclusive to patient.
		EF034	table, ultrasound	NF		0	36	Refined equipment time to reflect typical use exclusive to patient.
		EL015	room, ultrasound, general.	NF		37	0	CMS clinical review.
		EQ250	ultrasound unit, portable.	NF		0	36	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF		10	0	CMS clinical review.
		ER086	ultrasound probe	NF		0	37	Refined equipment time to reflect typical use exclusive to patient.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Clean room/equipment by physician staff.	3	2	CMS clinical review.
		SB026	gown, patient	NF		0	1	CMS clinical review.
		SJ033	lubricating jelly (Surgilube).	NF		1	0	CMS clinical review.
76872	Us transrectal	EF027	table, instrument, mobile.	NF		68	34	Refined equipment time to reflect typical use exclusive to patient.
		EF034	table, ultrasound	NF		68	34	Refined equipment time to reflect typical use exclusive to patient.
		EQ250	ultrasound unit, portable.	NF		68	34	Refined equipment time to reflect typical use exclusive to patient.
		ER086	ultrasound probe	NF		68	35	Refined equipment time to reflect typical use exclusive to patient.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Retrieve prior images for comparison:.	0	3	CMS clinical review.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Review Chart	3	0	CMS clinical review.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Obtain vital signs	3	0	CMS clinical review.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Prepare room, equipment, supplies.	2	3	CMS clinical review.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Prepare ultrasound probe.	5	0	CMS clinical review.
		L051B	RN/Diagnostic Medical Sonographer.	NF	Obtain vital signs	3	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L051B	RN/Diagnostic Medical Sonographer.	NF	Clean room/equipment by physician staff.	3	2	CMS clinical review.
		SB012	drape, sterile, for Mayo stand.	NF	.....	1	0	CMS clinical review.
		SC019	iv tubing (extension).	NF	.....	1	0	CMS clinical review.
		SH048	lidocaine 2% jelly, topical (Xylocaine).	NF	.....	10	0	CMS clinical review.
		SJ001	alcohol isopropyl 70%.	NF	.....	5	0	CMS clinical review.
		SJ032	lubricating jelly (K–Y) (5gm uou).	NF	.....	2	0	CMS clinical review.
		SM018	glutaraldehyde 3.4% (Cidex, Maxicide, Wavicide).	NF	.....	32	0	CMS clinical review.
		SM019	glutaraldehyde test strips (Cidex, Metrex).	NF	.....	1	0	CMS clinical review.
		SM022	sanitizing cloth-wipe (surface, instruments, equipment).	NF	.....	2	0	CMS clinical review.
77003	Fluoroguide for spine inject.	ED025	film processor, wet	NF	.....	3	2	Refined equipment time to reflect typical use exclusive to patient.
		EL014	room, radiographic-fluoroscopic.	NF	.....	9	18	Refined equipment time to reflect typical use exclusive to patient.
		ER029	film alternator (motorized film viewbox).	NF	.....	3	2	Refined equipment time to reflect typical use exclusive to patient.
		L041B	Radiologic Technologist.	NF	Clean room/equipment by physician staff.	2	1	CMS clinical review.
		L041B	Radiologic Technologist.	NF	Process films, hang films and review study with interpreting MD prior to patient discharge.	3	2	CMS clinical review.
77080	Dxa bone density axial.	ER078	phantom, spine, DXA calibration check.	NF	.....	1	2	Refined equipment time to reflect typical use exclusive to patient.
77301	Radiotherapy dose plan imrt.	ED011	computer system, record and verify.	NF	.....	20	0	CMS clinical review.
		ED033	treatment planning system, IMRT (Corvus w-Peregrine 3D Monte Carlo).	NF	.....	376	330	CMS clinical review.
		ER005	IMRT CT-based simulator.	NF	.....	58	47	CMS clinical review.
		ER014	chamber, Farmer-type.	NF	.....	45	47	Refined equipment time to reflect typical use exclusive to patient.
		ER028	electrometer, PC-based, dual channel.	NF	.....	45	47	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		ER050	phantom, solid water calibration check.	NF		45	47	Refined equipment time to reflect typical use exclusive to patient.
		ER089	IMRT accelerator	NF		45	47	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Obtain vital signs	3	0	CMS clinical review.
78012	Thyroid uptake measurement.	EF010	chair, thyroid imaging.	NF		40	30	Refined equipment time to reflect typical use exclusive to patient.
		ER063	thyroid uptake system.	NF		40	30	Refined equipment time to reflect typical use exclusive to patient.
78013	Thyroid imaging w/ blood flow.	ER032	gamma camera system, single-dual head.	NF		48	38	Refined equipment time to reflect typical use exclusive to patient.
78014	Thyroid imaging w/ blood flow.	EF010	chair, thyroid imaging.	NF		65	55	Refined equipment time to reflect typical use exclusive to patient.
		ER032	gamma camera system, single-dual head.	NF		65	50	Refined equipment time to reflect typical use exclusive to patient.
		ER063	thyroid uptake system.	NF		65	55	Refined equipment time to reflect typical use exclusive to patient.
78070	Parathyroid planar imaging.	ER032	gamma camera system, single-dual head.	NF		73	68	Refined equipment time to reflect typical use exclusive to patient.
78071	Parathyrd planar w/wo subtrj.	ER032	gamma camera system, single-dual head.	NF		86	81	Refined equipment time to reflect typical use exclusive to patient.
86153	Cell enumeration phys interp.	EP106	CELLSEARCH system.	NF		16	0	Laboratory physician interpretation code.
		EP107	Laboratory Information System.	NF		4	0	Laboratory physician interpretation code.
		L045A	Cytotechnologist	NF	Collate images and review with Pathologist.	5	0	Laboratory physician interpretation code.
88120	Cytp urne 3–5 probes ea spec.	EP088	ThermoBrite	NF		107	321	CMS clinical review.
		EP092	Olympus BX41 Fluorescent Microscope (without filters or camera).	NF		1.33	73.00	CMS clinical review.
88121	Cytp urine 3–5 probes cmptr.	EP088	ThermoBrite	NF		26.75	160.50	CMS clinical review.
		EP090	IkoniLan Software	NF		2.97	29.70	CMS clinical review.
		EP091	IkoniScope	NF		2.97	29.70	CMS clinical review.
88300	Surgical path gross.		courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			Copath System with maintenance contract.	NF		3	0	Indirect Practice Expense.
			Copath software	NF		3	0	Indirect Practice Expense.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
88302	Tissue exam by pathologist.		specimen, solvent, and formalin disposal cost.	NF		0.18	0	Indirect Practice Expense.
			courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			equipment maintenance cost.	NF		0.61	0	Included in equipment cost per minute calculation.
			Copath System with maintenance contract.	NF		3	0	Indirect Practice Expense.
			Copath software	NF		3	0	Indirect Practice Expense.
88304	Tissue exam by pathologist.		specimen, solvent, and formalin disposal cost.	NF		0.35	0	Indirect Practice Expense.
			courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			equipment maintenance cost.	NF		0.61	0	Included in equipment cost per minute calculation.
			Copath System with maintenance contract.	NF		5	0	Indirect Practice Expense.
			Copath software	NF		5	0	Indirect Practice Expense.
88305	Tissue exam by pathologist.		specimen, solvent, and formalin disposal cost.	NF		0.35	0	Indirect Practice Expense.
			courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			equipment maintenance cost.	NF		0.61	0	Included in equipment cost per minute calculation.
			Copath System with maintenance contract.	NF		4	0	Indirect Practice Expense.
			Copath software	NF		4	0	Indirect Practice Expense.
88307	Tissue exam by pathologist.		specimen, solvent, and formalin disposal cost.	NF		1.85	0	Indirect Practice Expense.
			courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			equipment maintenance cost.	NF		0.61	0	Included in equipment cost per minute calculation.
			Copath System with maintenance contract.	NF		10	0	Indirect Practice Expense.
			Copath software	NF		10	0	Indirect Practice Expense.
88309	Tissue exam by pathologist.		specimen, solvent, and formalin disposal cost.	NF		1.85	0	Indirect Practice Expense.
			courier transportation cost.	NF		2.02	0	Indirect Practice Expense.
			equipment maintenance cost.	NF		0.61	0	Included in equipment cost per minute calculation.
			Copath System with maintenance contract.	NF		12	0	Indirect Practice Expense.
			Copath software	NF		12	0	Indirect Practice Expense.
90791	Psych diagnostic evaluation.			NF				2012 Fully Implemented PE RVUs maintained.
90832	Psytx pt&/family 30 minutes.			NF				2012 Fully Implemented PE RVUs maintained.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
90834	Psytx pt&/family 45 minutes.			NF				2012 Fully Implemented PE RVUs maintained.
90836	Psytx pt&/fam w/ e&m 45 min.			NF				2012 Fully Implemented PE RVUs maintained.
91112	Gi wireless capsule measure.		Activation Fixture	NF		5	0	CMS clinical review.
			Docking Station	NF		40	0	CMS clinical review.
			MotiliGI software	NF		40	0	CMS clinical review.
		EQ352	Data receiver	NF		7,220	2,880	CMS clinical review.
		SA048	pack, minimum multi-specialty visit.	NF		1	0	CMS clinical review.
			SmartBar	NF		1	0	CMS clinical review.
92081	Visual field examination(s).	SA050	pack, ophthalmology visit (no dilation).	NF		1	0	CMS clinical review.
		EL006	lane, screening (oph).	NF		12	17	Refined equipment time to reflect typical use exclusive to patient.
		EQ029	Humphrey field analyzer.	NF		12	17	Refined equipment time to reflect typical use exclusive to patient.
		EQ165	lens set, trial, full diameter, w-frame.	NF		12	17	CMS clinical review.
92082	Visual field examination(s).	SA050	pack, ophthalmology visit (no dilation).	NF		1	0	CMS clinical review.
		EL006	lane, screening (oph).	NF		22	27	Refined equipment time to reflect typical use exclusive to patient.
		EQ029	Humphrey field analyzer.	NF		22	27	Refined equipment time to reflect typical use exclusive to patient.
		EQ165	lens set, trial, full diameter, w-frame.	NF		22	27	CMS clinical review.
92083	Visual field examination(s).	SA050	pack, ophthalmology visit (no dilation).	NF		1	0	CMS clinical review.
		EL006	lane, screening (oph).	NF		32	37	Refined equipment time to reflect typical use exclusive to patient.
		EQ029	Humphrey field analyzer.	NF		32	37	Refined equipment time to reflect typical use exclusive to patient.
		EQ165	lens set, trial, full diameter, w-frame.	NF		32	37	CMS clinical review.
92235	Eye exam with photos.	ED008	camera, retinal (TRC 50IX, w-ICG, filters, motor drives).	NF		60	35	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EF030	table, motorized (for instruments-equipment).	NF		60	35	Refined equipment time to reflect typical use exclusive to patient.
		EL005	lane, exam (oph)	NF		60	35	Refined equipment time to reflect typical use exclusive to patient.
		L038A	COMT/COT/RN/CST.	NF	Monitor pt. following service/check tubes, monitors, drains.	5	2	CMS clinical review.
		L039A	Certified Retinal Angio.	NF	Assist physician in performing procedure.	40	20	CMS clinical review.
93015	Cardiovascular stress test.	EF023	table, exam	NF		58	46	Refined equipment time to reflect typical use exclusive to patient.
		EQ078	cardiac monitor w-treadmill (12-lead PC-based ECG).	NF		58	46	Refined equipment time to reflect typical use exclusive to patient.
		L051A	RN	NF	Assist physician in performing procedure.	20	14	CMS clinical review.
93017	Cardiovascular stress test.	EF023	table, exam	NF		58	46	Refined equipment time to reflect typical use exclusive to patient.
		EQ078	cardiac monitor w-treadmill (12-lead PC-based ECG).	NF		58	46	Refined equipment time to reflect typical use exclusive to patient.
		L051A	RN	NF	Assist physician in performing procedure.	20	14	CMS clinical review.
		L051A	RN	NF	Complete diagnostic forms, lab & X-ray requisitions.	0	4	CMS clinical review.
93925	Lower extremity study.	ED011	computer system, record and verify.	NF		10	0	CMS clinical review.
		ED021	computer, desktop, w-monitor.	NF		95	7	Refined equipment time to reflect typical use exclusive to patient.
		ED025	film processor, wet	NF		10	7	Refined equipment time to reflect typical use exclusive to patient.
		ED034	video SVHS VCR (medical grade).	NF		95	0	CMS clinical review.
		EL016	room, ultrasound, vascular.	NF		95	76	Refined equipment time to reflect typical use exclusive to patient.
		ER067	x-ray view box, 4 panel.	NF		10	7	Refined equipment time to reflect typical use exclusive to patient.
		L054A	Vascular Technologist.	NF	Provide pre-service education/obtain consent.	3	2	CMS clinical review.
		L054A	Vascular Technologist.	NF	Prepare room, equipment, supplies.	3	2	Standardized time input.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L054A	Vascular Technologist.	NF	Prepare and position patient.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Collate preliminary data, arrange images, archive.	10	7	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Record patient history.	1	0	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: QA documentation.	4	0	CMS clinical review.
		SK086	video tape, VHS ..	NF	.....	1	0	CMS clinical review.
93926	Lower extremity study.	ED011	computer system, record and verify.	NF	.....	10	0	CMS clinical review.
		ED021	computer, desktop, w-monitor.	NF	.....	59	4	Refined equipment time to reflect typical use exclusive to patient.
		ED025	film processor, wet	NF	.....	10	4	Refined equipment time to reflect typical use exclusive to patient.
		ED034	video SVHS VCR (medical grade).	NF	.....	59	0	CMS clinical review.
		EL016	room, ultrasound, vascular.	NF	.....	59	42	Refined equipment time to reflect typical use exclusive to patient.
		ER067	x-ray view box, 4 panel.	NF	.....	10	4	Refined equipment time to reflect typical use exclusive to patient.
		L054A	Vascular Technologist.	NF	Provide pre-service education/obtain consent.	3	2	CMS clinical review.
		L054A	Vascular Technologist.	NF	Prepare room, equipment, supplies.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Prepare and position patient.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Collate preliminary data, arrange images, archive.	8	4	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Record patient history.	1	0	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: QA documentation.	4	0	CMS clinical review.
		SK086	video tape, VHS ..	NF	.....	1	0	CMS clinical review.
93970	Extremity study	ED011	computer system, record and verify.	NF	.....	10	0	CMS clinical review.
		ED021	computer, desktop, w-monitor.	NF	.....	71	7	Refined equipment time to reflect typical use exclusive to patient.
		ED025	film processor, wet	NF	.....	10	7	Refined equipment time to reflect typical use exclusive to patient.
		ED034	video SVHS VCR (medical grade).	NF	.....	71	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EL016	room, ultrasound, vascular.	NF	.....	71	52	Refined equipment time to reflect typical use exclusive to patient.
		ER067	x-ray view box, 4 panel.	NF	.....	10	7	Refined equipment time to reflect typical use exclusive to patient.
		L054A	Vascular Technologist.	NF	Provide pre-service education/obtain consent.	3	2	CMS clinical review.
		L054A	Vascular Technologist.	NF	Prepare room, equipment, supplies.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Prepare and position patient.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Collate preliminary data, arrange images, archive.	10	7	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Record patient history.	1	0	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: QA documentation.	4	0	CMS clinical review.
		SK086	video tape, VHS ..	NF	.....	1	0	CMS clinical review.
93971	Extremity study	ED011	computer system, record and verify.	NF	.....	10	0	CMS clinical review.
		ED021	computer, desktop, w-monitor.	NF	.....	45	4	Refined equipment time to reflect typical use exclusive to patient.
		ED025	film processor, wet	NF	.....	10	4	Refined equipment time to reflect typical use exclusive to patient.
		ED034	video SVHS VCR (medical grade).	NF	.....	45	0	CMS clinical review.
		EL016	room, ultrasound, vascular.	NF	.....	45	30	CMS clinical review.
		ER067	x-ray view box, 4 panel.	NF	.....	10	4	Refined equipment time to reflect typical use exclusive to patient.
		L054A	Vascular Technologist.	NF	Provide pre-service education/obtain consent.	3	2	CMS clinical review.
		L054A	Vascular Technologist.	NF	Prepare room, equipment, supplies.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Prepare and position patient.	3	2	Standardized time input.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Collate preliminary data, arrange images, archive.	6	4	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: Record patient history.	1	0	CMS clinical review.
		L054A	Vascular Technologist.	NF	Other Clinical Activity: QA documentation.	4	0	CMS clinical review.
		SB006	drape, non-sterile, sheet 40in x 60in.	NF	.....	2	1	CMS clinical review.
		SK086	video tape, VHS ..	NF	.....	1	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
95076	Ingest challenge ini 120 min.	EF023	table, exam	NF		141	133	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		141	133	Refined equipment time to reflect typical use exclusive to patient.
		L037D	RN/LPN/MTA	NF	Prepare testing doses.	15	7	CMS clinical review.
95115	Immunotherapy one injection.	EF040	refrigerator, vaccine, commercial grade, w-alarm lock.	NF		15	0	CMS clinical review.
95117	Immunotherapy injections.	EF041	x-ray machine, portable.	NF		17	0	CMS clinical review.
95782	Polysom <6 yrs 4/ > paramtrs.	EF003	bedroom furniture (hospital bed, table, reclining chair).	NF		660	602	Refined equipment time to reflect typical use exclusive to patient.
			Crib	NF		660	0	CMS clinical review.
		EQ134	impedance meter, 32-channel.	NF		660	602	Refined equipment time to reflect typical use exclusive to patient.
		EQ272	sleep diagnostic system, attended (w-acquisition station, review master, computer).	NF		660	662	Refined equipment time to reflect typical use exclusive to patient.
			Capnograph	NF		660	0	Duplicative.
		ER088	Infrared illuminator	NF		660	602	Refined equipment time to reflect typical use exclusive to patient.
		L047B	REEGT	NF	Provide pre-service education/ obtain consent.	5	3	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Set up and calibrate all monitoring and recording equipment (initial), including capnograph (for child).	6	5	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Measure and mark head and face. Apply and secure electrodes to head and face. Check impedances. Reapply electrodes as needed. (1.5 min per electrode for child, 1 min per electrode for adult).	30	20	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L047B	REEGT	NF	Other Clinical Activity—specify: Apply recording devices for cardio-respiratory, leg movements, body positioning and snoring.	0	15	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Apply recording devices for cardio-respiratory, leg movements, body positioning, snoring and capnography.	20	0	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Daytime tech reviews and edits recording, marks artifacts, scores sleep stages, performs evaluation of physiological changes.	100	97	CMS clinical review.
95783	Polysom <6 yrs cpap/bilvl.	EF003	bedroom furniture (hospital bed, table, reclining chair).	NF		660	647	Refined equipment time to reflect typical use exclusive to patient.
			Crib	NF		660	0	CMS clinical review.
		EQ134	impedance meter, 32-channel.	NF		660	647	Refined equipment time to reflect typical use exclusive to patient.
		EQ272	sleep diagnostic system, attended (w-acquisition station, review master, computer).	NF		660	707	Refined equipment time to reflect typical use exclusive to patient.
			Capnograph	NF		660	0	Duplicative.
		ER088	Infrared illuminator	NF		660	647	Refined equipment time to reflect typical use exclusive to patient.
		L047B	REEGT	NF	Provide pre-service education/obtain consent.	5	3	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Set up and calibrate all monitoring and recording equipment (initial), including capnograph (for child).	6	5	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		L047B	REEGT	NF	Other Clinical Activity—specify: Measure and mark head and face. Apply and secure electrodes to head and face. Check impedances. Reapply electrodes as needed. (1.5 min per electrode for child, 1 min per electrode for adult).	30	20	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Apply recording devices for cardio-respiratory, leg movements, body positioning and snoring.	0	15	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Apply recording devices for cardio-respiratory, leg movements, body positioning, snoring and capnography.	20	0	CMS clinical review.
		L047B	REEGT	NF	Other Clinical Activity—specify: Daytime tech reviews and edits recording, marks artifacts, scores sleep stages, performs evaluation of physiological changes.	100	97	CMS clinical review.
95861	Muscle test 2 limbs.	EF023	table, exam	NF		44	41	Refined equipment time to reflect typical use exclusive to patient.
		EQ024	EMG–NCV–EP system, 8 channel.	NF		44	41	Refined equipment time to reflect typical use exclusive to patient.
		L037A	Electrodiagnostic Technologist.	NF	Assist physician in performing procedure.	19	29	Conforming to physician time.
95863	Muscle test 3 limbs.	EF023	table, exam	NF		58	52	Refined equipment time to reflect typical use exclusive to patient.
		EQ024	EMG–NCV–EP system, 8 channel.	NF		58	52	Refined equipment time to reflect typical use exclusive to patient.
95864	Muscle test 4 limbs.	EF023	table, exam	NF		71	62	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ024	EMG–NCV–EP system, 8 channel.	NF		71	62	Refined equipment time to reflect typical use exclusive to patient.
95868	Muscle test cran nerve bilat.	EF023	table, exam	NF		35	32	Refined equipment time to reflect typical use exclusive to patient.
		EQ024	EMG–NCV–EP system, 8 channel.	NF		35	32	Refined equipment time to reflect typical use exclusive to patient.
95907	Motor&/sens 1–2 nrv cndj tst.	SG051	gauze, non-sterile 4in x 4in.	NF		0	4	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		4	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		12	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF		100	0	CMS clinical review.
95908	Motor&/sens 3–4 nrv cndj tst.	SG051	gauze, non-sterile 4in x 4in.	NF		0	8	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		8	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		24	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF		100	0	CMS clinical review.
95909	Motor&/sens 5–6 nrv cndj tst.	SG051	gauze, non-sterile 4in x 4in.	NF		0	12	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		12	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		36	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF		100	0	CMS clinical review.
95910	Motor&sens 7–8 nrv cndj test.	L037A	Electrodiagnostic Technologist.	NF		50	40	Conforming to physician time.
		SG051	gauze, non-sterile 4in x 4in.	NF		0	16	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		16	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		48	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF		100	0	CMS clinical review.
95911	Motor&sen 9–10 nrv cndj test.	L037A	Electrodiagnostic Technologist.	NF		64	50	Conforming to physician time.
		SG051	gauze, non-sterile 4in x 4in.	NF		0	20	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		20	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		60	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF		100	0	CMS clinical review.
95912	Motor&sen 11–12 nrv cnd test.	L037A	Electrodiagnostic Technologist.	NF		77	60	Conforming to physician time.
		SG051	gauze, non-sterile 4in x 4in.	NF		0	24	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF		24	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF		72	0	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		SJ022	electrode skin prep gel (NuPrep).	NF	.....	100	0	CMS clinical review.
95913	Motor&sens 13/> nrv cnd test.	L037A	Electrodiagnostic Technologist.	NF	.....	87	70	Conforming to physician time.
		SG051	gauze, non-sterile 4in x 4in.	NF	.....	0	26	CMS clinical review.
		SG055	gauze, sterile 4in x 4in.	NF	.....	26	0	CMS clinical review.
		SG079	tape, surgical paper 1in (Micropore).	NF	.....	78	0	CMS clinical review.
		SJ022	electrode skin prep gel (NuPrep).	NF	.....	100	0	CMS clinical review.
95921	Autonomic nrv parasym inervj.	EF032	table, tilt (w-trendelenberg).	NF	.....	64	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ051	arterial tonometry acquisition system (WR Testworks).	NF	.....	64	55	Refined equipment time to reflect typical use exclusive to patient.
		EQ052	arterial tonometry monitor (Colin Pilot).	NF	.....	64	55	Refined equipment time to reflect typical use exclusive to patient.
		L037A	Electrodiagnostic Technologist.	NF	Greet patient, provide gowning, assure appropriate medical records are available.	3	0	CMS clinical review.
		L037A	Electrodiagnostic Technologist.	NF	Obtain vital signs	3	0	CMS clinical review.
		L037A	Electrodiagnostic Technologist.	NF	Monitor pt. following service/check tubes, monitors, drains.	5	2	CMS clinical review.
95922	Autonomic nrv adrenrg inervj.	EF032	table, tilt (w-trendelenberg).	NF	.....	79	70	Refined equipment time to reflect typical use exclusive to patient.
		EQ051	arterial tonometry acquisition system (WR Testworks).	NF	.....	79	70	Refined equipment time to reflect typical use exclusive to patient.
		EQ052	arterial tonometry monitor (Colin Pilot).	NF	.....	79	70	Refined equipment time to reflect typical use exclusive to patient.
		L037A	Electrodiagnostic Technologist.	NF	Greet patient, provide gowning, assure appropriate medical records are available.	3	0	CMS clinical review.
		L037A	Electrodiagnostic Technologist.	NF	Obtain vital signs	3	0	CMS clinical review.
		L037A	Electrodiagnostic Technologist.	NF	Monitor pt. following service/check tubes, monitors, drains.	5	2	CMS clinical review.
95923	Autonomic nrv syst funj test.	EQ035	QSART acquisition system (Q-Sweat).	NF	.....	74	61	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ124	stimulator, constant current, w-stimulating and grounding electrodes (Grass Telefactor).	NF		74	61	Refined equipment time to reflect typical use exclusive to patient.
		EQ171	light, infra-red, ceiling mount.	NF		74	61	Refined equipment time to reflect typical use exclusive to patient.
		L037A	Electrodiagnostic Technologist.	NF	Assist physician in performing procedure.	55	45	CMS clinical review.
		L037A	Electrodiagnostic Technologist.	NF	Monitor pt. following service/check tubes, monitors, drains.	5	2	CMS clinical review.
		SJ020	electrode conductive gel.	NF		5	0	CMS clinical review.
95924	Ans parasymp & symp w/tilt.	EF032	table, tilt (w-trendelenberg).	NF		79	76	Refined equipment time to reflect typical use exclusive to patient.
		EQ051	arterial tonometry acquisition system (WR Testworks).	NF		79	76	Refined equipment time to reflect typical use exclusive to patient.
		EQ052	arterial tonometry monitor (Colin Pilot).	NF		79	76	Refined equipment time to reflect typical use exclusive to patient.
		L037A	Electrodiagnostic Technologist.	NF	Monitor pt. following service/check tubes, monitors, drains.	5	2	CMS clinical review.
96920	Laser tx skin < 250 sq cm.	EF031	table, power	NF		20	26	Refined equipment time to reflect typical use exclusive to patient.
		EQ161	laser, excimer	NF		20	26	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		17	26	Refined equipment time to reflect typical use exclusive to patient.
			Annual Laser Service Package.	NF		1	0	Included in equipment cost per minute calculation.
		L037D	RN/LPN/MTA	NF	Monitor pt. following service/check tubes, monitors, drains.	3	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean room/equipment by physician staff.	3	2	CMS clinical review.
		SF028	laser tip (single use).	NF		1	0	CMS clinical review.
		SJ029	ice pack, instant	NF		4	1	CMS Code correction.
96921	Laser tx skin 250–500 sq cm.	EF031	table, power	NF		23	29	Refined equipment time to reflect typical use exclusive to patient.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
		EQ161	laser, excimer	NF		23	29	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		23	29	Refined equipment time to reflect typical use exclusive to patient.
			Annual Laser Service Package.	NF		1	0	Included in equipment cost per minute calculation.
		L037D	RN/LPN/MTA	NF	Monitor pt. following service/check tubes, monitors, drains.	3	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean room/equipment by physician staff.	3	2	CMS clinical review.
		SF028	laser tip (single use).	NF		1	0	CMS clinical review.
		SJ029	ice pack, instant	NF		4	2	CMS Code correction.
96922	Laser tx skin >500 sq cm.	EF031	table, power	NF		33	39	Refined equipment time to reflect typical use exclusive to patient.
		EQ161	laser, excimer	NF		33	39	Refined equipment time to reflect typical use exclusive to patient.
		EQ168	light, exam	NF		30	39	Refined equipment time to reflect typical use exclusive to patient.
			Annual Laser Service Package.	NF		1	0	Included in equipment cost per minute calculation.
		L037D	RN/LPN/MTA	NF	Monitor pt. following service/check tubes, monitors, drains.	3	1	CMS clinical review.
		L037D	RN/LPN/MTA	NF	Clean room/equipment by physician staff.	3	2	CMS clinical review.
		SF028	laser tip (single use).	NF		1	0	CMS clinical review.
97150	Group therapeutic procedures.	EQ248	ultrasonic biometry, pachymeter.	NF		10	5	Refined equipment time to reflect typical use exclusive to patient.
		EQ269	blood pressure monitor, ambulatory, w-battery charger.	NF		1	0	CMS clinical review.
		SA007	kit, cooking activity ingredients (mac-cheese).	NF		1	0	CMS clinical review.
99495	Trans care mgmt 14 day disch.	L042A	RN/LPN	F	Communication (with patient, family members, guardian or caretaker, surrogate decision makers, and/or other professionals) regarding aspects of care, etc..	0	45	CMS clinical review.

TABLE 74—CPT CODES WITH REFINED DIRECT PE RECOMMENDATIONS FOR CY 2013 INTERIM CODES—Continued

CPT Code	CPT Code description	CMS Code	CMS Code description	NonFac/Fac	Labor activity (if applicable)	RUC recommendation or current value (min or qty)	CMS refinement (min or qty)	Comment
99496	Trans care mgmt 7 day disch.	L042A	RN/LPN	NF	Communication (with patient, family members, guardian or caretaker, surrogate decision makers, and/or other professionals) regarding aspects of care, etc..	60	70	CMS clinical review.
		L042A	RN/LPN	F	Communication (with patient, family members, guardian or caretaker, surrogate decision makers, and/or other professionals) regarding aspects of care, etc..	0	70	CMS clinical review.

17. On page 69138,

a. Top two thirds of the page, first column, first full paragraph, line 1, the phrase ''The CY 2013 PFS CF is $25.0008'' is corrected to read ''The CY 2013 PFS CF is $25.0070.''

b. Third column, first full paragraph, line 19, the phrase CF to be $25.0008'' is corrected to read ''CF to be $25.0070.''

c. Lower half of the page, in Table 87: Calculation of the CY 2013 PFS CF, the list entry

CY 2013 Conversion Factor		$25.0008

is corrected to read as follows:

CY 2013 Conversion Factor		$25.0070

18. On page 69139, top quarter of the page, in Table 88: Calculation of the CY 2013 Anesthesia CF, the list entry

CY 2013 Anesthesia Factor		$15.93

is corrected to read as follows:

CY 2013 Anesthesia Factor		$16.1236

19. On page 69145, second column, first partial paragraph, lines 20 and 21, the phrase that reads ''pharmacy for use upon a physician's order'' is corrected to read ''pharmacy for use upon a valid prescription.''

20. On page 69212, second column, first full paragraph, lines 5–8, the phrase ''Measure 190: Referral for Otologic Evaluation for Patients with Acute or Chronic Dizziness'' is corrected to read ''Measure 190: Referral for Otologic Evaluation for Patients with a History of Sudden or Rapidly Progressive Hearing Loss.''

21. On page 69237, in Table 95: Individual Quality Measures for the Physician Quality Reporting System Proposed to be Available for Reporting via Claims, Registry, EHR, or GRPO Web Interface Beginning in 2013 or 2014*, Measures #189 and #190 are deleted.

22. On page 69267, after Table 95: Individual Quality Measures for the Physician Quality Reporting System Proposed to be Available for Reporting via Claims, Registry, EHR, or GRPO Web Interface Beginning in 2013 or 2014*, the following note is added:

*Measures that can be reported using the GPRO web interface.

†These measures can only be reported by participants using the GPRO. They are not available for reporting for individual Eligible Professionals using this reporting method.

¥ Titles and descriptions in this table are aligned with 2013 Physician Quality Reporting System Claims and Qualified Registry measure titles and descriptions, and may differ from existing measures in other programs. Please reference the National Quality Forum (NQF) and

Physician Quality Reporting System numbers for clarification.

◊Measures to be deleted in 2014.

‡Measures to be added in 2013.

○Measures to be added in 2014.

23. On page 69269, in Table 96: PQRS Quality Measures Available for Reporting for Group Practices Using the GPRO Web Interface for 2013 and Beyond, in the Measure and Title description for NQF/PQRS 0097/46 the phrase that reads ''*seen within 60 days following discharge*'' is corrected to read ''*seen within 30 days following discharge.*''

24. On page 69277, in Table 108: HIV/AIDS Measures Group, the following measures: HIV/AIDS Measures Group: PQRS Measure #206 (''HIV/AIDS: Screening for High Risk Sexual Behaviors'') and #207 (''HIV/AIDS: Screening for Injection Drug Use'') are deleted.

25. On page 69300,

a. Third column, line 22–23, the phrase ''a deadline of February 28, 2013 to request an informal review'' is corrected to read ''a deadline of 90 days following the receipt of the feedback reports to request an informal review.''

b. Lines 27–28, the phrase ''a deadline of February 28, 2014 to request an informal review'' is corrected to read ''a deadline of 90 days following the receipt of the feedback reports to request an informal review.''

26. On pages 69344 through 69345, we are correcting Table 134: CY 2013 PFS Final Rule with Comment Period Estimated Impact on Total Allowed Charges by Specialty* and the first footnote (*) that reads: *Table 83 shows only the final payment policy impact on PFS services. We note that these impacts do not include the effects of the negative January 2013 conversion factor change under current law.'' to read as follows:

TABLE 134—CY 2013 FINAL RULE WITH COMMENT PERIOD ESTIMATED IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY*

[Estimated impact for RVU changes*]

Specialty (A)	Allowed charges (mil) (B)	Impact of work and MP RVU changes % (C)	Impact of PE RVU changes % (D)	Combined impact % (E)
TOTAL	$86,384	0	0	0
01–ALLERGY/IMMUNOLOGY	200	0	2	2
02–ANESTHESIOLOGY	1,817	0	2	2
03–CARDIAC SURGERY	369	0	−1	−1
04–CARDIOLOGY	6,733	−1	−2	−2
05–COLON AND RECTAL SURGERY	153	0	2	2
06–CRITICAL CARE	263	0	1	1
07–DERMATOLOGY	3,024	0	0	0
08–EMERGENCY MEDICINE	2,839	0	0	0
09–ENDOCRINOLOGY	437	0	1	1
10–FAMILY PRACTICE	5,943	2	5	7
11–GASTROENTEROLOGY	1,896	0	0	0
12–GENERAL PRACTICE	587	0	1	1
13–GENERAL SURGERY	2,283	0	1	1
14–GERIATRICS	220	1	3	5
15–HAND SURGERY	135	0	1	1
16–HEMATOLOGY/ONCOLOGY	1,909	0	2	2
17–INFECTIOUS DISEASE	629	0	1	1
18–INTERNAL MEDICINE	11,163	1	3	5
19–INTERVENTIONAL PAIN MGMT	538	0	1	1
20–INTERVENTIONAL RADIOLOGY	204	0	−2	−3
21–MULTISPECIALTY CLINIC/OTHER PHY	81	0	0	0
22–NEPHROLOGY	2,080	0	0	0
23–NEUROLOGY	1,604	−2	−5	−7
24–NEUROSURGERY	687	0	0	0
25–NUCLEAR MEDICINE	49	0	−2	−3
27–OBSTETRICS/GYNECOLOGY	704	0	0	0
28–OPHTHALMOLOGY	5,645	−3	0	−3
29–ORTHOPEDIC SURGERY	3,643	0	0	0
30–OTOLARNGOLOGY	1,076	0	2	2
31–PATHOLOGY	1,210	0	−6	−6
32–PEDIATRICS	65	1	3	3
33–PHYSICAL MEDICINE	999	−1	−3	−4
34–PLASTIC SURGERY	356	0	1	1
35–PSYCHIATRY	1,170	−1	3	2
36–PULMONARY DISEASE	1,703	0	1	1
37–RADIATION ONCOLOGY	1,988	0	−7	−7
38–RADIOLOGY	4,818	0	−3	−3
39–RHEUMATOLOGY	548	0	0	0
40–THORACIC SURGERY	343	0	−1	−1
41–UROLOGY	1,918	0	−1	−2
42–VASCULAR SURGERY	888	0	−2	−2
43–AUDIOLOGIST	57	0	−4	−4
44–CHIROPRACTOR	746	0	1	1
45–CLINICAL PSYCHOLOGIST	575	1	−3	−2
46–CLINICAL SOCIAL WORKER	406	1	−3	−2

TABLE 134—CY 2013 FINAL RULE WITH COMMENT PERIOD ESTIMATED IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY *—Continued

[Estimated impact for RVU changes *]

Specialty (A)	Allowed charges (mil) (B)	Impact of work and MP RVU changes % (C)	Impact of PE RVU changes % (D)	Combined impact % (E)
47–DIAGNOSTIC TESTING FACILITY	888	0	−7	−7
48–INDEPENDENT LABORATORY	1,073	0	−14	−14
49–NURSE ANES/ANES ASST	1,008	0	2	2
50–NURSE PRACTITIONER	1,623	1	3	4
51–OPTOMETRY	1,061	−1	1	1
52–ORAL/MAXILLOFACIAL SURGERY	45	0	1	1
53–PHYSICAL/OCCUPATIONAL THERAPY	2,636	0	4	4
54–PHYSICIAN ASSISTANT	1,229	1	2	3
55–PODIATRY	1,925	0	2	2
56–PORTABLE X–RAY SUPPLIER	106	0	5	5
57–RADIATION THERAPY CENTERS	72	0	−9	−9
98–OTHER	19	0	1	1

* Table 134 shows only the final payment policy impact on PFS services. We note that these impacts do not include the effects of the negative January 2013 conversion factor change under current law.

27. On pages 69347 through 69348, we are correcting Table 135: CY 2013 PFS Final Rule with Comment Period Estimated Impact on Total Allowed Charges by Specialty by Selected Policy* and the text in the first footnote (*) for Table 135 that reads ''*Table 135 shows only the proposed payment policy impact on PFS services. We note that these impacts do not include the effects of the negative January 2013 conversion factor change under current law.'' to read as follows:

TABLE 135—CY 2013 PFS FINAL RULE WITH COMMENT PERIOD ESTIMATED IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY BY SELECTED POLICY* ESTIMATED IMPACT FOR RVU CHANGES*

Specialty (A)	Allowed charges (mil) (B)	Impact of end of PPIS transition % (C)	New, revised, potentially misvalued codes, MPPR, new utilization and other factors % (D)	Updated equipment interest rate assumption % (E)	Transitional care management % (F)	Input changes for certain radiation therapy procedures % (G)	Total (cumulative impact) % (H)
TOTAL	86,384	0	0	0	0	0	0
01–ALLERGY/IMMUNOLOGY	200	0	0	2	0	0	2
02–ANESTHESIOLOGY	1,817	1	1	0	0	0	2
03–CARDIAC SURGERY	369	−1	0	0	0	0	−1
04–CARDIOLOGY	6,733	−2	0	0	−1	0	−2
05–COLON AND RECTAL SURGERY	153	1	0	0	0	0	2
06–CRITICAL CARE	263	0	0	0	0	0	1
07–DERMATOLOGY	3,024	0	0	1	−1	0	0
08–EMERGENCY MEDICINE	2,839	0	0	0	0	0	0
09–ENDOCRINOLOGY	437	1	1	0	−1	0	1
10–FAMILY PRACTICE	5,943	1	1	0	4	0	7
11–GASTROENTEROLOGY	1,896	0	0	0	0	0	0
12–GENERAL PRACTICE	587	1	0	0	−1	0	1
13–GENERAL SURGERY	2,283	1	0	0	0	0	1
14–GERIATRICS	220	1	1	0	2	0	5
15–HAND SURGERY	135	1	0	0	−1	0	1
16–HEMATOLOGY/ONCOLOGY	1,909	−1	3	1	−1	0	2
17–INFECTIOUS DISEASE	629	1	1	0	0	0	1
18–INTERNAL MEDICINE	11,163	1	1	0	3	0	5
19–INTERVENTIONAL PAIN MGMT	538	1	0	0	−1	0	1
20–INTERVENTIONAL RADIOLOGY	204	−2	0	0	0	0	−3
21–MULTISPECIALTY CLINIC/OTHER PHY	81	0	0	0	0	0	0
22–NEPHROLOGY	2,080	0	0	0	0	0	0
23–NEUROLOGY	1,604	1	−8	0	0	0	−7
24–NEUROSURGERY	687	0	0	0	0	0	0
25–NUCLEAR MEDICINE	49	−2	0	−1	0	0	−3
27–OBSTETRICS/GYNECOLOGY	704	0	0	0	−1	0	0
28–OPHTHALMOLOGY	5,645	2	−4	0	0	0	−3
29–ORTHOPEDIC SURGERY	3,643	1	0	0	0	0	0
30–OTOLARNGOLOGY	1,076	1	1	1	−1	0	2
31–PATHOLOGY	1,210	−1	−5	0	0	0	−6
32–PEDIATRICS	65	1	0	0	3	0	3
33–PHYSICAL MEDICINE	999	1	−5	0	−1	0	−4

TABLE 135—CY 2013 PFS FINAL RULE WITH COMMENT PERIOD ESTIMATED IMPACT ON TOTAL ALLOWED CHARGES BY SPECIALTY BY SELECTED POLICY* ESTIMATED IMPACT FOR RVU CHANGES*—Continued

Specialty (A)	Allowed charges (mil) (B)	Impact of end of PPIS transition % (C)	New, revised, potentially misvalued codes, MPPR, new utilization and other factors % (D)	Updated equipment interest rate assumption % (E)	Transitional care management % (F)	Input changes for certain radiation therapy procedures % (G)	Total (cumulative impact) % (H)
34–PLASTIC SURGERY	$356	1	0	0	0	0	1
35–PSYCHIATRY	1,170	0	2	0	−1	0	2
36–PULMONARY DISEASE	1,703	0	1	0	−1	0	1
37–RADIATION ONCOLOGY	1,988	−4	2	−3	−1	−1	−7
38–RADIOLOGY	4,818	−2	0	−1	0	0	−3
39–RHEUMATOLOGY	548	0	1	0	−1	0	0
40–THORACIC SURGERY	343	−1	0	0	0	0	−1
41–UROLOGY	1,918	−2	0	0	−1	0	−2
42–VASCULAR SURGERY	888	−1	−1	0	0	0	−2
43–AUDIOLOGIST	57	−3	0	0	0	0	−4
44–CHIROPRACTOR	746	1	0	0	0	0	1
45–CLINICAL PSYCHOLOGIST	575	−2	1	0	0	0	−2
46–CLINICAL SOCIAL WORKER	406	−2	0	0	0	0	−2
47–DIAGNOSTIC TESTING FACILITY	888	−5	0	−2	−1	0	−7
48–INDEPENDENT LABORATORY	1,073	−2	−12	1	−1	0	−14
49–NURSE ANES/ANES ASST	1,008	2	0	0	0	0	2
50–NURSE PRACTITIONER	1,623	1	1	0	2	0	4
51–OPTOMETRY	1,061	2	−1	0	0	0	1
52–ORAL/MAXILLOFACIAL SURGERY	45	1	0	1	−1	0	1
53–PHYSICAL/OCCUPATIONAL THERAPY	2,636	2	2	0	0	0	4
54–PHYSICIAN ASSISTANT	1,229	1	0	0	2	0	3
55–PODIATRY	1,925	2	0	1	−1	0	2
56–PORTABLE X–RAY SUPPLIER	106	1	4	1	−1	0	5
57–RADIATION THERAPY CENTERS	72	−5	4	−5	−1	−1	−9
98–OTHER	19	1	0	0	0	0	1

"*Table 135 shows only the final payment policy impact on PFS services. We note that these impacts do not include the effects of the negative January 2013 conversion factor change under current law."

28. On pages 69350 through 69351, we are correcting Table 136 Impact of Final Rule with Comment Period on CY 2013 Payment for Selected Procedures* to read as follows:

Table 136: Impact of Final Rule with Comment Period on CY 2013 Payment for Selected Procedures*

CPT/ HCPCS [1]	MOD	Short Descriptor	Facility					Nonfacility				
			CY 2012 [2]	CY 2013 [3] (pre update)	% Change (pre update)	CY 2013 [4] (post update)	% Change (post update)	CY 2012 [2]	CY 2013 [3] (pre update)	% Change (pre update)	CY 2013 [4] (post update)	% Change (post update)
11721		Debride nail 6 or more	$25.19	$24.50	-3%	$18.01	-29%	$43.57	$44.91	3%	$33.01	-24%
17000		Destruct premalg lesion	$56.16	$57.16	2%	$42.01	-25%	$81.01	$83.36	3%	$61.27	-24%
27130		Total hip arthroplasty	$1,445.58	$1,454.48	1%	$1,069.05	-26%	NA	NA	NA	NA	NA
27244		Treat thigh fracture	$1,231.48	$1,242.18	1%	$913.01	-26%	NA	NA	NA	NA	NA
27447		Total knee arthroplasty	$1,544.29	$1,552.81	1%	$1,141.32	-26%	NA	NA	NA	NA	NA
33533		Cabg arterial single	$1,950.35	$1,906.31	-2%	$1,401.14	-28%	NA	NA	NA	NA	NA
35301		Rechanneling of artery	$1,112.35	$1,096.22	-1%	$805.73	-28%	NA	NA	NA	NA	NA
43239		Upper gi endoscopy biopsy	$174.61	$174.54	0%	$128.29	-27%	$351.61	$359.28	2%	$264.07	-25%
66821		After cataract laser surgery	$307.70	$325.26	6%	$239.07	-22%	$326.08	$344.99	6%	$253.57	-22%
66984		Cataract surg w/iol 1 stage	$760.74	$667.87	-12%	$490.89	-35%	NA	NA	NA	NA	NA
67210		Treatment of retinal lesion	$504.10	$520.55	3%	$382.61	-24%	$523.84	$538.92	3%	$396.11	-24%
71010		Chest x-ray 1 view frontal	NA	NA	NA	NA	NA	$23.83	$23.82	0%	$17.50	-27%
71010	26	Chest x-ray 1 view frontal	$8.85	$8.85	0%	$6.50	-27%	$8.85	$8.85	0%	$6.50	-27%
77056		Mammogram both breasts	NA	NA	NA	NA	NA	$112.32	$114.66	2%	$84.27	-25%
77056	26	Mammogram both breasts	$42.55	$42.19	-1%	$31.01	-27%	$42.55	$42.19	-1%	$31.01	-27%
77057		Mammogram screening	NA	NA	NA	NA	NA	$81.35	$81.66	0%	$60.02	-26%
77057	26	Mammogram screening	$34.38	$34.02	-1%	$25.01	-27%	$34.38	$34.02	-1%	$25.01	-27%
77427		Radiation tx management x5	$177.00	$178.28	1%	$131.04	-26%	$177.00	$178.28	1%	$131.04	-26%
88305	26	Tissue exam by pathologist	$36.08	$36.74	2%	$27.01	-25%	$36.08	$36.74	2%	$27.01	-25%
90935		Hemodialysis one evaluation	$72.84	$71.11	-2%	$52.26	-28%	NA	NA	NA	NA	NA
92012		Eye exam establish patient	$51.40	$53.08	3%	$39.01	-24%	$82.71	$87.44	6%	$64.27	-22%
92014		Eye exam&tx estab pt 1/>vst	$78.29	$80.29	3%	$59.02	-25%	$119.81	$126.23	5%	$92.78	-23%
93000		Electrocardiogram complete	NA	NA	NA	NA	NA	$19.06	$18.37	-4%	$13.50	-29%
93010		Electrocardiogram report	$8.51	$8.17	-4%	$6.00	-29%	$8.51	$8.17	-4%	$6.00	-29%
93015		Cardiovascular stress test	NA	NA	NA	NA	NA	$88.50	$79.61	-10%	$58.52	-34%

CPT/ HCPCS [1]	MOD	Short Descriptor	Facility					Nonfacility				
			CY 2012[2]	CY 2013[3] (pre update)	% Change (pre update)	CY 2013 [4] (post update)	% Change (post update)	CY 2012 [2]	CY 2013[3] (pre update)	% Change (pre update)	CY 2013 [4] (post update)	% Change (post update)
93307	26	Tte w/o doppler complete	$45.95	$44.23	-4%	$32.51	-29%	$45.95	$44.23	-4%	$32.51	-29%
93458	26	L hrt artery/ventricle angio	$315.87	$315.73	0%	$232.06	-27%	$315.87	$315.73	0%	$232.06	-27%
98941		Chiropract manj 3-4 regions	$30.63	$30.62	0%	$22.51	-27%	$36.08	$36.40	1%	$26.76	-26%
99203		Office/outpatient visit new	$74.88	$75.19	0%	$55.27	-26%	$105.18	$108.19	3%	$79.52	-24%
99213		Office/outpatient visit est	$49.69	$49.67	0%	$36.51	-27%	$70.46	$72.81	3%	$53.51	-24%
99214		Office/outpatient visit est	$76.24	$76.55	0%	$56.27	-26%	$104.16	$106.83	3%	$78.52	-25%
99222		Initial hospital care	$133.09	$134.73	1%	$99.03	-26%	NA	NA	NA	NA	NA
99223		Initial hospital care	$195.38	$198.01	1%	$145.54	-26%	NA	NA	NA	NA	NA
99231		Subsequent hospital care	$38.12	$38.11	0%	$28.01	-27%	NA	NA	NA	NA	NA
99232		Subsequent hospital care	$69.78	$70.09	0%	$51.51	-26%	NA	NA	NA	NA	NA
99233		Subsequent hospital care	$100.07	$101.05	1%	$74.27	-26%	NA	NA	NA	NA	NA
99236		Observ/hosp same date	$212.05	$212.30	0%	$156.04	-26%	NA	NA	NA	NA	NA
99239		Hospital discharge day	$103.13	$104.79	2%	$77.02	-25%	NA	NA	NA	NA	NA
99283		Emergency dept visit	$60.25	$59.88	-1%	$44.01	-27%	NA	NA	NA	NA	NA
99284		Emergency dept visit	$114.71	$114.66	0%	$84.27	-27%	NA	NA	NA	NA	NA
99291		Critical care first hour	$217.16	$217.75	0%	$160.04	-26%	$267.20	$272.18	2%	$200.06	-25%
99292		Critical care addl 30 min	$108.92	$109.55	1%	$80.52	-26%	$119.47	$120.78	1%	$88.77	-26%
99348		Home visit est patient	NA	NA	NA	NA	NA	$82.03	$82.34	0%	$60.52	-26%
99350		Home visit est patient	NA	NA	NA	NA	NA	$171.21	$173.52	1%	$127.54	-26%
G0008		Immunization admin	NA	NA	NA	NA	NA	$24.17	$25.86	7%	$19.01	-21%

29. On page 69351,

a. Footnote 3 ''Payments based on the 2012 conversion factor of 34.0376, adjusted to 34.0066 to include the budget neutrality adjustment'' is corrected to read ''Payments based on the 2012 conversion factor of 34.0376, adjusted to 34.0230 to include the budget neutrality adjustment.''

b. Footnote 4 for Table 136 ''Payments based on the 2013 conversion factor of 25.0008, which includes the budget neutrality adjustment'' is corrected to read ''Payments based on the 2013 conversion factor of 25.0070, which includes the budget neutrality adjustment.''

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 2, 2013.

Jennifer M. Cannistra,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2013–19378 Filed 8–9–13; 8:45 am]

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Part IV

Department of the Interior

Office of Natural Resources Revenue

30 CFR Parts 1203, 1210, and 1218

Valuation of Federal Coal for Advance Royalty Purposes and Information Collection Applicable to All Solid Minerals Leases; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1203, 1210, and 1218

[Docket No. ONRR–2012–0001; DS63610300 DR2PS0000.CH7000 134D0102R2]

RIN 1012–AA04

Valuation of Federal Coal for Advance Royalty Purposes and Information Collection Applicable to All Solid Minerals Leases

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Proposed rule.

SUMMARY: ONRR proposes new regulations to implement the provisions of the Energy Policy Act of 2005 (EPAct) governing the payment of advance royalty on coal resources produced from Federal leases. The EPAct provisions amend the Mineral Leasing Act of 1920 (MLA). ONRR also proposes to add information collection requirements that are applicable to all solid minerals leases and also are necessary to implement the EPAct Federal coal advance royalty provisions.

DATES: Comments must be submitted on or before October 11, 2013.

ADDRESSES: You may submit comments to ONRR by one of the following methods (Please use ''ICR 1012–0010'' as an identifier in your comment):

- Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2012–0001,'' then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments. You also can review the ICR at *http://www.reginfo.gov.*
- Mail comments to Armand Southall, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61030A, Denver, Colorado 80225–0165.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, MS 61030A, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.
- *Information Collection Request (ICR) Comments:* Submit written comments by either fax (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for the Department of the Interior. Include the title of the information collection, ''30 CFR Parts 1202, 1206, 1210, 1212, 1217, and 1218, Solid Minerals and Geothermal Collections,'' and OMB Control Number, ''1012–0010.'' Please also submit your comments to ONRR at mail to: *http://www.regulations.gov.* Include your name and address. You may also mail a copy of your comments to Armand Southall, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61030A, Denver, Colorado 80225–0165. If you use an overnight courier service or wish to hand-deliver your comments, our courier address is Building 85, Room A–614, MS 61030A, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Sarah T. Holladay, ONRR, at (303) 231–3775. The principal authors of this rule are Sarah L. Inderbitzin, Karen Garza, and Sarah T. Holladay, ONRR. For comments or questions on procedural issues, contact Armand Southall, Regulatory Specialist, ONRR, at (303) 231–3221, or by email at *armand.southall@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Pre-EPAct Statutory Provisions and Current Regulations

Under the MLA at 30 U.S.C. 207(b), Federal coal leases are subject to conditions of diligent development and continued operation of the mine(s). Section 207(b) provides that when a lessee pays coal advance royalties, the Secretary of the Department of the Interior (Secretary) may suspend the condition of continued operation if the Secretary determines that such action will serve the public interest. Section 207(b) also prescribes a methodology to compute coal advance royalties based upon a fixed reserve-to-production ratio that the Secretary determines, which shall be no less than the production royalty that lessees would otherwise pay. The value for coal advance royalty purposes is currently under existing Bureau of Land Management (BLM) regulations at 43 CFR 3483.4(c). and is either based on the (1) the unit value for coal sold from the Federal coal lease or logical mining unit (LMU) during the immediately preceding production royalty payment period (2) the average unit price coal was sold for from other Federal leases in the same region during the same period if no coal was produced and sold from the Federal coal lease or LMU during that period or BLM determines there is an insufficient number of sales to determine value; or (3) if there was no Federal coal sold from the region during the period or if BLM determines there are not enough sales to determine value, then BLM may determine value. Under each computation, coal advance royalties are based on commercial quantities of coal, and the advance royalties can be credited against future production royalties from the same lease or LMU.

Prior to the passage of the EPAct, BLM was responsible for administering the advance royalty requirements for Federal coal leases and LMUs under its regulations at 43 CFR part 3480. On August 11, 1997, ONRR [the former Minerals Management Service (MMS)] issued a memorandum (ONRR Memorandum) clarifying that, under a June 1997 Tripartite Memorandum of Understanding (Tripartite MOU), BLM and ONRR shared responsibilities concerning coal advance royalties. This MOU also included the Bureau of Indian Affairs. The ONRR Memorandum standardized procedures and responsibilities for BLM and ONRR in determining coal advance royalties. Under the Tripartite MOU and the ONRR Memorandum, BLM continued to determine the volume of coal under 43 CFR 3483.4(c), but ONRR determined the value for the coal advance royalty due under that same section. Upon determining the coal advance royalty due, ONRR issued an Order to Pay Advance Royalty to the applicant.

ONRR has been issuing Orders to Pay Advance Royalty since the Tripartite MOU went into effect. However, coal lessees have challenged ONRR's authority to determine coal advance royalty due through appeals of Orders to Pay Advance Royalty. Indeed, in *BTU Empire Corp.,* 172 IBLA 206, 221 (2007), the Interior Board of Land Appeals set aside an ONRR Director's Decision and remanded the decision to ONRR and BLM to ''* * * clari[fy] in a subsequent decision * * * the issue of the governing authority that establishes who is the final decisionmaker on the topic of advance royalty calculations.''

To resolve the issue of authority and responsibility, and because ONRR and BLM agree that the authority and responsibility should reside in ONRR's regulations, this proposed rule would move the portion of the BLM regulations regarding valuation of Federal coal reserves for coal advance royalty purposes from its present location at 43 CFR 3483.4(c) to ONRR regulations in a new 30 CFR part 1218, subpart I, titled ''Federal Coal Advance Royalty.''

B. The EPAct

On August 8, 2005, the President signed into law the EPAct, Public Law 109–58, 119 Stat. 594. Section 434 of the EPAct, entitled the ''Payment of

Advance Royalties Under Coal Leases,'' amended the MLA, 30 U.S.C. 207(b). Section 434 of the EPAct amends the process for payment of advance royalties under Federal coal leases.

The portion of this proposed rulemaking pertaining to payment of advance royalties would implement the EPAct section 434 provisions and would apply only to Federal coal leases. This proposed rulemaking also would further Congress's purpose of regulatory streamlining by:

- Implementing the revised Federal coal unit value methodology and payment provisions for coal advance royalty under proposed subpart I of 30 CFR part 1218; and
- Amending 30 CFR parts 1203, 1210, and 1218 to propose changes necessary to implement the Federal coal advance royalty provisions of the EPAct.

C. The Information Collection

As further discussed below, ONRR is also proposing to add new information collection requirements applicable to all Federal and Indian solid minerals leases. However, as we also discuss below, this proposed information collection would not substantively impact Indian mineral owners.

II. Explanation of Proposed Amendments

Before reading the explanatory information below, please turn to the proposed rule language, which immediately follows the List of Subjects in 30 CFR parts 1203, 1210, and 1218 and the signature page in this proposed rule. ONRR would codify this language in 30 CFR, chapter XII, when we finalize this rule.

When you have read the rule thoroughly, please return to the preamble discussion below. The preamble contains additional information about the proposed rule, such as why we defined a term in a certain manner, why we chose a certain procedure, and how we interpret the law this rule implements.

A. Section-by-Section Analysis of 30 CFR Part 1203—Relief or Reduction in Royalty Rates

ONRR proposes to remove § 1203.250 and renumber § 1203.251 as § 1203.250. Part 1218, subpart I, would address the provisions for payment of advance royalty in lieu of continued operation.

B. Section-by-Section Analysis of 30 CFR Part 1210—Forms and Reports, Subpart A—General Provisions

Section 1210.10 What are the OMB-approved information collections?

In the table under the column ''Form or information collected'', ONRR proposes to delete the title ''Sales summaries—solid minerals,'' and replace it with a new ''Form ONRR–4440—Solid Minerals Sales Summary.'' We would place this form number and name after the title ''Form ONRR–4430, Solid Minerals Production and Royalty Report'' and before the title ''Form ONRR–4292, Coal Washing Allowance Report.'' Currently, ONRR is updating all form numbers from MMS to ONRR in a separate rulemaking, RIN 1012–AA09. We would design Form ONRR–4440, Solid Minerals Sales Summary, to replace the current Sales Summaries, which require companies to submit their own internally generated documents to ONRR. We would use the proposed Form ONRR–4440 to collect information from operators in order to determine a company's compliance with applicable laws, rules, and regulations. In addition, ONRR would use this proposed form to identify spot market sales of comparable coal from the same region and to determine an average price for Federal coal advance royalty purposes. This proposed form should reduce industry's burden of responding to ONRR site visits, emails, and telephone contacts. ONRR believes the data would be valuable in (1) making valuation determinations, (2) trending coal prices, (3) comparing purchaser sources, and (4) ensuring that the Federal Government and Indian lessors receive fair market value for coal. In addition, ONRR's automated systems can use the standardized, formatted data more easily.

ONRR is developing an automated system that would receive and store the sales summary data that lessees would submit on the proposed Form ONRR–4440. Industry would submit and ONRR would utilize the submitted data in two phases. Phase 1 is a modified version of the system currently used to submit and handle unformatted sales summary data. Phase 2 would require lessees to submit proposed Form ONRR–4440 electronically. This submittal process would be similar to the current process ONRR requires lessees to follow to submit Form ONRR–4430, Solid Minerals Production and Royalty Report (Form ONRR–4430, P&R Report). Each phase would have the benefits and costs discussed below.

In the Phase 1, ONRR would modify its current procedures and systems to incorporate critical additional data fields this proposed rulemaking would require. Under this proposed rule, lessees would submit Form ONRR–4440 in a standardized format. Under Phase 1, we would receive the new Form ONRR–4440 by email attachment that lessees would submit to a secure email address. We would then move the attachments into an electronic Room (eRoom) using a process similar to what ONRR currently uses to handle non-standardized sales summaries. Because the lessee would submit the data in a standardized format, ONRR would design a program under this phase that would automatically load the sales summaries into our databases.

Phase 2 would require lessees to submit proposed Form ONRR–4440 electronically. This submittal process would be similar to the current process ONRR requires lessees to follow to submit Form ONRR–4430. Lessees would submit data in a specific format permitting the Web site to accept the form. The accepted document would then load directly into ONRR's databases.

For a more detailed discussion of the system changes, please see Section III, Procedural Matters, 2C(2), Administrative Costs—Federal Government.

C. Section-by-Section Analysis of 30 CFR Part 1210—Forms and Reports, Subpart E—Production and Royalty Reports-Solid Minerals

Section 1210.201 How do I submit Form ONRR–4430, Solid Minerals Production and Royalty Report?

ONRR proposes amending § 1210.201(c)(3) to eliminate the list of addresses and instead refer to the ONRR Web site where lessees can retrieve the current address. Eliminating the list of addresses would eliminate the need for ONRR to publish **Federal Register** notices advising of address changes and, thereby, save administrative costs. The Web site provides readers with immediate availability to changes.

Section 1210.202 How do I submit Form ONRR–4440, Solid Minerals Sales Summary?

ONRR also proposes to change the title of § 1210.202 and amend that section by revising paragraph (a)(1) to reflect that we would now require sales summaries to be reported for each mine that has production on Federal or Indian solid minerals leases rather than using company-generated documents. This section also would identify which version of the form to use for the specific mineral type. For example, coal

lessees would fill out and submit Form ONRR–4440A, but sodium and potassium lessees would fill out and submit Form ONRR–4440B.

As stated above, ONRR would phase in the reporting requirements. Initially, we would require all lessees (excluding certain small businesses) to submit the forms electronically, using a spreadsheet format software, such as Microsoft Excel. Subsequently, lessees would submit Form ONRR–4440 electronically like solid minerals reporters currently use to submit Form ONRR–4430, P&R Report. We would make forms and instructions available on the Solid Minerals Reporting Information Web page at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

The EPAct requires the determination of coal advance royalty using spot market prices of comparable coal in the regions. This proposed Form ONRR–4440 would facilitate ONRR's ability to determine a reliable average spot market price for use in determining the coal advance royalty due under section 434 of the EPAct. The Royalty Policy Committee Coal Subcommittee interviewed two primary publishers of coal spot market prices. Both publishers indicated that published coal spot market prices do not truly represent actual spot market prices because published coal spot market prices are merely an average of surveyed prices from a portion of the coal industry and include other considerations, such as coal futures speculation. This proposed rulemaking would allow ONRR to determine a reliable average spot market price by using actual spot market prices that operators of mines with Federal coal leases submit on the proposed Form ONRR–4440.

ONRR proposes to remove paragraph (a)(2) because ONRR has found that we may be able to complete compliance activities without requiring lessees to submit a separate form for each remote storage site. However, ONRR reserves the right to collect remote sales site Sales Summary data on an as-needed basis under 30 CFR 1210.206.

ONRR proposes to renumber paragraph (a)(3) as paragraph (a)(2). In the renumbered paragraph (a)(2), we propose to specify the data elements for the products we require lessees to report on Form ONRR–4440. Reporting is necessary only for those leases with ad valorem royalty terms. ONRR believes that the existing requirement allowing submittal of each company's internally generated documents, which have no standard format, is inefficient and results in additional work for ONRR and lessees. Although some of these data elements do not apply to coal advance royalty, ONRR believes requiring standardized forms for each mineral type with leases having ad valorem royalty terms would eliminate the need for ONRR to interpret company-generated documents and to call lessees or operators with questions regarding such documents. ONRR believes this process would save lessees, operators, and ONRR time and administrative costs.

Requiring standardized forms would save ONRR administrative costs because it would enable ONRR to locate paired Solid Minerals Sales Summary (Form ONRR–4440) and Solid Minerals Production and Royalty Report (Form ONRR–4430) reports, in ONRR's data bases and to make automated comparisons of the data from both forms.

All Solid Mineral Leases

The current regulations regarding sales summary data elements include ''(ii) Sales Units,'' which applies only to products. In this proposed rule, we would (1) keep this data element but renumber as ''(xvii)''; (2) apply this data element to both products and byproducts; and (3) remove the current data element ''(xii) By-product Units.'' All other data elements in the current regulations remain unchanged; however, we have renumbered these data elements. We list these renumbered data elements in the revised table below titled ''Required Data Elements for Solid Minerals Sales Summary.''

Proposed new data elements numbered (i) through (iv) would provide ONRR with Mine Name, Mine Number, Customer Identification Number (Customer ID), and whether the lease is a Federal or Indian property. These ''header'' elements along with the following new elements (v) through (x) would provide ONRR with: Royalty Report Submission Identification Number (P&R Submission ID); Product Name as reported on the royalty report (P&R Equivalent Product Name); Sales Point (mine or remote storage site); Submission Type: Original (O) or Adjustment (A) or Revision of Original (O–R) or Revision of Adjustment (A–R); Sales Month/Year; and Purchaser Name.

ONRR proposes to add other new data elements necessary to carry out its advance royalty and compliance responsibilities. The following new data elements (xi, xiii, xiv, xv, and xvi) would address specific contract parameters:

- (xi) Delivery Point would be an alpha identifier that you use to identify the location of product delivery.
- (xiii) Contract Identification (Contract ID) would be an alpha or numeric identifier that you would use to identify a specific contract;
- (xiv) Contract Term: Spot (S) or Long Term (LT) would identify whether the contract is of a short or long duration; and
- (xv) Contract Type: Arm's Length (ARMS) or Non-Arm's Length (NARM) would distinguish between contracts that are arm's length and those that are not arm's length.
- (xvi) Destination Point would mean the final destination point to which a product is delivered by you or your affiliate to an arm's-length purchaser. For example, enter the City and State for domestic destination point(s); or the Country name such as ''Korea,'' ''China,'' ''United Kingdom,'' etc. for foreign destination point(s).

Coal Leases

This proposed rule would require coal lessees to report the following revised and new quality parameter data elements:

- (xxv) Pounds Sulfur Dioxide per MMBtu (lbs SO_2/MMBTU); and
- (xxvi) Percent Sodium Oxide (Sodium Oxide %), respectively, which are coal quality measurements.

These coal quality parameters would help ONRR determine what coal sales are comparable to others when determining advance royalty.

Sodium/Potassium Leases

The following new data elements (xxviii, xxix, and xxx) would require reporting specific contract information that would apply only to sodium/potassium leases:

- (xxviii) Foreign (F) or Domestic (D) would identify the market into which the lessee sold the product. ONRR would use this data element to determine how to value the product;
- (xxix) Reagent Costs would mean reagent costs the lessee proposes as allowable deductions used to reduce the value of sodium or potassium for royalty purposes; and
- (xxx) Bagging Costs would mean bagging costs the lessee proposes as allowable deductions used to reduce the value of sodium or potassium for royalty purposes.

Currently, sodium/potassium lessees are required to report ''(xii) By-product Units'' to ONRR on sales summaries only when requested. After reviewing our past practices regarding sodium/potassium leases, we do not believe that sodium/potassium lessees produce byproducts. If ONRR determines that we need additional data, we may request the data from lessees on an as-needed basis under current regulations at 30 CFR 1210.206. ONRR specifically

requests comments regarding the production of byproducts from sodium/potassium lessees.

Western Phosphate Leases

The following new data elements (xxxi, xxxii, xxxiii, and xxxiv) would apply only to Western Phosphate leases:

- (xxxi) Sales Units (Wet Tons) would mean the tons of raw ore produced;
- (xxxii) Sales Units (Dry Tons) would mean the tons of ore the lessee reports to ONRR on Form ONRR–4430, derived by subtracting the moisture content from the wet tons;
- (xxxiii) Unit Value would mean the value of each unit of P_2O_5, which is used to calculate royalty due; and
- (xxxiv) Phosphorus Pentoxide (P_2O_5) tons would mean the number of P_2O_5 tons the lessee used to calculate royalty due.

The proposed rule also would continue to require Western Phosphate lessees to report byproduct information to ONRR at the product level. However, rather than reporting byproducts on Form ONRR–4440C, the lessee would report the phosphate byproduct information on Form ONRR–4440E as Sales Units (xvii) and Gross Proceeds (xviii).

Metal Leases

The proposed rule would not require any new data elements for metals. Currently, metal byproducts are reported to ONRR on sales summaries only when requested. Also, some lessees report gross proceeds for the sale of metals that include the gross proceeds from byproducts. Under the proposed rule, you would report all byproducts produced and sold from metal leases monthly on Form ONRR–4440D. And you would report the gross proceeds to ONRR on Form ONRR–4440D separately for all products, including byproducts, produced and sold from metal leases. Instructions for completing Form ONRR–4440D would be available at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

Non-Ad Valorem Leases

Additionally, current regulations require lessees holding leases with non-ad valorem royalty terms to report only sales units on a monthly basis. ONRR also requires these lessees to report the purchaser of lease production on an as-requested basis. This proposed rule would not require lessees with non-ad valorem royalty terms to report data on Form ONRR–4440. After reviewing our past practices regarding non-ad valorem leases, we do not believe that requiring lessees to submit Form ONRR–4440 would benefit our audit and compliance processes. If ONRR determines that we need additional data for non-ad valorem leases, we may request the data from lessees on an as-needed basis under current regulations at 30 CFR 1210.206.

ONRR proposes to delete the existing table at paragraph (a)(3) and add to paragraph (a)(2) the following revised table titled ''Required Data Elements for Solid Minerals Sales Summary.'' We indicate the new and revised data elements and numbers in bold.

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Required Data Elements for Solid Minerals Sales Summary

Data Element	Coal ONRR-4440A	Sodium/ Potassium ONRR-4440B	Western Phosphate ONRR-4440C	Metals ONRR-4440D	All other leases with ad valorem royalty terms ONRR-4440E
(i) Mine Name	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(ii) Mine Number	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(iii) Customer ID	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(iv) Federal/Indian Indicator (FED/IND)	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(v) P&R Submission ID	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(vi) P&R Equivalent Product Name	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(vii) Sales Point	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(viii) Submission Type - Original (O), Adjustment (A), Original Revision (O-R), Adjustment Revision (A-R)	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(ix) Sales Month/Year (MM/YYYY)	**Monthly**	**Monthly**	**Monthly**	**Monthly**	**Monthly**
(x) Purchaser Name	Monthly	Monthly	Monthly	Monthly	Monthly
(xi) Delivery Point	**Monthly**	**Monthly**	**Not Required**	**Monthly**	**Monthly**
(xii) Sales Summary Product Name	**Monthly**	Monthly	**Monthly**	Monthly	Monthly
(xiii) Contract ID	**Monthly**	**Monthly**	**Not Required**	**Monthly**	**Monthly**
(xiv) Contract Term: Indicate **Spot (S) or Long Term (LT)**	**Monthly**	**Monthly**	**Not Required**	**Monthly**	**Monthly**
(xv) Contract Type: Indicate **Non-Arm's-Length (NARM) or Arm's-Length (ARMS)**	**Monthly**	**Monthly**	**Not Required**	**Monthly**	**Monthly**
(xvi) Destination Point	**Monthly**	**Monthly**	**Not Required**	**Monthly**	**Monthly**

Data Element	Coal ONRR-4440A	Sodium/ Potassium ONRR-4440B	Western Phosphate ONRR-4440C	Metals ONRR-4440D	All other leases with ad valorem royalty terms ONRR-4440E
(xvii) Sales Units	Monthly	Monthly	**Not Required**	Monthly	Monthly
(xviii) Gross Proceeds	Monthly	Monthly	Not Required	Monthly	Monthly
(xix) Processing or Washing Costs	Monthly	**Not Required**	Not Required	Monthly	Monthly
(xx) Transportation Costs	Monthly	Monthly	Not Required	Monthly	Monthly
(xxi) Size	**Monthly**	Not Required	Not Required	Not Required	As Requested
(xxii) Btu/lb	Monthly	Not Required	Not Required	Not Required	Not Required
(xxiii) Ash (%)	Monthly	Not Required	Not Required	Not Required	Not Required
(xxiv) Sulfur (%)	Monthly	Not Required	Not Required	Not Required	Not Required
(xxv) lbs SO_2 / MMBTU	**Monthly**	**Not Required**	**Not Required**	**Not Required**	**Not Required**
xxvi) Sodium Oxide %)	**Monthly**	**Not Required**	**Not Required**	**Not Required**	**Not Required**
(xxvii) Moisture (%)	Monthly	Not Required	Monthly	Not Required	Not Required
(xxviii) Foreign (F) or Domestic (D)	**Not Required**	**Monthly**	**Not Required**	**Not Required**	**Not Required**
(xxix) Reagent Costs	**Not Required**	**Monthly**	**Not Required**	**Not Required**	**Not Required**
(xxx) Bagging Costs	**Not Required**	**Monthly**	**Not Required**	**Not Required**	**Not Required**
(xxxi) Sales Units (Wet Tons)	**Not Required**	**Not Required**	**Monthly**	**Not Required**	**Not Required**
(xxxii) Sales Units (Dry Tons)	**Not Required**	**Not Required**	**Monthly**	**Not Required**	**Not Required**
(xxxiii) Unit Value	**Not Required**	**Not Required**	**Monthly**	**Not Required**	**Not Required**
(xxxiv) P_2O_5 tons	**Not Required**	**Not Required**	**Monthly**	**Not Required**	**Not Required**
(xxxv) P_2O_5 (%)	Not Required	Not Required	Monthly	Not Required	Not Required

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ONRR would add paragraph (a)(3) to § 1210.202. Paragraph (a)(3) would explain that instructions for completing Form ONRR–4440, Solid Minerals Sales Summary, are available at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

Finally, ONRR proposes to change paragraphs (b) and (c), making necessary changes to show that ONRR would use proposed Form ONRR–4440 rather than company internally generated sales summaries to collect information.

Another proposed change in the submission of sales summary data relates to adjustments to reported data. Currently, reporters submit a single monthly Sales Summary. This submittal represents a ''snapshot'' that corresponds to the data valid at the time when the reporter submits the corresponding monthly original Form ONRR–4430. In order to accomplish the advance royalty and compliance efforts discussed above, we would require reporters to submit a revised Form ONRR–4440 to correspond with an adjusted Form ONRR–4430 when they submit the adjusted Form ONRR–4430. Reporters must continue to revise Solid Minerals Sales Summaries as often as they revise Solid Minerals Production and Royalty Reports. This change would enhance ONRR's royalty compliance capabilities, particularly in monitoring lessees' royalty adjustments using Form ONRR–4430. In addition, the proposed requirement that lessees submit revised Form ONRR–4440 data would ensure that ONRR has up-to-date spot market data. These facts are the key to implementing ONRR's and BLM's proposed coal advance royalty rules. Furthermore, the submission of Form ONRR–4440 during these situations would enable ONRR to monitor lessees' sales contract performance and continuity, which is important for ONRR's royalty compliance efforts.

Overall, ONRR's proposed changes for the sales summary would enable us to enforce Congress's intent regarding the calculation of advance royalties and would improve our royalty compliance capabilities. Over the past several years, ONRR has evaluated its royalty compliance efforts. The new processes

that we would implement to utilize increased data collections would strengthen our product sales verification efforts, particularly regarding verification of reported sales allocations between or among leases for (1) both mine and remote sales, (2) lessees' adherence to and enforcement of sales contract terms, and (3) lessees' reporting of production and sales adjustments.

D. Section-by-Section Analysis of 30 CFR Part 1218—Collection of Royalties, Rentals, Bonuses, and Other Monies Due the Federal Government

In subpart A, ONRR proposes to make a technical amendment in § 1218.40(c)(1) to refer to the new Form ONRR–4440, Solid Minerals Sales Summary.

We would amend part 1218 to add proposed subpart I titled ''Federal Coal Advance Royalty.''

We would add proposed subpart I to part 1218 to implement section 434 of the EPAct. By this rule, the Secretary has decided, for purposes of implementing section 434 of the EPAct, that ONRR, rather than BLM, would promulgate the regulations governing valuation of coal for advance royalty purposes.

Section 1218.601 What definitions apply to this subpart?

This section would define new terms applicable to this subpart, use some current terms from BLM's 43 CFR Part 3400, and use a revised term from BLM's proposed rule. ONRR would use BLM's definitions in this subpart to ensure consistency between this proposed rulemaking and BLM's proposed rulemaking titled ''Lease Modifications, Lease and Logical Mining Unit Diligence, Advance Royalty, Royalty Rates, and Bonds,'' which BLM will publish concurrently with this proposed rulemaking.

ONRR proposes the following definitions:

Applicable continued operation year would mean the continued operation year (COY) for which payment of coal advance royalties is required in lieu of continued operation under current 43 CFR 3483.4.

ONRR proposes this definition because section 434 of the EPAct requires that the coal advance royalties be computed based on the average price in the spot market ''during the last month of each applicable continued operation year.'' This definition changes both BLM's and ONRR's prior practices regarding establishing value for coal advance royalties based on the year prior to the COY at issue.

For example, under this proposed rule, if you needed to pay coal advance royalty for the COY March 2006 through February 2007, that same period would be the ''applicable continued operation year.'' Thus, in this example, the value for coal advance royalty for the applicable continued operation year would be based on the average coal spot market prices for February 2007. As a result, lessees would pay advance royalties after the year in which the lessee chose to pay advance royalties in lieu of producing. This, in turn, results in a loss of time value of revenue to State governments and the Federal Government.

ONRR specifically requests comments on whether we should define the ''applicable continued operation year'' in the manner proposed, or in a manner consistent with previous practice. The previous practice was to determine value using prices of coal produced and sold during the immediately preceding production royalty payment period, which we interpreted to be the month preceding the start of the COY. Using the example above, if we defined ''applicable continued operation year'' consistent with prior practice, then, if you chose to pay coal advance royalty for the COY March 2006 through February 2007, the coal advance royalty value is based on the average coal spot market prices for February 2006. Under this definition, since the lessee would pay advance royalty at the beginning of the year in which the lessee chose to pay advance royalties in lieu of producing, State governments and the Federal Government would not lose the time value of revenue.

Comparable coal would mean coal that is sold in a similar market and that is similar in chemical and physical characteristics to the coal produced at the lease or mine for which payment of advance royalties is required in lieu of continued operation under current 43 CFR 3483.4. ONRR proposes this definition because section 434 of the EPAct requires that coal advance royalties be based on sales of ''comparable coal.'' ONRR considered defining comparable coal as being ''like quality coal,'' as defined under 30 CFR 1206.251. However, different markets require different quality requirements for coal. Therefore, we believe that it is reasonable to define ''comparable coal'' as not only of ''like quality'' but also sold in a similar market. For example, a coal mine may sell coal in both the steam market and the stoker market. However, coal sold in the stoker market can demand and receive a higher price and should not be considered comparable to the same coal sold in the steam market. Another example is boilers in steam power plants that may have lower ash requirements than boilers used in processing sugar beets.

Likewise, coal sold to a captive power plant is likely not sold in similar market circumstances as coal sold on the open market. Furthermore, a coal mine on Indian land may be considered not comparable to a mine on Federal land, because of the possible differences in taxes and specific lease provisions imposed on production from the different lands.

ONRR specifically requests comments on this definition of comparable coal.

Region would mean one of the eight Federal coal production regions that BLM designates as follows: Denver-Raton Mesa Region, Fort Union Region, Green River-Hams Fork Region, Powder River Region, San Juan River Region, Southern Appalachian Region, Uinta-Southwestern Utah Region, and Western Interior Region. We propose this definition to be consistent with BLM-identified regions. Because these defined regions are very large geographically, we specifically request comments on other possible definitions of ''region.'' For example, should ONRR restrict the definition to include only other mines within a specified vicinity of the mine for which advance royalty value will be determined?

Spot market would mean a market in which sales transactions occur wherein a seller agrees to sell to a buyer a specified amount of coal at a specified price over a fixed period usually not exceeding a year. Such transactions do not normally require a cancellation notice to terminate, do not contain an obligation, and do not imply intent to continue in subsequent periods. This definition is consistent with other ONRR valuation regulations. We specifically request comments on this definition, particularly whether we should include in the definition sales agreements of approximately 1-year duration in which an initial agreement continues upon renegotiation of the sales price. Such contracts are typically known as long-term contracts with annual price reopeners.

Spot market price would mean the price in a spot market contract. Spot market prices would include the spot market prices that you or other entities report to ONRR on Form ONRR–4440. We request comments on whether we should narrow the definition of spot market price to include only prices in arm's-length spot market contracts.

This proposed rule lists four BLM definitions that we would adopt. BLM defines the following terms at current 43 CFR 3480.0–5: *Advance royalty,*

continued operation, continued operation year, and logical mining unit (LMU). BLM proposes to revise the definition of *continued operation* in its proposed rulemaking. In this subpart, ONRR would utilize BLM's existing definitions and BLM's proposed definition for *continued operation.*

Section 1218.602 How will ONRR compute the coal advance royalty you owe?

Because the Secretary has designated ONRR to compute coal advance royalty due in this rulemaking, we propose to move those BLM responsibilities from current 43 CFR 3483.4(c) to this section. Therefore, paragraph (a) would explain that ONRR will calculate the coal advance royalty due by multiplying the volume of coal that BLM computes under proposed 43 CFR 3483.4(g) by the value that ONRR calculates under paragraph (a) of this section and by the royalty rate that BLM prescribes under proposed 43 CFR 3483.4(d).

In section 434 of the EPAct, Congress prescribed how the Secretary must value advance royalty for Federal coal leases. Therefore, consistent with EPAct, paragraph (a)(1) of this section would explain that ONRR will use the weighted average spot market prices for comparable coal from the same region during the last month of the applicable COY as the value for royalty purposes. Because we do not currently have a reliable source for average spot market prices for comparable coal from the same region, we propose to collect such information from Federal coal lessees in the new information collection described above for 30 CFR 1210.202(a).

The EPAct section 434 also prescribes that if there are no spot market prices for comparable coal from the same region, the Secretary may establish a ''comparable method . . . to capture the commercial value of coal.'' Therefore, we propose an alternative means of establishing the value of coal for advance royalty purposes in paragraph (a)(2). In paragraph (a)(2)(i), we propose to use the weighted average spot market prices for comparable coal from another region as value. We believe that such prices are the most reasonable method to capture the comparable value of coal. In paragraph (a)(2)(ii), we propose to use any other reasonable value we determine if spot prices for comparable coal from another region are not available.

We welcome your comments on these proposed alternatives as well as suggestions for other alternatives.

Paragraph (b) would explain that ONRR would multiply the value computed under paragraph (a) by the royalty rate BLM prescribes under proposed 43 CFR 3483.4(d) to derive the coal advance royalty amount you would owe.

Paragraph (c) would explain that ONRR would issue an order to pay coal advance royalty based upon its calculations under this section.

Section 1218.603 When is my coal advance royalty payment due?

This section would provide that your coal advance royalty payment is due 30 days after you receive the Order to Pay Coal Advance Royalty, which ONRR issues under 30 CFR 1218.602(c). We believe that 30 days is a sufficient amount of time to allow the lessee to submit the coal advance royalty due.

Section 1218.604 How do I report and pay my coal advance royalty?

This section would provide instructions on how to report and pay your coal advance royalty.

Section 1218.605 Is my coal advance royalty payment subject to late payment charges?

This section would explain that, if you do not timely pay an ONRR Order to Pay Coal Advance Royalty that we issued under 30 CFR 1218.602(c), then you must pay late payment interest under 30 CFR 1218.202.

Section 1218.606 May I credit my coal advance royalty payments against future coal production royalties?

This section would implement the provision in section 434 of the EPAct allowing lessees to credit any coal advance royalties against future production royalties due from that lease. This section also advises that you may not reduce production royalties for that lease below zero for any year.

Section 1218.607 How may I appeal an ONRR Order to Pay Coal Advance Royalty?

This section would inform lessees that, if they receive an Order to Pay Coal Advance Royalty, they may appeal that order under 30 CFR part 1290.

Section 1218.608 How may I suspend compliance with an ONRR Order to Pay Coal Advance Royalty?

This section would inform lessees that, if they appeal an Order to Pay Coal Advance Royalty, they may suspend compliance with the order to pay coal advance royalty under 30 CFR 1243.4.

III. Procedural Matters

1. Summary Cost and Royalty Impact Data

The proposed changes to the coal advance royalty valuation regulations, outlined above, would have royalty impacts on industry, states, and the Federal Government. There are also administrative costs that both industry and the Federal Government would incur under this proposed rulemaking.

Industry and Federal Government costs would be offset by benefits resulting from this proposed rulemaking. The following table displays the expected costs associated with industry, State and local governments, and the Federal Government, with a detailed description of each cost category following the table.

SUMMARY OF EXPECTED COSTS AND COAL ADVANCE ROYALTY IMPACTS

Description	Administrative costs and advance royalties increases or decreases	
	First year	Each subsequent year
A. Industry		
(1) Time Value of Delayed Advance Royalty (Gain)	$304,720	$304,720
(2) Administrative Costs	−21,150	−21,150
(3) Administrative Cost Savings	42,300	42,300
Net Expected Change to Industry	325,870	325,870

SUMMARY OF EXPECTED COSTS AND COAL ADVANCE ROYALTY IMPACTS—Continued

Description	Administrative costs and advance royalties increases or decreases	
	First year	Each subsequent year
B. State and Local Governments		
(1) Time Value of Delayed Advance Royalty (Loss)	−149,313	−149,313
(2) Administrative Cost Increase	0	0
(3) Administrative Cost Savings	0	0
Net Expected Change to State and Local Governments	−149,313	−149,313
C. Federal Government		
(1) Time Value of Delayed Advance Royalty (Loss)	−155,407	−155,407
(2) Administrative Cost Increase (Loss)		
Automated System Phase 1 ($270,500)	−270,500	0
Automated System Phase 2 ($375,000)	−375,000	0
(3) Administrative Cost Savings (Gain)		
Phase 1—($54,000 + $108,000)	162,000	162,000
Phase 2—($5,760 + $54,000 + $108,000)	167,760	167,760
Net Expected Change to Federal Government		
Phase 1—(−$155,407 − $270,500 + $162,000)	−263,907	6,593
Phase 2—(−$155,407 − $375,000 + $167,760)	−362,647	12,353

Section 434 of EPAct has an impact on coal advance royalty resulting from a new methodology for computing coal advance royalty. Under EPAct, ONRR would use average spot market prices for the sales of comparable coal from the same region during the last month of each applicable COY. The provision for using the last month of each applicable COY would change the date coal advance royalty is due from the beginning of the applicable COY to after the end of the applicable COY. Generally, for industry, this provision would mean they would have the benefit of not paying coal advance royalty for about a year. State governments and the Federal Government conversely would not have the use of the coal advance royalty payment for a year and, therefore, at a minimum, lose the time value of that advance royalty payment.

Published coal spot market prices are not readily available or reliable. The Royalty Policy Committee's Coal Subcommittee interviewed two primary publishers of coal spot market prices. Both publishers indicated that the published coal spot market prices do not truly represent actual coal spot market prices because the published coal spot market prices are merely an average of surveyed prices from a portion of the coal industry and include other considerations such as coal futures speculation. This proposed rule would provide ONRR an alternative method of determining an average coal spot market pricing, which would be more reliable than publicly available prices. This alternative method would be based on actual coal spot market data operators of mines submit for Federal coal leases on proposed Form ONRR–4440, Solid Minerals Sales Summary. On this proposed form, ONRR would require industry to identify spot market prices, which we would use to determine a weighted average spot market price for comparable coal in the region.

To estimate the impact of using spot market prices, ONRR used the only spot market pricing currently available, published coal spot market prices. We compared three previous coal advance royalty valuation cases based on the existing regulations for three different months to currently available coal spot market prices for those months.

Our sampling demonstrated that in two cases, the average published coal spot market prices were higher than the ONRR-calculated value under the current regulations. In the third case, the average coal spot market price had a lower value than the ONRR-computed value. Thus, the royalty impact on industry, State governments, and the Federal Government can be either positive or negative. Therefore, on a case-by-case basis, there may be a cost or a benefit.

There are other ''Costs and Benefits'' under the meaning identified in OMB Circular A–4, as a result of this proposed rule. Under this proposed rule, administrative costs for both industry and the Federal Government would include those administrative costs required for changing the way industry submits sales summary information to ONRR. This proposed rule would standardize the format and data submission. We believe that overall there will be considerable benefits or savings to both industry and the Federal Government because of efficiency gains from the new submittal format.

Indian leases do not contain coal advance royalty terms; therefore, the only portion of this proposed rule applicable to Indian leases is the information collection requirements. However, the cost of implementing information collection changes would only increase the burden upon industry and the Federal Government processing the new data elements.

A. Industry

(1) Royalty Impacts—Time Value of Delayed Coal Advance Royalty (Gain). Under this proposed rule, industry would have the benefit of the time value of money because, under the EPAct, it would not have to make the coal advance royalty payment for an applicable COY until after the end of the COY. Section 434 of the EPAct mandated this change. Under the current regulations, lessees pay coal advance royalty for an applicable COY

before the applicable COY begins. To estimate this annual benefit to industry, ONRR calculated interest using 2010 coal advance royalty payments of approximately $5.2 million/year. We calculated simple interest accrued for a COY based on the *Standard and Poor's Corporate Government Bond Yield Index for Industrial Triple B 15 year Bond Rate* of 5.86 percent for July 2010. That calculation resulted in an estimated time value of the delayed coal advance royalty payment benefit to industry of $304,720 per year.

(*2) Administrative Costs—Industry.* ONRR expects that industry would incur some administrative costs as a result of this proposed rule. Currently, industry submits internally generated documents to meet ONRR's sales summary data collection requirements. This proposed rule would instead require companies to complete and submit a standardized Solid Minerals Sales Summary, Form ONRR–4440. Because the proposed rule requires companies to complete and submit Form ONRR–4440, we estimate that this change in information collection methodology would increase industry sales summary data submission burden hours from ½ hour to 1 hour. We project that industry would submit approximately 75 Solid Minerals Sales Summaries each month. Labor costs for industry accountants in a metropolitan area are approximately $47 per hour ($33.69 [mean hourly wage] × 1.4 [benefit cost factor] = $47.166 per hour, rounded to $47) based on Bureau of Labor Statistics, National Occupational Employment and Wage Estimates. A one-half hour increase in reporting costs would increase industry costs by approximately $21,150 per year calculated as follows:

(75 Solid Minerals Sales Summaries/month) × (12 months/year) × (0.5 hour/Solid Minerals Sales Summary) × ($47/hour).

However, ONRR also believes that industry benefits from this proposed reporting change because industry should incur a decrease in operational costs as a result of the standardized submission. For proposed Form ONRR–4440, we use available information technology (for example: Spreadsheet programs, *i.e.,* Microsoft Excel, web-based submittal system). Using a standardized form would reduce the number of ONRR site visits, emails, or telephone contacts needed to interpret company-generated sales summary documents. Our historical data shows that, for each internally generated sales summary document that industry submits, industry must spend approximately 1 hour explaining to ONRR the data that industry submitted. We calculated the estimated total annual cost to industry by multiplying the approximately 75 Sales Summaries that industry submits per month by 12 months and then multiplying by a labor cost factor of $47 per hour. The resulting total estimated cost to industry under the existing information collection would be $42,300 per year calculated as follows:

(75 Sales Summaries/month) × (12 months/year) × (1 hour/Sales Summary) × ($47/hour).

We believe this cost would be greatly reduced with the implementation of proposed Form ONRR–4440.

The net expected benefit to industry would be $325,870 per year calculated as follows:

$304,720 per year (Time Value of Delayed Advance Royalty (Gain)) – $21,150 per year (Administrative Costs) + $42,300 per year (Administrative Cost Savings).

We invite industry to comment on estimated burden hours and reporting costs required to enter data into proposed Form ONRR–4440.

B. State and Local Governments

(1) Royalty Impacts—Time Value of Delayed Coal Advance Royalty (Loss). This proposed rule would impact State governments and would impact local governments to the extent that they rely on State government distributions. As explained above, lessees would no longer pay advance royalties in advance of the applicable COY, resulting in an estimated benefit to industry of $304,720 per year. However, this will cost both States and the Federal Government the benefit of the time value of money of $304,720 per year. Since the States in which Federal coal leases are located receive 49 percent of the royalties under 30 U.S.C. 191, the cost to the states resulting from this rulemaking would be approximately $149,313 per year (49 percent of the estimated total loss of $304,720 per year).

(2) Administrative Costs—State and Local Governments. ONRR determined that this proposed rule would have no expected administrative costs for State and local governments because we process all collections and distributions.

C. Federal Government

(1) Royalty Impacts—Time Value of Delayed Coal Advance Royalty (Loss). Like the states, under this proposed rule, there would be a cost to the Federal Government due to the loss of the time value of money. Thus, this proposed rule would reduce the annual royalties received by the Federal Government by approximately $155,407 (51 percent of the estimated total loss of $304,720).

(2) Administrative Costs—Federal Government. ONRR is developing an automated system that would receive and store the sales summary data that lessees would submit on the proposed Form ONRR–4440. Industry would submit and we would utilize the submitted data in two phases. Phase 1 is a modified version of the system currently used to submit and handle unformatted sales summary data. Phase 2 would require lessees to submit proposed Form ONRR–4440 electronically. This submittal process would be similar to the current process ONRR requires lessees to follow to submit Form ONRR–4430. Each phase would have the benefits and costs discussed below.

In Phase 1, ONRR would modify its current procedures and systems to incorporate critical additional data fields this proposed rulemaking would require. Under this proposed rule, lessees would submit Form ONRR–4440 in a standardized format. Under Phase 1, ONRR would receive the new Form ONRR–4440 by email attachments that lessees would submit to a secure email address. We would then move the attachments into an eRoom using a process similar to what ONRR currently uses to handle non-standardized sales summaries. Because industry would submit the data in a standardized format, a program designed under this phase would automatically load the sales summaries into ONRR's databases.

Phase 1, which has an estimated remaining cost to implement of $270,500, would benefit ONRR by eliminating the need to manually load data into our database. The current entry of the sales summary information into our database is an ONRR burden of 1 hour for each of the 75 Sales Summaries that industry submits each month. An employee paid at the United States General Schedule, Grade 12 pay-scale level, currently performs this task. We calculate the hourly labor cost as follows:

$40.10 per hour (GS–12, Step 5) × 1.5 (benefit cost factor) = $60.15 per hour, rounded to $60.

Therefore, in implementing Phase 1, we would eliminate the administrative costs of entering sales summary data into our database, resulting in a cost savings of $54,000 per year calculated as follows:

(75 Solid Minerals Sales Summaries/month) × (1 hour/Solid Minerals Sales Summary) × (12 months/year) × ($60/hour).

Phase 1 also would benefit ONRR due to the savings realized from the standardized formatting of the sales summary data, which eliminates the cost of clarifying sales summary data for compliance reviews. The current clarification process is an ONRR burden of 2 hours for each of the 75 Solid Minerals Sales Summaries that industry submits each month. An employee paid at the Grade 12 pay-scale level (see GS–12 hourly labor cost above) currently performs this task. Therefore, in Phase 1, ONRR would eliminate the administrative costs of clarifying sales summary data, resulting in a cost savings of $108,000 per year calculated as follows:

(75 Solid Minerals Sales Summaries/month) × (2 hours/Solid Minerals Sales Summary) × (12 months/year) × ($60/hour).

This combined savings realized from eliminating the need to manually load data into our database and the standard formatting of the sales summary data would be a benefit of $162,000 per year ($54,000 per year + $108,000 per year).

In Phase 1, the net benefit to the Federal Government for the first year would be −$263,907 calculated as follows:

−$155,407 per year (Time Value of Delayed Advance Royalty (Loss)) −$270,500 for first year (Automated System Phase 1) + $162,000 per year (Administrative Cost Savings—Gain for Phase 1).

For subsequent years, the net expected benefit to the Federal Government would be $6,593 calculated as follows:

−$155,407 per year (Time Value of Delayed Advance Royalty (Loss)) + $162,000 per year (Administrative Cost Savings (Gain) for Phase 1).

Phase 2 would require lessees to submit proposed Form ONRR–4440 electronically. This submittal process would be similar to the current process ONRR requires lessees to follow to submit Form ONRR–4430. Lessees would submit data in a specific format permitting the Web site to accept the form. The accepted document would then load directly into ONRR's database. We would then analyze the data loaded into our databases using existing compliance tools. The estimated cost to implement Phase 2 would be $375,000.

We would also benefit from implementing Phase 2. Phase 2 would eliminate ONRR's administrative costs of moving Sales Summaries from email to eRooms, which is required under Phase 1. The task of moving Sales Summaries from email to eRooms is an ONRR burden of 8 hours per month. An employee paid at the Grade 12 pay-scale level (see GS–12 hourly labor cost above) currently performs this task. Therefore, using Phase 2, ONRR would eliminate the administrative costs of moving Sales Summaries, resulting in a cost savings of $5,760 per year calculated as follows:

(8 hours/month) × (12 months/year) × ($60/hour).

Phase 2 also would benefit ONRR by eliminating the need to manually load data into our database. The current entry of the sales summary information into our database is an ONRR burden of 1 hour for each of the 75 Solid Minerals Sales Summaries that industry submits each month. An employee paid at the Grade 12 pay-scale level (see GS–12 hourly labor cost above) currently performs this task. Therefore, in implementing Phase 2, ONRR would eliminate the administrative costs of entering sales summary data into our database, resulting in a cost savings of $54,000 per year calculated as follows:

(75 Solid Minerals Sales Summaries/month) × (1 hour/Solid Minerals Sales Summaries) × (12 months/year) × ($60/hour).

In addition, Phase 2 also would benefit ONRR due to savings realized from the standardized formatting of the sales summary data, which eliminates the cost of clarifying sales summary data for compliance reviews. The current clarification process is an ONRR burden of 2 hours for each of the 75 Solid Minerals Sales Summaries that industry submits each month. An employee paid at the Grade 12 pay-scale level (see GS–12 hourly labor cost above) currently performs this task. Therefore, Phase 2, would eliminate ONRR's administrative costs of clarifying sales summary data, resulting in a cost savings of $108,000 per year calculated as follows:

(75 Solid Minerals Sales Summaries/month) × (2 hours/Solid Minerals Sales Summary) × (12 months/year) × ($60/hour).

The combined savings realized from eliminating the cost of moving sales summary data and eliminating the need to manually load data into our database and the standard formatting of the sales summary data would be a benefit of $167,760 per year calculated as follows:

$5,760 per year + $54,000 per year + $108,000 per year.

To implement Phase 2, the net cost to the Federal Government for the first year would be −$362,647 calculated as follows:

−$155,407 per year (Time Value of Delayed Advance Royalty (Loss)) −$375,000 for first year (Automated System Phase 2) + $167,760 per year (Administrative Cost Savings (Gain) for Phase 2).

For subsequent years, the net expected benefit to the Federal Government would be $12,353 calculated as follows:

−$155,407 per year (Time Value of Delayed Advance Royalty (Loss)) + $167,760 per year (Administrative Cost Savings (Gain) for Phase 2).

During the implementation of each phase, ONRR would use data collected on proposed Form ONRR–4440 in other ways, which are not quantifiable, that would benefit the Federal Government. We believe the data would be valuable in making valuation determinations, trending coal prices, comparing purchaser sources, and ensuring that the Federal Government receives fair market value for coal.

2. Regulatory Planning and Review (E.O. 12866)

This proposed rule is not a significant rule, and the Office of Management and Budget (OMB) will review this proposed rule under Executive Order (E.O.) 12866. We have made the assessments as E.O. 12866 requires, and the results are given below.

a. This proposed rule would not have an effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The Summary of Expected Costs and Coal Advance Royalty Impacts table, in item 1 above, demonstrates that the economic impact on industry, State and local governments, and the Federal Government is well below the $100 million threshold used to define a rule as having a significant impact on the economy.

b. This proposed rule would not create a serious inconsistency or otherwise interfere with another agency's actions or plans. BLM is also proposing a rule as a result of the EPAct. Because the EPAct provisions regarding coal advance royalty affect both ONRR and BLM, the two agencies are working in a concerted effort to ensure that their proposed rules complement each other. BLM and ONRR plan to publish the proposed and final rules concurrently for the benefit of those constituents

affected by the coal advance royalty provisions in the EPAct.

c. This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. As demonstrated in the table above (see item 1), any budgetary effect on industry is expected to be an advantage to Federal coal lessees, with an estimated benefit of $325,870 per year.

d. This proposed rule would not raise novel legal or policy issues. Departmental regulations have long required lessees to pay coal advance royalties in lieu of continued operation. The EPAct merely changes the way ONRR would calculate the coal advance royalty but does not use a novel valuation methodology.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule would not affect small entities. It would affect Federal coal lessees, which typically are made up of large industrial concerns.

4. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule would not be a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Would not have an annual effect on the economy of $100 million or more. The effect would be limited to a maximum estimated amount of $362,647. See item 1 above.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or for geographic regions. See item 1 above.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This proposed rule would benefit United States-based enterprises and would be a result of suggestions made through the Royalty Policy Committee made up, in part, of industry representatives.

5. Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. We are not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires because the proposed rule is not a mandate.

6. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this proposed rule would not have significant takings implications. This proposed rule would apply only to Federal coal leases: it would not apply to private property. This proposed rule does not require a Takings Implication Assessment.

7. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The Secretary of the Interior is responsible for managing Federal coal leases. The Department shares advance royalties collected from Federal coal leases with State governments on a percentage basis as the law prescribes. This proposed rule would not alter any lease management or royalty value-sharing provisions. It would determine only the value of production for coal advance royalty purposes. This proposed rule would not impose administrative costs on States or localities. This proposed rule does not require a Federalism Assessment.

8. Civil Justice Reform (E.O. 12988)

This proposed rule would comply with the requirements of Executive Order 12988, for the reasons outlined in the following paragraphs:

(a) It meets the criteria of section 3(a), which requires that we review all regulations to eliminate errors and ambiguity and write them to minimize litigation.

(b) It meets the criteria of section 3(b)(2), which requires that we write all regulations in clear language containing clear legal standards.

9. Consultation With Indian Tribes (E.O. 13175)

Under the criteria in Executive Order 13175, we have evaluated this proposed rule and determined that it would have no potential effects on federally recognized Indian tribes. This proposed rule has two major portions: (1) Valuation of Federal coal for advance royalty purposes, and (2) information collection applicable to all solid minerals leases. Federal coal excludes Indian coal by definition. Information collection does apply to both Federal and Indian coal leases: Lessees, not Indian tribes, are responsible for reporting requirements.

10. Paperwork Reduction Act

This proposed rule changes a currently approved information collection (OMB Control Number 1012–0010; expires 1/31/2014; 3,509 total burden hours) by adding new requirements necessary for compliance efforts and to comply with the EPAct. Therefore, ONRR is submitting an Information Collection Request (ICR) to OMB for review and approval, as required under section 3507(d) of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The title of the ICR is ''Solid Minerals and Geothermal Resources.'' This rule also refers to, but does not change, the information collection requirements that OMB already approved under Control Number 1012–0006.

The PRA provides that 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.

As part of our continuing effort to reduce paperwork and respondent burden, we invite the public and other Federal agencies to comment on any aspect of the reporting burden through the information collection process.

Please see *ICR Comments* under **ADDRESSES** section to submit comments.

OMB has up to 60 days to approve or disapprove this collection of information; however, submit your comments to OMB within 30 days in order to assure its maximum consideration. We will consider all comments received during the comment period for this notice of proposed rulemaking.

The intent of this rulemaking is to implement provisions of the EPAct governing the payment of advance royalty on coal resources produced from Federal leases and to more efficiently collect information from all Federal and Indian solid minerals leases. The rule proposes to use a new standardized form (ONRR–4440) under 30 CFR 1210.202(a)(1) to change the way all solid minerals lessees report sales summary data and to collect the additional required data. We collect this information to ensure that lessees accurately value and properly pay royalties. We require lessees to report production and sales on Form ONRR–4430 for approximately 161 producing Federal and Indian solid minerals properties. For approximately 75 of those properties, we would require the lessees to submit Form ONRR–4440.

Currently, OMB has approved a total of 3,509 burden hours for OMB Control

Number 1012–0010. Of that total, OMB already approved 570 burden hours for existing sales summary reporting. ONRR estimates the total burden hours for the new Form ONRR–4440 would be 900 hours. Thus, the proposed form would result in a net increase of 330 burden hours. Therefore, the total proposed burden hours for OMB Control Number 1012–0010 would be 3,839 hours (3,509 + 330 net hours = 3,839 hours).

The following table displays the proposed requirements and estimated burden hours for this rule, by CFR citation, to be added to the existing collection under 1012–0010.

BURDEN BREAKDOWN

30 CFR 1210 and 1218	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
PART 1210—FORMS AND REPORTS SUBPART E—SOLID MINERALS, GENERAL				
§ 1210.201 HOW DO I SUBMIT FORM ONRR–4430, SOLID MINERALS PRODUCTION AND ROYALTY REPORT?				
1210.201(c)(3)	(c) *How to submit* * * * (3) Submit Form ONRR–4430 paper copies to the address given at the Solid Minerals Reporting Information webpage * * *.	Hour burden covered under § 1210.201(a)(1).		
§ 1210.202 HOW DO I SUBMIT FORM ONRR–4440, SOLID MINERALS SALES SUMMARY?				
1210.202(a)	(a) *What to submit.* (1) For solid minerals produced or sold from Federal or Indian solid minerals leases for each mine, you must submit a completed Form ONRR–4440A for coal; Form ONRR–4440B for sodium/potassium; Form ONRR–4440C for Western Phosphate; Form ONRR–4440D for metals; and Form ONRR–4440E for all other minerals produced from leases containing ad valorem royalty terms not covered by Forms ONRR–4440A through ONRR–4440D. These forms and instructions are available on the Solid Minerals Reporting Information webpage at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.* (2) For all products produced from leases having ad valorem royalty terms, you must include the required data elements listed in the following table on the appropriate Form ONRR–4440. (3) Instructions to complete and submit Form ONRR–4440 are available on the Solid Minerals Reporting Information webpage at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm*.	1 hour	900	900 (570 of which already approved by OMB).
1210.202(b)	(b) *When to submit.* (1) You must use the table at § 1210.202(a)(2) to determine how often you must submit the appropriate Form ONRR–4440. (2) You must submit Form ONRR–4440 each month after you submit the corresponding Form ONRR–4430 as required under 30 CFR 1210.201(a). (3) If the information on a previously reported Form ONRR–4440 is no longer correct, you must submit a revised Form ONRR–4440 in the same month after you submit the corresponding revised Form ONRR–4430 under 30 CFR 1210.201(b)(4). (4) For leases with no ad valorem royalty terms (that is, leases in which the royalty due is not a function of the value of production, such as a cents-per-ton or dollars-per-unit), ONRR may request that data from lessees on an as-needed basis under § 1210.206.	Hour burden covered under § 1210.202(a).		
1210.202(c)(1)	*(c) How to submit.* (1) You must provide the appropriate Form ONRR–4440 data electronically using our Internet reporting Web site unless you meet the conditions in subparagraph (c)(2).	Hour burden covered under § 1210.202(a).		
PART 1218—COLLECTION OF ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES DUE THE FEDERAL GOVERNMENT SUBPART I—FEDERAL COAL ADVANCE ROYALTY				
§ 1218.607 HOW MAY I APPEAL AN ONRR ORDER TO PAY COAL ADVANCE ROYALTY?				
1218.607	You may appeal an ONRR Order to Pay Coal Advance Royalty under 30 CFR part 1290.	Hour burden covered under ICR 1012–0006. See 30 CFR 1243.4.		
§ 1218.608 HOW MAY I SUSPEND COMPLIANCE WITH AN ONRR ORDER TO PAY COAL ADVANCE ROYALTY?				
1218.608	You may suspend compliance with an ONRR Order to Pay Coal Advance Royalty under 30 CFR 1243.4.	Hour burden covered under ICR 1012–0006.		
Burden Hour Total			900	900

Public Comment Policy. The PRA provides that 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. Before submitting an ICR to OMB, PRA Section 3506(c)(2)(A) requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995 (PRA's effective date); (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this proposed information collection and address them in our final rule. We will provide a copy of the ICR to you without charge upon request, and also post the ICR at *http://www.onrr.gov/Laws_R_D/FRNotices/FRInfColl.htm. You also may review the ICR at http://www.reginfo.gov.*

We will post all comments in response to this proposed information collection at *http://www.onrr.gov/Laws_R_D/PubComm/default.htm,* and then click on ''AA04.''

11. National Environmental Policy Act

This proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement is not required under the National Environmental Policy Act of 1969 (NEPA) because this rule is categorically excluded under: ''(i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature.'' See 43 CFR 46.210(i) and the DOI Departmental Manual, part 516, section 15.4.D. We have also determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The procedural changes resulting from these amendments would have no consequences with respect to the physical environment. This proposed rule would not alter in any material way natural resource exploration, production, or transportation.

12. Data Quality Act

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554), also known as the Information Quality Act. The Department of the Interior has issued guidance regarding the quality of information that it relies on for regulatory decisions. This guidance is available on DOI's Web site at *http://www.doi.gov/ocio/iq.html.*

13. Effects on the Energy Supply (E.O. 13211)

This proposed rule would not be a significant energy action under the definition in Executive Order 13211, and, therefore, would not require a Statement of Energy Effects.

14. Clarity of This Regulation

Executive Orders 12866 and 12988, and the Presidential Memorandum of June 1, 1998, require us to write all rules in plain language. This means that each rule we publish must: (a) Be logically organized; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you think we wrote unclearly, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

15. Public Availability of Comments

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 view, we cannot guarantee that we will be able to do so.

List of Subjects

30 CFR Part 1203

Coal, Rental, Royalty rate—reduction.

30 CFR Part 1210

Coal, Continental shelf, Definitions, Federal and Indian leases, Geothermal resources, Information collection, Oil and gas reporting, Phosphate, Potassium, Reporting and recordkeeping requirements, Royalties, Sales contracts, Sales summary, Sodium, Solid minerals, Sulfur.

30 CFR Part 1218

Advance royalty, Appeals, Bonuses, Coal, Continental shelf, Definitions, Electronic funds transfer, Federal and Indian leases, Geothermal resources, Government contracts, Information collection, Oil and gas, Payment credits, Recoupments, Rentals, Reporting and recordkeeping requirements, Royalties.

Dated: June 5, 2013.

Rhea Suh,

Assistant Secretary, Policy, Management and Budget.

For the reasons stated in the preamble, the Office of Natural Resources Revenue proposes to amend 30 CFR parts 1203, 1210, and 1218 as set forth below:

PART 1203—RELIEF OR REDUCTION IN ROYALTY RATES

■ 1. The authority for part 1203 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.;* 25 U.S.C. 396a *et seq.;* 25 U.S.C. 2101 *et seq.;* 30 U.S.C. 181 *et seq.;* 30 U.S.C. 351 *et seq.;* 30 U.S.C.

1701 *et seq.;* 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.;* and 43 U.S.C. 1331 *et seq.*

§ 1203.250 [Removed]

■ 2. Remove § 1203.250.

§ 1203.251 [Redesignated as § 1203.250]

■ 3. Redesignate § 1203.251 as § 1203.250.

PART 1210—FORMS AND REPORTS

■ 4. The authority for part 1210 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.;* 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.;* and 44 U.S.C. 3506(a).

Subpart A—General Provisions

§ 1210.10 [Amended]

■ 5. In § 1210.10:

■ a. Revise the table under the column ''Form or information collected'' by removing the entry for ''Sales summaries—solid minerals.''

■ b. Revise the table under the column ''Form or information collected'' by adding ''Form ONRR–4440—Solid Minerals Sales Summary'' following the entry for ''Form ONRR–4430, Solid Minerals Production and Royalty Report''.

Subpart E—Production and Royalty Reports-Solid Minerals

■ 6. Amend § 1210.201 by revising paragraph (c)(3) to read as follows:

§ 1210.201 How do I submit Form ONRR–4430, Solid Minerals Production and Royalty Report?

* * * * *

(c) * * *

(3) Submit Form ONRR–4430 paper copies to the address given at the Solid Minerals Reporting Information Web page at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm,* or you may contact us toll free at 1 (888) 201–6416 for the address.

* * * * *

■ 7. Revise § 1210.202 to read as follows:

§ 1210.202 How do I submit Form ONRR–4440, Solid Minerals Sales Summary?

(a) *What to submit.* (1) For solid minerals produced or sold from Federal or Indian solid minerals leases for each mine, you must submit a completed Form ONRR–4440A for coal; Form ONRR–4440B for sodium/potassium; Form ONRR–4440C for Western Phosphate; Form ONRR–4440D for metals; and Form ONRR–4440E for all other minerals produced from leases containing ad valorem royalty terms not covered by Forms ONRR–4440A through ONRR–4440D. These forms and instructions are available at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

(2) For all products produced from leases having ad valorem royalty terms, you must include the required data elements listed in the following table on the appropriate Form ONRR–4440.

REQUIRED DATA ELEMENTS FOR SOLID MINERALS SALES SUMMARY

Data element	Coal ONRR–4440A	Sodium/ potassium ONRR–4440B	Western phosphate ONRR–4440C	Metals ONRR–4440D	All other leases with ad valorem royalty terms ONRR–4440E
(i) Mine Name	Monthly	Monthly	Monthly	Monthly	Monthly.
(ii) Mine Number	Monthly	Monthly	Monthly	Monthly	Monthly.
(iii) Customer ID	Monthly	Monthly	Monthly	Monthly	Monthly.
(iv) Federal/Indian Indicator (FED/IND)	Monthly	Monthly	Monthly	Monthly	Monthly.
(v) P&R Submission ID	Monthly	Monthly	Monthly	Monthly	Monthly.
(vi) P&R Equivalent Product Name	Monthly	Monthly	Monthly	Monthly	Monthly.
(vii) Sales Point	Monthly	Monthly	Monthly	Monthly	Monthly.
(viii) Submission Type—Original (O), Adjustment (A), Original Revision (O–R), Adjustment Revision (A–R).	Monthly	Monthly	Monthly	Monthly	Monthly.
(ix) Sales Month/Year (MM/YYYY)	Monthly	Monthly	Monthly	Monthly	Monthly.
(x) Purchaser Name	Monthly	Monthly	Monthly	Monthly	Monthly.
(xi) Delivery Point	Monthly	Monthly	Not Required	Monthly	Monthly.
(xii) Sales Summary Product Name	Monthly	Monthly	Monthly	Monthly	Monthly.
(xiii) Contract ID	Monthly	Monthly	Not Required	Monthly	Monthly.
(xiv) Contract Term: Indicate Spot (S) or Long Term (LT).	Monthly	Monthly	Not Required	Monthly	Monthly.
(xv) Contract Type Indicate Non-Arm's-Length (NARM) or Arm's-Length (ARMS).	Monthly	Monthly	Not Required	Monthly	Monthly.
(xvi) Destination Point	Monthly	Monthly	Not Required	Monthly	Monthly.
(xvii) Sales Units	Monthly	Monthly	Not Required	Monthly	Monthly.
(xviii) Gross Proceeds	Monthly	Monthly	Not Required	Monthly	Monthly.
(xix) Processing or Washing Costs	Monthly	Not Required	Not Required	Monthly	Monthly.
(xx) Transportation Costs	Monthly	Monthly	Not Required	Monthly	Monthly.
(xxi) Size	Monthly	Not Required	Not Required	Not Required	As Requested.
(xxii) Btu/lb	Monthly	Not Required	Not Required	Not Required	Not Required.
(xxiii) Ash (%)	Monthly	Not Required	Not Required	Not Required	Not Required.
(xxiv) Sulfur (%)	Monthly	Not Required	Not Required	Not Required	Not Required.
(xxv) lbs SO_2/MMBTU	Monthly	Not Required	Not Required	Not Required	Not Required.
(xxvi) Sodium Oxide (%)	Monthly	Not Required	Not Required	Not Required	Not Required.
(xxvii) Moisture (%)	Monthly	Not Required	Monthly	Not Required	Not Required.
(xxviii) Foreign (F) or Domestic (D)	Not Required	Monthly	Not Required	Not Required	Not Required.
(xxix) Reagent Costs	Not Required	Monthly	Not Required	Not Required	Not Required.
(xxx) Bagging Costs	Not Required	Monthly	Not Required	Not Required	Not Required.
(xxxi) Sales Units (Wet Tons)	Not Required	Not Required	Monthly	Not Required	Not Required.
(xxxii) Sales Units (Dry Tons)	Not Required	Not Required	Monthly	Not Required	Not Required.
(xxxiii) Unit Value	Not Required	Not Required	Monthly	Not Required	Not Required.
(xxxiv) P_2O_5 tons	Not Required	Not Required	Monthly	Not Required	Not Required.
(xxxv) P_2O_5 (%)	Not Required	Not Required	Monthly	Not Required	Not Required.

(3) Instructions to complete and submit Form ONRR–4440 are available at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

(b) *When to submit.* (1) You must use the table at 30 CFR 1210.202(a)(2) to determine how often you must submit the appropriate Form ONRR–4440.

(2) You must submit Form ONRR–4440 each month after you submit the corresponding Form ONRR–4430 as required under 30 CFR 1210.201(a).

(3) If the information on a previously reported Form ONRR–4440 is no longer correct, you must submit a revised Form ONRR–4440 in the same month after you submit the corresponding revised Form ONRR–4430 under 30 CFR 1210.201(b)(4).

(4) For leases with no ad valorem royalty terms (that is, leases in which the royalty due is not a function of the value of production, such as a cents-per-ton or dollars-per-unit), ONRR may request that data from lessees on an as-needed basis under 30 CFR 1210.206.

(c) *How to submit.* (1) You must provide the appropriate Form ONRR–4440 data electronically using our Internet reporting Web site unless you meet the conditions in subparagraph (c)(2).

(2) You are not required to report electronically if:

(i) You are a small business as defined by the United States Small Business Administration (13 CFR 121.201); and

(ii) You have no computer, no plans to purchase a computer, and no contract with an electronic reporting service.

(3) Instructions for submitting Form ONRR–4440 are available at *http://www.onrr.gov/FM/Forms/AFSSol_Min.htm.*

PART 1218—COLLECTION OF ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

■ 8. The authority for part 1218 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.,* 396a *et seq.,* 2101 *et seq.;* 30 U.S.C. 181 *et seq.,* 351 *et seq.,* 1001 *et seq.,* 1701 *et seq.;* 31 U.S.C. 3335; 43 U.S.C. 1301 *et seq.,* 1331 *et seq.,* and 1801 *et seq.*

Subpart A—General Provisions

§ 1218.40 [Amended]

■ 9. Amend § 1218.40(c)(1) by adding ''Form ONRR–4440, Solid Minerals Sales Summary'' after ''Form ONRR–4430, Solid Minerals Production and Royalty Report;''.

■ 10. Add Subpart I—Federal Coal Advance Royalty to read as follows:

Subpart I—Federal Coal Advance Royalty

Sec.
1218.601 What definitions apply to this subpart?
1218.602 How will ONRR compute the coal advance royalty you owe?
1218.603 When is my coal advance royalty payment due?
1218.604 How do I report and pay my coal advance royalty?
1218.605 Is my coal advance royalty payment subject to late payment charges?
1218.606 May I credit my coal advance royalty payments against future coal production royalties?
1218.607 How may I appeal an ONRR Order to Pay Coal Advance Royalty?
1218.608 How may I suspend compliance with an ONRR Order to Pay Coal Advance Royalty?

Authority: The Energy Policy Act of 2005 (Pub. L. 109–58, Sec. 434).

§ 1218.601 What definitions apply to this subpart?

(a) The following definitions apply to this subpart:

Applicable continued operation year means the continued operation year (COY) for which payment of coal advance royalties is required in lieu of continued operation under 43 CFR 3483.4.

Comparable coal means coal that is sold in a similar market and is similar in chemical and physical characteristics to the coal produced at the lease or mine for which payment of advance royalties is required in lieu of continued operation under 43 CFR 3483.4.

Region means one of the eight Federal coal production regions, which the Bureau of Land Management designates as follows: Denver-Raton Mesa Region, Fort Union Region, Green River-Hams Fork Region, Powder River Region, San Juan River Region, Southern Appalachian Region, Uinta-Southwestern Utah Region, and Western Interior Region.

(4) *Spot market* means a market in which sales transactions occur where a seller agrees to sell to a buyer a specified amount of coal at a specified price over a fixed period usually not exceeding a year. Such transactions do not normally require a cancellation notice to terminate, do not contain an obligation, nor do they imply intent to continue in subsequent periods.

(5) *Spot market price* means the price you or another seller report to ONRR on Form ONRR–4440 for a spot market contract.

(b) The following terms are defined at 43 CFR 3480.0–5:

Advance Royalty;
Continued operation;
Continued operation year; and
Logical mining unit (LMU).

§ 1218.602 How will ONRR compute the coal advance royalty you owe?

(a) ONRR will compute the value of coal advance royalties due for a lease or LMU by multiplying the commercial quantities in tons calculated under 43 CFR 3483.4(g) by:

(1) The weighted average spot market price lessees reported to ONRR on Form ONRR–4440 under 30 CFR 1210.202(a) for sales of comparable coal from the same region during the last month of each applicable continued operation year; or,

(2) In the absence of spot market prices for comparable coal from the same region:

(i) The weighted average spot market price for comparable coal from another region during the last month of each applicable continued operation year; or, if none are available,

(ii) Any other reasonable value ONRR determines.

(b) The coal advance royalty you owe is the dollar amount ONRR computes under paragraph (a) of this section multiplied by the royalty rate BLM prescribes under 43 CFR 3483.4(d).

(c) ONRR will issue you an Order to Pay Coal Advance Royalty based on its computation under paragraph (b) of this section.

§ 1218.603 When is my coal advance royalty payment due?

Your coal advance royalty is due 30 days after you receive the ONRR Order to Pay Coal Advance Royalty under 30 CFR 1218.602(c).

§ 1218.604 How do I report and pay my coal advance royalty?

(a) You must report coal advance royalty on Form ONRR–4430, Solid Minerals Production and Royalty Report, under 30 CFR 1210.201.

(b) You must pay coal advance royalty according to the payment instructions at *http://onrr.gov/FM/PayInfo.htm.*

§ 1218.605 Is my coal advance royalty payment subject to late payment charges?

If you fail to pay timely the amount due in the ONRR Order to Pay Coal Advance Royalty issued under 30 CFR 1218.602(c), then you must pay interest computed under 30 CFR 1218.202 from the date the payment was due.

§ 1218.606 May I credit my coal advance royalty payments against future coal production royalties?

(a) You may credit a full coal advance royalty payment on a lease against future production royalties from that lease.

(1) You may not credit a partial coal advance royalty payment until you pay the full amount due under the Order to Pay Coal Advance Royalty that ONRR issues to you under 30 CFR 1218.602(c).

(2) If your coal advance royalty payment exceeds the production royalty payable in a particular year, you may credit any remaining coal advance royalty payment against production royalty payments from the lease in subsequent years.

(b) You may not credit coal advance royalties paid on one lease against production royalties from another lease unless both leases are Federal and both are within the same LMU.

(c) You may not use a coal advance royalty credit to reduce the amount of production royalty paid for any year below zero.

(d) You may not request a refund of any coal advance royalty payment. You may only credit coal advance royalty payment against future production royalties from that lease.

§ 1218.607 How may I appeal an ONRR Order to Pay Coal Advance Royalty?

You may appeal an ONRR Order to Pay Coal Advance Royalty under 30 CFR part 1290.

§ 1218.608 How may I suspend compliance with an ONRR Order to Pay Coal Advance Royalty?

You may suspend compliance with an ONRR Order to Pay Coal Advance Royalty under 30 CFR 1243.4.

[FR Doc. 2013–19199 Filed 8–9–13; 8:45 am]

BILLING CODE 4310–T2–P

FEDERAL REGISTER

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Part V

Department of the Interior

Bureau of Land Management

43 CFR Parts 3000, 3400, 3430, et al.

Lease Modifications, Lease and Logical Mining Unit Diligence, Advance Royalty, Royalty Rates, and Bonds; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3400, 3430, 3470, and 3480

[LLWO32000.L13200000.PP0000.24–1A]

RIN 1004–AD93

Lease Modifications, Lease and Logical Mining Unit Diligence, Advance Royalty, Royalty Rates, and Bonds

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing to amend its regulations pertaining to the administration of Federal coal leases and logical mining units (LMUs). The proposed rule would implement Title IV, Subtitle D of the Energy Policy Act of 2005; clarify that a royalty rate of 12½ percent will be assessed on all Federal coal except coal that is mined from underground mines; withdraw the Logical Mining Unit Application and Processing Guidelines (LMU Guidelines); promulgate portions of the LMU Guidelines as regulations; establish new processing fees; and make technical and editorial corrections to the regulations.

DATES: Send your comments on this proposed rule to the BLM on or before October 11, 2013. The BLM is not obligated to consider any comments received after the above date in making its decision on the final rule. If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of being considered if OMB receives it by September 11, 2013.

ADDRESSES: *Mail:* U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C Street NW., Room 2134LM, Washington, DC 20240, Attention: 1004–AD93. *Personal or messenger delivery:* U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003, Attention: WO630, 1004–AD93. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions at this Web site.

Comments on the information collection burdens: *Fax:* Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, fax (202) 395–5806. *Electronic mail: oira_submission@omb.eop.gov.* Please indicate ''Attention: OMB Control Number 1004–XXXX,'' regardless of the method used to submit comments on the information collection burdens. If you submit comments on the information collection burdens, you should provide the BLM with a copy of your comments, at one of the addresses shown above, so that the BLM can summarize all written comments and address them in the final rule preamble.

FOR FURTHER INFORMATION CONTACT: William Radden-Lesage, Mining Engineer, Solid Minerals Division (WO320), Bureau of Land Management, at Room 4215, 20 M Street SE., Washington, DC 20003; or at (202) 912–7116.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background and Discussion of the Proposed Rule
III. Procedural Matters

I. Public Comment Procedures

If you wish to comment, you may submit your comments by any one of several methods: *Mail:* You may mail comments to U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C Street NW., Room 2134LM, Washington, DC 20240, Attention: 1004–AD93. *Personal or messenger delivery:* U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003, Attention: WO630, 1004–AD93. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions at this Web site.

You may submit comments on the information collection burdens directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, fax (202) 395–5806, or *oira_submission@omb.eop.gov.* Please indicate ''Attention: OMB Control Number 1004–XXXX.'' If you submit comments on the information collection burdens, you should provide the BLM with a copy of your comments, at one of the addresses shown above, so that the BLM can summarize all written comments and address them in the final rule preamble.

Please make your comments as specific as possible by confining them to issues for which comments are sought in this notice, and explain the basis for your comments. 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.

The BLM is not obligated to consider or include in the Administrative Record for the rule comments received after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES** during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

II. Background and Discussion of the Proposed Rule

A. General Background

1. On August 8, 2005, the President signed into law the Energy Policy Act (EPAct) of 2005, Public Law 109–58, 119 Stat. 594. Title IV, Subtitle D of the EPAct, is entitled the ''Coal Leasing Amendments Act of 2005.'' The BLM proposals to implement provisions of the EPAct that require regulatory amendments are discussed in the section-by-section analysis that follows.

The Office of Natural Resources Revenue (ONRR) (formerly the Minerals Revenue Management Program of the Minerals Management Service) is proposing a companion rule that implements that part of Section 434 of the EPAct concerning the processes and standards for determining value for payment of advance royalties.

This proposed rule would implement all other Mineral Leasing Act (MLA) amendments enacted by Title IV, Subtitle D of the EPAct.

2. The BLM proposes to withdraw its LMU Guidelines, which were published in final form, following public comment, in the **Federal Register** on August 29, 1985 (50 FR 35145). For purposes of withdrawing the LMU Guidelines and promulgating parts of them as regulations, the BLM analyzed

the guidelines and divided them into 3 categories. The first category requires no additional action beyond withdrawal because those parts of the LMU Guidelines remain valid, and are already in regulations. The second category consists of the parts of the LMU Guidelines that are now inconsistent with the MLA, as amended by the EPAct. These parts of the LMU Guidelines need to be withdrawn and replaced by regulations that are consistent with the new statute. The third category includes parts of the LMU Guidelines that do not conflict with authorizing statutes, but are not currently in or separately supported by the BLM's coal management regulations. These parts of the LMU Guidelines need to be promulgated as regulations so that the BLM can maintain the existing policies after the LMU Guidelines are withdrawn. Each proposed regulatory addition that originated from the LMU Guidelines is described in the section-by-section analysis.

B. Section-by-Section Analysis of Proposed Changes in 43 CFR Part 3000—Minerals Management: General

The BLM proposes to amend 43 CFR 3000.12 by adding provisions to recover processing costs for 3 actions initiated by coal operators/lessees under 43 CFR part 3480. Section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734) authorizes the BLM to establish reasonable fees with respect to applications relating to administration of the public lands.

1. Applications for a History of Timely Payments Determination

The BLM proposes a processing fee for an application for a history of timely payments determination. In order to qualify for a waiver of the bond requirement for deferred bonus bid installment payments, a Federal coal lessee must apply for and obtain a history of timely payments determination. Under the proposed ''history of timely payments'' provisions at proposed new section 3474.10, the BLM would incur unique costs while processing an application for a history of timely payments determination, and BLM personnel would be diverted from other tasks and duties in order to verify lease ownership. After the BLM verifies lease ownership, it would then forward the application to the ONRR for an assessment of the applicant's lease payment history.

The BLM would provide a written approval to an applicant who satisfies the criteria for a history of timely payments determination. The written determination would be effective for all leases covered by the application until the deferred bonus is paid in full in accordance with the terms and conditions of the leases.

Where an applicant fails to satisfy the criteria, the BLM would:

- Reject the application, and immediately require the applicant to post a separate bond in an amount equal to one deferred bonus payment; or
- increase an existing bond amount that is equal to the amount of one deferred bonus payment.

In either case, a qualifying applicant would gain a special benefit. Therefore, the BLM has concluded that it should establish a reasonable fee to recover the cost of processing an application for a determination of a history of timely payments.

The BLM has gained experience processing applications for a history of timely payments determination since interim guidance (BLM–WO–IM–2006–045) was issued on November 25, 2005. The BLM's analysis indicates that the processing workload does not require case-by-case cost recovery determinations. The BLM is therefore proposing a fixed processing fee for all history of timely payments applications to cover the BLM's reasonable processing costs. The BLM anticipates that processing a history of timely payments application would require 2 hours of staff time at a GS–11, step 5 salary ($31.17 per hour) and 1 hour of supervision at a GS–13, step 5 salary ($44.43 per hour) (U.S. Office of Personnel Management Salary Table 2013–RUS, at: *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/rus_h.pdf*). In addition, consistent with current cost calculation guidance (WO–IM–2013–015; November 20, 2012), an additional 19.8 percent would be added to cover the BLM's indirect costs and 30 percent would be added for employee benefits, for a total of $159.94, which was rounded to the nearest $5 for a proposed fee of $160. The BLM is therefore proposing a fixed processing fee of $160 for each application for a history of timely payments determination. Like other fixed processing fees, the proposed fee would be subject to periodic adjustment according to the change in the Implicit Price Deflator for Gross Domestic Product. See 43 CFR 3000.10(c).

2. Applications To Pay Advance Royalty

The proposed advance royalty provisions at subpart 3483 will require the BLM to incur unique costs, as provided by Section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734), while processing an application to pay advance royalty. Processing an application to pay advance royalty is time-sensitive, requiring personnel to be diverted from other tasks and duties to process the application in a timely manner. For each application to pay advance royalty, the BLM will verify the production history of each lease or LMU and determine the number of tons upon which the advance royalty payment will be based. The BLM will forward to the ONRR the advance royalty application and the BLM's determination of the advance royalty tonnage for their determination of the advance royalty value and subsequent billing to the applicant for the advance royalty. Upon approval by the BLM and ONRR, the applicant would be allowed to pay advance royalty to remain in compliance with the continued operation requirement of the MLA (30 U.S.C. 207(b)), and as described in the analysis of 43 CFR subpart 3483 in this preamble. Approval to pay advance royalty is a unique benefit to the applicant, enabling the applicant to continue to hold the lease or LMU even while the lease or LMU is not in production. Therefore, the BLM has concluded that it should establish a reasonable fee to recover the cost of processing an application to pay advance royalty.

The BLM has extensive experience processing applications to pay advance royalty. Although Section 434 of the EPAct changed certain procedures and standards related to advance royalty, such as when the BLM should receive an advance royalty application and how the ONRR determines the advance royalty value, the BLM does not foresee any significant change in the BLM's fundamental workload once the BLM receives such an application. The BLM's workload analysis does not indicate a need for case-by-case cost recovery determinations. Therefore, the BLM is proposing a fixed fee to recover the BLM's reasonable processing costs for each application to pay advance royalty. The BLM anticipates that processing an application to pay advance royalty would require 1 hour of staff time at a GS–11, step 5 salary ($31.17 per hour), 1 hour of a mining engineer's time to review the production records for the lease or LMU to determine the tonnage, as specified in Section 3484.3, on which the advance royalty payment will be based, at a GS–12, step 5 level salary ($37.37 per hour), and 1 hour of supervision at a GS–13, step 5 salary ($44.43 per hour) (U.S. Office of Personnel Management Salary Table 2013–RUS, at: *http://www.opm.gov/*

policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/rus_h.pdf). In addition, consistent with current cost calculation guidance (WO–IM–2013–015; November 20, 2012), an additional 19.8 percent would be added to cover the BLM's indirect costs, and an additional 30 percent would be added for employee benefits, for a total of $169.23. After rounding to the nearest $5, the BLM is proposing a fixed processing fee of $170 for each application for payment of advance royalty. Like other fixed processing fees, the proposed fee would be subject to periodic adjustment according to the change in the Implicit Price Deflator for Gross Domestic Product. See 43 CFR 3000.10(c).

3. Applications To Extend an LMU for an Additional 10 Years

Section 433 of the EPAct provides for the extension of the term of an LMU beyond 40 years. As proposed at section 3487.10, applications for extension of the 40-year LMU term will require special processing by the BLM. For each application, the BLM will need to verify the land status of the LMU and complete an engineering analysis to determine whether the extension would ensure the greatest ultimate recovery of the coal resources within the LMU. A successful applicant would benefit by having up to an additional 10 years to maintain the combined reserves as an LMU, consistent with the regulations at subpart 3487. Therefore, the BLM has concluded that it should recover the cost of processing applications to extend the 40-year LMU term, as provided by Section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

The BLM has no experience processing applications to extend the term of an LMU, because this is a new process provided by the EPAct. Moreover, no LMU is currently near the end of its maximum 40-year term. The BLM estimates that the workload to process an application to extend the term of an LMU would not be significant. At this time the BLM's workload analysis does not indicate a need for case-by-case cost recovery determinations. Therefore, the BLM is proposing a fixed fee for all applications to extend the term of an LMU that will recover the BLM's reasonable processing costs.

The BLM anticipates that processing an application to extend the term of an LMU would require 1 hour of staff time at a GS–11, step 5 salary ($31.17 per hour), 1 hour of a mining engineer's time to review the LMU's resource recovery and protection plan (R2P2) at a GS–12, step 5 level salary ($37.37 per hour), and 1 hour of supervision at a GS–13, step 5 salary ($44.43 per hour) (U.S. Office of Personnel Management Salary Table 2013–RUS, at: *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/rus_h.pdf*). In addition, consistent with current cost calculation guidance (WO–IM–2013–015; November 20, 2012), an additional 19.8 percent would be added to cover the BLM's indirect costs, and an additional 30 percent would be added for employee benefits, for a total of $169.23. After rounding to the nearest $5, the BLM is proposing a fixed processing fee of $170 for each application to extend the term of an LMU. Like other fixed processing fees, the proposed fee would be subject to periodic adjustment according to the change in the Implicit Price Deflator for Gross Domestic Product. See 43 CFR 3000.10(c).

C. Section-by-Section Analysis of 43 CFR Part 3400—Coal Management: General

1. The proposed rule would add Title IV, Subtitle D of the EPAct of 2005 (Pub. L. 109–58) and Section 2505 of the Energy Policy Act of 1992 (Pub. L. 102–486) to the authorities described in the authority section (section 3400.0–3) of the regulations.

2. Section 3400.0–5 would be amended by removing the lettered paragraph designations (a) through (qq) and arranging the definitions in alphabetical order, by redesignating the introductory text as paragraph (a), and by redesignating paragraph (rr) as paragraph (b).

3. The proposed rule would add a definition of the term ''underground mine'' to section 3400.0–5. The new definition would aid the BLM in determining when the 8 percent royalty rate for coal recovered from an underground mine, as proposed at section 3473.3–2(a)(2), is applicable. The term ''underground mine'' would mean, for the purposes of establishing a royalty rate under the terms of a coal lease, an excavation in the earth for the purpose of severing coal in which persons routinely work in an environment where undisturbed earth is directly overhead, and where there must be roof control and ventilation plans approved by the Mine Safety and Health Administration (MSHA) that expressly allow persons to work routinely where there is undisturbed earth directly overhead. The phrase ''routinely work'' means that the persons who will be working underground will be doing so whenever they are working on the lease. A possibility that persons might, or might not, have to work underground on any given day to excavate and sever coal from the mine does not establish that persons will ''routinely work'' underground.

4. The proposed rule would add a new section 3400.7 that describes the information collection requirements and burdens associated with coal management, and discloses the OMB control number (1004–0073) that applies currently, and that the BLM intends will apply to those requirements.

In this proposed rule, the BLM is proposing to revise control number 1004–0073. Some of the revisions would modify existing collection activities, and others would add new activities.

D. Section-by-Section Analysis of 43 CFR Subpart 3432—Lease Modifications

1. The proposed rule would add Section 13 of the Federal Coal Leasing Amendments Act (FCLAA) of 1976 (30 U.S.C. 203); and Section 432 of the EPAct (Pub. L. 109–58) to the authorities listed in the authority section (section 3432.0–3).

2. Section 432 of the EPAct, amending 30 U.S.C. 203, provides for several changes in the statutory standards that apply to the modification of a coal lease. The EPAct increased from 160 acres to 960 acres the maximum acreage that may be added to a Federal coal lease through lease modification during the life of the lease. The BLM is proposing to delete the last sentence of section 3432.1(a), which contains the prior maximum acreage provision, and replace that sentence with a new paragraph (c) that would provide that the acreage added to the lease by modification after August 4, 1976, must not exceed the lesser of 960 acres or the acreage of the lease when the lease was issued.

Section 432 of the EPAct also provides that an approval of a lease modification is a finding that the modification would be in the interest of the United States; would not displace a competitive interest in the lands; and would not include lands or deposits that can be developed as part of another potential or existing operation. Because the language of existing 43 CFR 3432.2(a) closely resembles the language of the EPAct, the BLM has determined that no change to that provision is necessary.

3. The BLM anticipates that Section 432 of the EPAct will generate proposals for large lease modification tracts with proportionally greater bonus values. The bonus value is a cash payment, in addition to production royalties and annual rental payments, that is payable

during the term of a lease by a successful bidder at a competitive lease sale. The BLM also anticipates that lessees will be interested in paying the lease modification bonus on a deferred basis, similar to that currently offered for competitive coal leases. Further, under Section 436 of the EPAct, a lessee with a history of timely payments and prior approval by the BLM does not need to provide the BLM a bond to assure the BLM of payment for the unpaid deferred bonus. A lessee's payment of the fair market value for lease modifications is analogous to the payment of deferred bonuses for competitive leases. Consequently, the BLM has concluded that it is appropriate, based on the discretion of the approving BLM official, that the fair market value for lease modifications may be paid on a deferred basis. This approach is similar to that which the BLM uses for competitive coal leasing. Therefore, the BLM is proposing to amend section 3432.2(c) to allow payment of the bonus for a lease modification on a deferred basis.

E. Section-by-Section Analysis of 43 CFR Subpart 3435—Lease Exchange

The regulations at section 3435.3–5 contain a reference to a ''draft environmental assessment or environmental impact statement.'' Although the word ''draft'' precedes the reference in section 3435.3–5 to an environmental assessment (EA) and an environmental impact statement (EIS), the term ''draft'' was intended to apply exclusively to an EIS rather than to an EA. The BLM is therefore proposing to change the regulations to correct this inaccuracy.

The proposed deletion of the reference to draft EAs would recognize that when an EA is prepared, there will not necessarily be a public notice of availability. That change is consistent with the BLM's discretion to determine how and when to seek public involvement in the preparation of an EA, in accordance with BLM's January 2008 NEPA Handbook H–1790–1, section 8.2, and regulations of the Council for Environmental Quality at 40 CFR 1500.2(d), 1501.4(b), and 1506.6.

F. Section-by-Section Analysis of 43 CFR Part 3470—Coal Management Provisions and Limitations

The authority citation for 43 CFR Part 3470 is proposed to be revised to add a reference to 30 U.S.C. 207, and revise the existing reference to 43 U.S.C. 1701 *et seq.* to read ''43 U.S.C. 1733 and 1740.''

G. Section-by-Section Analysis of 43 CFR Subpart 3473—Fees, Rentals, and Royalties

In recent years, much dialogue has taken place concerning whether various hybrid technologies for mining coal, specifically continuous highwall mining and auger mining, constitute underground mining or surface mining. In light of this dialogue, the BLM has determined that regulations governing applicable royalty rates need to be revised to address the current technologies used to extract Federal coal.

The MLA provides for payment of a royalty of not less than 12½ percent of the value of coal, except that the Secretary may determine a lesser rate for underground coal mining (30 U.S.C. 207(a)). The current coal management regulations specify that a lease shall require payment of a royalty of not less than 12½ percent of the value of coal recovered from a surface mine and 8 percent for coal recovered from an underground mine (sections 3473.3–2(a)(1) and (2)).

The BLM is proposing to clarify those mining activities that constitute underground mining and therefore are eligible for the lower underground royalty rate. The proposal would continue the current 8 percent royalty rate for coal recovered from an underground mine at section 3473.3–2(a)(2). However, the proposed rule, at section 3473.3–2(a)(1), would establish that the minimum 12½ percent royalty rate applies to coal recovered by any other extraction method. Currently, by regulation, the 12½ percent minimum royalty rate applies only to coal severed from a surface mine. Thus, if a dispute were to arise as to the applicable royalty rate under the proposed rule, the BLM would only need to establish whether coal is recovered from an underground mine or not. If the coal is not extracted from an underground mine, the 12½ percent royalty rate would apply.

The BLM is also proposing to define the term ''underground mine'' to add clarity to the determination of the proper royalty rate. A discussion of this proposed definition is in this preamble in the discussion of part 3400.

H. Section-by-Section Analysis of 43 CFR Subpart 3474—Bonds

The BLM's requirements for coal lease bonds are contained in subpart 3474. This proposed rule contains a number of proposed amendments to subpart 3474, some of which relate to Section 436 of the EPAct. These proposed amendments are as follows:

1. Proposed section 3474.1 would be entitled ''Acceptable bonds'' to make it clear that it addresses the types of bonds that the BLM will accept to cover coal leases. It would continue to contain the requirements of existing section 3474.1(a). Paragraph (b) would be included to inform the public that bonding requirements for exploration licenses are in section 3410.3–4. That text currently appears in section 3474.2(b). The substance of existing section 3474.1(c) would be moved to proposed section 3474.11 because it relates to LMU bonds.

2. Proposed section 3474.2 would be entitled ''Filing requirements for bonds'' and would include in paragraph (a) the requirement in existing section 3474.1(b) that the applicant or bidder must file a lease bond in the proper office within 30 days after receiving a notice from the BLM. The lease bond must be on a form approved by the BLM. Under a new paragraph 3474.2(b), the BLM could approve a brief extension to the filing requirement when the applicant or bidder experiences delays in securing a bond that are beyond the control of the applicant or bidder.

3. Under proposed section 3474.2(c), the BLM would issue a new lease or lease modification only after an adequate lease bond or other financial surety is filed, determined to be adequate, and accepted by the BLM. Similar requirements are already in the regulations at section 3474.1(a) and section 3432.3(b). However, neither of these provisions contain the requirements found in the BLM 3474 Bond Manual that a financial surety must be: (1) Submitted to the proper BLM office; (2) found to be adequate by the BLM; and (3) accepted by the BLM.

4. The proposed rule would redesignate existing sections 3474.3 through 3474.6 as proposed sections 3474.5 through 3474.8, respectively, to allow insertion of two new sections.

5. New section 3474.3 would address the required amount of lease bonds. Under existing regulations at section 3474.2, the BLM establishes the amount of the lease bond. Currently, guidance to determine the amount of the bond is in the BLM 3474 Bond Manual of February 18, 1988, which establishes that the bond value is equal to the cumulative value of: (1) The annual rental payment for one year; (2) 3 months of production royalty if a lease is producing coal, or 1 year of advance royalty payment if a lease is not producing coal and has achieved diligence; (3) the value of any unpaid bonus payments; and (4) 100 percent of the cost of reclamation associated with exploration licenses or exploration activities on leases not yet in a Surface Mining Control and

Reclamation Act (SMCRA) mining permit.

The proposed rule would provide that the lease bond must be sufficient to cover the cumulative amount of: (1) 1 year's rental; (2) 3 months of production royalty or, if advance royalty was paid in the prior continued operation year, 1 year's advance royalty; (3) one annual deferred bonus payment (if applicable); and (4) 100 percent of the cost of reclamation associated with exploration licenses or exploration activities on leases not yet in a Surface Mining Control and Reclamation Act (SMCRA) mining permit. The minimum bond amount, already established in regulations at 43 CFR 3410.3–4(b)(2) for exploration licenses and consistent with the BLM M–3474 Bond Manual, is $5,000. The minimum bond value is not indexed for inflation. The lease bond protects the BLM from an operator/lessee defaulting on its financial obligations, including reclamation.

6. New section 3474.4 addresses the review and adjustment of bond amounts. Under the proposed rule, the BLM would review bonds at regular intervals, or as changes in conditions warrant, to assure that bond amounts remain appropriate under section 3474.3 of these regulations. This provision would apply to bonds for leases, exploration licenses, and licenses to mine.

The BLM strives to review bond amounts on an annual basis. The exact duration between bond reviews could be more or less than 1 year depending on the workload within the responsible BLM office. Conditions that might warrant another review would be payment in full of the deferred bonus amount, authorization of a lease modification, or a partial relinquishment of the lease. This review could result in the bond amount being modified upward or downward.

7. The proposed rule would amend redesignated section 3474.5 (existing section 3474.3) by removing existing paragraph (a), which relates to converting statewide or nationwide bonds to individual bonds. That paragraph no longer has relevance for Federal coal leases, all of which now have individual lease bonds.

Existing section 3474.3(b)(1) is proposed to be removed because 30 CFR 773.16 and 800.11(a) provide that no permit may be issued under SMCRA unless the permit applicant posts a performance bond or equivalent guarantee to ensure the completion of the reclamation plan approved in the permit. This requirement applies to all surface coal mining operations under the Office of Surface Mining Reclamation and Enforcement's (OSM) permanent regulatory program; and the permanent regulatory program applies to all surface coal mining and reclamation operations on Federal lands, regardless of whether the OSM and the state have entered into a cooperative agreement to regulate mining on Federal lands within the state. The BLM also notes that, under 30 CFR 740.15(b), SMCRA bonds on Federal lands in states with a cooperative agreement to regulate mining on Federal lands must be payable to both the state and the United States.

The BLM proposes to redesignate existing paragraph (b)(2) as section 3474.5, replace the term ''Surface Mining Officer'' with ''Office of Surface Mining Reclamation and Enforcement'' to reflect the correct title of the bureau, and revise the section heading from ''Bond conversions'' to ''Bond Release,'' which is the subject of the section.

8. The proposed rule would amend redesignated section 3474.6 (existing section 3474.4), which relates to qualified sureties, to make it clear that the BLM would accept bonds only from sureties with current certificates of authority from the Secretary of the Treasury.

9. No changes are proposed for the text or section heading of redesignated section 3474.7 (existing section 3474.5).

10. In redesignated section 3474.8 (existing section 3474.6), a sentence would be added from the existing BLM 3474 Bond Manual providing that an existing lease bond or other financial surety must remain in effect until another bond or other financial surety is filed and the BLM accepts it as a replacement. In addition, the proposed rule would make it clear that the prior surety or other bond provider remains responsible for obligations that accrued during the period of liability while the bond was in effect until such liability is released by the BLM.

11. The proposed rule would add new section 3474.9, allowing an operator/lessee to combine the bond requirements for all the leases that it holds and that are within the boundary of a single SMCRA mine permit into a single consolidated lease bond. The amount of the consolidated lease bond would be equal to the combined amount of the bond requirements for all of the leases within the mine permit boundary. This provision would be added for the convenience of both coal operators and the BLM to simplify the periodic review and adjustment of the cumulative bond amount for all leases covered by the consolidated lease bond.

12. The proposed rule would add new section 3474.10. Proposed section 3474.10 would implement Section 436 of the EPAct concerning bonds for deferred bonus bid payments.

The BLM is required to receive fair market value for all acreage leased for the development of Federal coal. Fair market value includes a bonus bid or payment that is a cash payment in addition to the payment of annual rental and production royalties. Except for lease modifications, all acreage leased for the development of Federal coal is offered for competitive bidding. By statute (30 U.S.C. 201(a)), at least 50 percent of the total acreage offered for Federal coal leasing in any 1 year must be leased under a system of deferred bonus payment. The deferred bonus payment system established by regulation (section 3422.4(c)) specifies that the lessee will pay the bonus in five equal annual installments, with the first payment submitted with the bid at the time of the lease sale. The remaining four deferred bonus bid payments are paid in equal annual installments on the first, second, third, and fourth anniversary dates of the lease.

Section 436 of the EPAct, codified at 30 U.S.C. 201(a)(4)–(5), adds new surety bond requirements for the deferred bonus bid. The EPAct provides that:

- For leases issued after August 8, 2005 (the date the EPAct was enacted), the Secretary shall not require a surety bond for the deferred bonus bid installment payments for any coal lease issued to a lessee with a history of timely payment of noncontested production royalties, advance royalties, and bonus bid installment payments.
- For leases issued before August 8, 2005, the Secretary may waive the financial-assurance requirement if that lessee has a history of timely payments.

Thus, the exemption for lessees with a history of timely payments is mandatory for leases issued after August 8, 2005. Section 436 makes such a waiver discretionary only for leases issued before August 8, 2005.

Section 436 also provides that, notwithstanding any other provision of law, if a lessee fails to pay any deferred bonus bid installment payment on time, the Secretary must provide written notice to the lessee that a deferred bonus bid installment payment has not been paid. If the lessee fails to pay the deferred bonus bid installment payment within 10 days after receipt of the written notification, the coal lease will automatically terminate and the lessee will forgo any deferred bonus bid installment payments that have already been made.

The proposed regulations implementing Section 436 are modeled on the interim guidance (BLM–WO–IM–2006–045) that the BLM issued on November 25, 2005. The regulations in this proposed rule would replace that interim guidance and implement this section of the EPAct.

a. Paragraph (a) of proposed section 3474.10 would introduce the concept of a ''history of timely payments'' for Federal coal leases issued both before and after enactment of the EPAct. Proposed paragraph (a)(1) would provide that for Federal coal leases issued before August 8, 2005, the BLM may waive the bond requirement for deferred bonus bid installment payments if the BLM determines, in consultation with the ONRR, that the lessee has a history of timely payments of noncontested royalties, advance royalties, and bonus bid installment payments. If the BLM decides not to waive the bond requirement, the lessee will be required to continue to maintain the value of the bond consistent with the regulations.

b. Proposed paragraph (a)(2) would provide that, for leases and lease modifications issued after August 8, 2005, the BLM will not require a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment payments if the BLM determines, in consultation with the ONRR, that the lessee or successor in interest has a history of timely payments. If the BLM determines that a prospective lessee does not have a history of timely payments, the lease or modified lease can be issued only after an amount equal to one annual deferred bonus payment is added to the amount of the lease bond, LMU bond, or consolidated lease bond. If the required amount of a lease bond, LMU bond, or consolidated lease bond includes one annual deferred bonus payment, the BLM will reduce the lease bond, LMU bond, or consolidated lease bond amount by an amount equal to one deferred bonus payment if the BLM, at a later date, determines that the lessee has a history of timely payments, or when the deferred bonus is paid in full. However, the lessee or mine operator must file an application, as described in section 3474.10(b), for a history of timely payments determination, before the BLM will initiate an analysis and make a determination concerning the lessee's or mine operator's payment history.

c. Proposed section 3474.10(b) would establish an application procedure for a history of timely payments determination. This section would allow a lessee or successful bidder to apply for a history of timely payments determination and it specifies the information required in an application.

For leases issued before the establishment of the history of timely payments application process, a lessee can file an application for a history of timely payments determination at any time. In the case of a lease modification, the lessee could apply for a history of timely payments determination only after the lessee and BLM have agreed upon the fair market value for the lease modification. For new leases that are sold competitively, the successful bidder can apply for a history of timely payments determination only after the BLM provides written notification to the successful bidder that the BLM has accepted its bonus bid as the fair market value for the coal tract. This section would also list what must be included in a history of timely payments application. When making a determination of a history of timely payments, the BLM would rely on existing 43 CFR 3400.0–5(rr)(3) (redesignated in this rule as 43 CFR 3400.0–5(b)) in determining whether a lease is controlled by or under common control with the history of timely payments applicant.

d. Proposed paragraph (c) would establish the basis for a determination of a history of timely payments. The BLM proposes to base its determination on the applicant's payment history for the 5 years immediately preceding an application for a determination of a history of timely payments for all Federal coal leases that are: (1) Encompassed by an LMU boundary or SMCRA mining permit boundary; and (2) under the control of the applicant during the 5-year period. The 5-year period and the inclusion of adjoining or nearby leases would reasonably reflect the business unit of a mine and therefore the applicant's willingness and ability to pay the deferred bonus payments on time.

The proposed rule would provide that if the applicant has less than 5 years of payment history, or there is not an adjoining mine under the applicant's control, the BLM may consider the nationwide payment history of an applicant's corporate owner and affiliates under common control with the applicant. If the applicant, or the applicant's corporate owner or affiliates under common control with the applicant, do not have a 5-year history of payments for a Federal coal lease, the applicant will not meet the criteria to apply for a history of timely payments determination.

The rule would make it clear that to satisfy the history of timely payments requirement, every non-contested production royalty, advance royalty, and deferred bonus bid payment during the 5-year period must have been paid in full on or before the date the payment was due. Contested payments, as identified by the ONRR, may be considered if the lessee or mine operator provides an assurance of full payment to the satisfaction of the ONRR. Partial payment or nonpayment would not satisfy this requirement unless the lessee or mine operator has also provided an assurance of full payment to the satisfaction of the ONRR.

e. Proposed section 3474.10(d) provides an informal process for resolving disputes over the applicant's payment history. If the ONRR informs the BLM that the applicant does not satisfy the criteria for a history of timely payments determination, before the BLM makes a final determination, the BLM would notify the applicant, and provide the applicant 30 days to resolve any differences between the applicant and the ONRR regarding the payment history.

f. Proposed section 3474.10(e) provides that if the applicant satisfies the criteria for a history of timely payments determination, the BLM will make a written history of timely payments determination that will be effective for the leases covered by the application until the deferred bonus is paid in full. The proposed rule also provides that, if the applicant does not satisfy the criteria for a history of timely payments determination, the BLM will reject the application and immediately require either: (1) A separate bond in an amount equal to one deferred bonus payment; or (2) an increase in an existing bond that is equal to the amount of one deferred bonus payment. If the lessee/operator does not timely pay the deferred bonus bid, it will result in cancellation of the history of timely payments determination, and the BLM would immediately require either: (1) A separate bond in an amount equal to one deferred bonus payment; or (2) an increase in an existing bond that is equal to the amount of one deferred bonus payment.

g. Proposed section 3474.10(f) would establish procedures, as required by the EPAct, for lease termination in the event that a lessee fails to pay a deferred bonus bid installment within 10 days after the BLM gives the lessee notice that a bonus bid installment is past due. These procedures would be in addition to any other legal or equitable remedies available to BLM in the event of a lessee's breach of its obligations under the lease.

13. Proposed section 3474.11 would authorize lessees/operators to post a bond for an LMU in lieu of individual lease bonds for the coal leases in the LMU, if the LMU bond satisfies the requirements for the individual lease bonds it would replace.

I. Section-by-Section Analysis of 43 CFR Subpart 3480—Coal Exploration and Mining Operations Rules: General

1. The BLM proposes to remove the numbered paragraph designations (1) through (36) from paragraph 3480.0–5(a) and arrange the definitions in alphabetical order. Paragraphs (i) through (iv) of the definition of ''coal reserve base'' would be redesignated as paragraphs (1) through (4), respectively. This conforms to **Federal Register** style preferences.

2. The BLM is proposing to clarify the definition of ''continued operation'' at section 3480.0–5(a). The proposed changes in this definition will make it clear that the continued operation requirement can be met by either: (1) The production of the required commercial quantities (CQ) of coal in any continued operation year; or (2) beginning in the third continued operation year, the cumulative production for 3 consecutive continued operation years (the continued operation year in question and the 2 preceding continued operation years) of an amount of coal greater than or equal to the cumulative CQ requirement for that 3-year period.

This definition is consistent with the LMU Guidelines, which provided a similar method for determining the amount of coal for which the advance royalty must be paid. The definition provides an alternative to actual production of CQ during every continued operation year to comply with the continued operation requirement. Consistent with current BLM policy, this proposed definition would allow an operator to credit a year with coal production from a lease of 3 percent or more of the recoverable coal reserves (3 times the annual CQ requirement defined at section 3480.0–5) toward compliance with the continued operation requirement for the subsequent 2-year period, even if coal is not mined from the lease during the subsequent 2-year period. For example, beginning in the third continued operation year and assuming that the annual CQ requirement (1 percent of the recoverable coal reserve) is 1 million tons, the continued operation requirement can alternatively be satisfied for the third continued operation year, and the payment of advance royalties avoided, by the cumulative production of at least 3 million tons of coal at any time during the 3-year period that includes the first, second, and third continued operation years. Similarly, the continued operation requirement for the fourth continued operation year could be satisfied by the cumulative production of at least 3 million tons of coal at any time during the 3-year period that includes the second, third, and fourth continued operation years.

3. The proposed rule would amend the definition of ''diligent development period'' by redesignating the subordinate paragraphs to be consistent with the alphabetical organization of definitions within section 3480.0–5.

J. Section-by-Section Analysis of 43 CFR Subpart 3482—Exploration and Resource Recovery and Protection Plans

1. Before August 8, 2005, the MLA required coal lessees to submit an operation and reclamation plan within 3 years after the lease was issued (30 U.S.C. 207(c)). This provision of the prior law was implemented in the regulations at section 3482.1(b), requiring submission of an R2P2 (the BLM's terminology for what the MLA calls an operation and reclamation plan). Section 435 of the EPAct eliminated this 3-year requirement in favor of a requirement for the submission of a plan prior to any action which might cause a significant disturbance of the environment. The BLM is proposing to remove 3 sentences in this section that implemented the 3-year provision of the prior law. Few, if any, consequences attach to the removal of the 3-year deadline. Under the proposed rule, the BLM would continue to require an approved R2P2 before a lessee may conduct any development or mining operations on a Federal coal lease. Further, detailed operation and reclamation plans continue to be required to obtain a Federal coal mining permit under the SMCRA.

2. The BLM is proposing to remove two additional sentences from section 3482.1(b). The third sentence of this section provides that the BLM will review an R2P2 for completeness and compliance with the MLA. This sentence is self-evident and is redundant with detailed MLA requirements for an R2P2 that are listed in section 3482.1(c). Therefore, we are proposing to delete the third sentence in this section. The BLM is also proposing to delete the seventh sentence in this section which provides that an R2P2 submitted, but not approved as of August 30, 1982, must be revised to comply with the rules as modified as of August 30, 1982 (47 FR 33154–195). The BLM is not aware of any R2P2 submitted before August 30, 1982, but not yet approved, that would need to be revised as provided by this sentence. Therefore, we are proposing to delete the seventh sentence of this section.

3. The BLM proposes to add a new paragraph (b) in section 3482.3 that would reference the LMU mapping requirements found at existing section 3487.1(i) (redesignated as section 3487.8(a), with a new section heading).

K. Section-by-Section Analysis of 43 CFR Subpart 3483—Diligence Requirements

1. Section 434 of the EPAct, amending 30 U.S.C. 207(b), provides for several changes in the processes for application, assessment, and collection of advance royalties for Federal coal leases. The proposed rule is modeled on the BLM's interim guidance concerning this section of the EPAct (BLM–WO–IM–2006–127 (March 24, 2006)).

a. The BLM proposes to revise section 3483.3(a)(2) by moving the authority to stop accepting advance royalties in lieu of continued operation, upon 6 months' notification to the lessee or LMU operator, to new paragraph 3483.4(h). Section 3483.3(a)(2) would be modified to include a reference to new paragraph 3483.4(h). This is an administrative action that will consolidate regulations relative to advance royalty under section 3483.4.

b. The general conditions for paying advance royalty would be contained in section 3483.4(a). Under proposed section 3483.4(a)(1), the BLM could authorize the payment of advance royalty in lieu of continued operation for a lease or LMU if:

(1) Coal was not produced in sufficient quantity from the lease or LMU during a continued operation year to satisfy the continued operation requirement of the lease or LMU;

(2) The aggregate number of continued operation years for accepting advance royalties, as determined under section 3483.4(e), has not been exceeded; and

(3) The BLM determines that payment of advance royalty in lieu of continued operation will serve the public interest.

c. Under proposed section 3483.4(a)(2), the continued operation requirement for a lease or an LMU for a continued operation year could be met by a combination of coal production and payment of advance royalty. Also, proposed section 3483.4(a)(3) would make the lessee responsible for paying advance royalty for a lease that is not within an LMU and the LMU lessee/operator responsible for paying advance royalty for an LMU.

d. Under the MLA, as amended by the EPAct, after a lessee has achieved diligent development, there are no statutory restrictions regarding when, during a continued operation year, the lessee must apply to pay advance royalty in lieu of continued operation. Under existing section 3483.4, applications to pay advance royalty made more than 30 days after the beginning of a continued operation year for the payment of advance royalty during the same continued operation year are subject to late payment charges. Because the provisions for calculation of the advance royalty payment in Section 434 of the EPAct provide for coal values to be determined at the end of a continued operation year, proposed section 3483.4(b) would require the operator to apply to pay advance royalty any time during the continued operationb year. Proposed section 3483.4(b) would also provide that failure to apply to pay advance royalty within the continued operation year to which the advance royalty applies may result in: (1) Assessment of late payment penalties; (2) failure to qualify for a new lease or the transfer of an existing lease as specified in section 3472.1–2(e); or (3) cancellation of the lease consistent with section 3483.2(c).

e. Proposed section 3483.4(c) would provide that the value of coal for advance royalty purposes is established in applicable ONRR companion regulations.

f. Proposed section 3483.4(d) would address the royalty rate used for the calculation of advance royalty. It provides that the royalty rate specified in the lease document will be used for calculation of advance royalty for a lease. For LMUs, it would provide that the advance royalty rate is 8 percent where the Federal recoverable coal reserves in the LMU will be recovered only by underground mining operations, and not less than 12½ percent where the Federal recoverable coal reserves contained in the LMU will be recovered by mining operations other than an underground mine. For an LMU that contains Federal recoverable coal reserves that are recovered by a combination of underground and other mining methods, the royalty rate for calculation of advance royalty would be not less than 12½ percent.

g. Proposed section 3483.4(e) would increase from 10 to 20 the aggregate number of years for which an operator/lessee may pay advance royalty, as required by Section 434 of the EPAct. It would also describe how the BLM will determine how many and which years count for advance royalty purposes both for leases and LMUs.

h. A section heading, ''Failure to pay advance royalty,'' would be added to proposed section 3483.4(f), which has been redesignated from section 3484.4(f) of the current regulations.

i. Under proposed section 3483.4(g)(1), if the BLM authorizes the payment of advance royalty for a lease or LMU, the BLM would determine at the end of a continued operation year the amount of coal, measured in tons, for the ONRR to use to calculate the value of the advance royalty payment.

j. Under section 3483.4(g)(2), the calculation of advance royalty tonnage would include both 1- and 3-year methods, based on the definition of ''continued operation'' in section 3480.0–5. During the first 2 continued operation years, the BLM would use the 1-year calculation method to determine the advance royalty tonnage for a lease. Beginning in the third continued operation year, the BLM would use both methods, and would provide to the ONRR the lower of the two tonnage amounts. The ONRR would then determine the value of the advance royalty payment. The maximum advance royalty tonnage for any continued operation year for a lease would not exceed the required CQ for the lease.

For LMUs, the calculation methods would recognize that an LMU may consist of both Federal and non-Federal coal. In determining advance royalty tonnages for LMUs, a proportional reduction would be made to the advance royalty tonnage to account for the recoverable coal reserves in Federal coal leases as a percentage of the overall recoverable coal reserves of the LMU.

The following example depicts how the advance royalty tonnage would be calculated for 9 consecutive years for an LMU containing both Federal and non-Federal coal. The advance royalty tonnage is calculated using both the 1- and 3-year methods.

For this example, assume the LMU contains a total of 100,000,000 tons of recoverable coal reserves, 75,000,000 tons of which are from Federal coal leases and 25,000,000 are from non-Federal lands. The CQ requirement for the LMU is 1,000,000 tons per year of which 750,000 tons per year is required by the Federal coal leases in the LMU (see existing 43 CFR 3480.0–5(a)(6)). Further assume that the LMU produced 1,000,000 tons in each of the continued operation years (COYs) 1 and 2; 5,000,000 tons in COY3; nothing in COY4; 500,000 tons and 1,800,000 tons in COY5 and COY6, respectively; 800,000 tons in COY7; and 200,000 tons and 300,000 tons, respectively, in COYs 8 and 9. The determination of when advance royalty is required and the advance royalty tonnage is summarized in Table 1, below:

TABLE 1—EXAMPLE OF ADVANCE ROYALTY TONNAGE CALCULATIONS

[Thousands of tons unless noted otherwise]

	Continued operation year (COY)								
	1	2	3	4	5	6	7	8	9
CQ for Federal Reserves in the LMU	750	750	750	750	750	750	750	750	750
CQ Requirement for the LMU	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
CQ Ratio (Federal CQ tons per LMU CQ ton)	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
Total Coal Production from the LMU	1,000	1,000	5,000	0	500	1,800	800	200	300
1-Year Advance Royalty Calculation Method									
1-Year LMU CQ Deficiency (LMU CQ Less Total LMU Production)(c)	0	0	0	1,000	500	0	200	800	700
1-Year Advance Royalty Tonnage for the LMU(d)	0	0	0	750	375	0	150	600	525
3-year Advance Royalty Calculation Method									
3-year Cumulative LMU CQ	(a)	(b)	3,000	3,000	3,000	3,000	3,000	3,000	3,000
3-year Total LMU Production	(a)	(b)	7,000	6,000	5,500	2,300	3,100	2,800	1,300

TABLE 1—EXAMPLE OF ADVANCE ROYALTY TONNAGE CALCULATIONS—Continued

[Thousands of tons unless noted otherwise]

	Continued operation year (COY)								
	1	2	3	4	5	6	7	8	9
3-year CQ Deficiency (3-year Total LMU Production Less 3-year Cumulative LMU CQ)(e)	(a)	(b)	0	0	0	700	0	200	1,700
3-year Advance Royalty Tonnage for the LMU(f)	(a)	(b)	0	0	0	525	0	150	1,275
Advance royalty is payable on the lesser of the 1-year or 3-year method.									
Tonnage on which Advance Royalty Must Be Paid(g)	0	0	0	0	0	0	0	150	525

(a) Advance royalty cannot be paid based on a 3-year average during the first year after achieving continued operation (see existing 43 CFR 3480.0–5(a)(8)).

(b) Advance royalty cannot be paid based on a 3-year average during the second year after achieving continued operation (see existing 43 CFR 3480.0–5(a)(8)).

(c) LMU CQ requirement less total LMU production. If the answer is zero or negative, no advance royalty is due. Values greater than zero represent the amount of additional coal production that would be required to meet the annual LMU CQ requirement.

(d) The 1-year advance royalty is calculated by multiplying the 1-year LMU CQ Deficiency by the CQ ratio.

(e) The 3-year cumulative total LMU production is subtracted from the 3-year cumulative LMU CQ. If the answer is zero or negative, no advance royalty is due. Values greater than zero represent the amount of additional coal production that would be required to meet the annual LMU CQ requirement.

(f) The 3-year advance royalty is calculated by multiplying the 3-year LMU CQ Deficiency by the CQ ratio of Federal to non-Federal coal.

(g) Advance royalty is paid on the lesser of the 1-year advance royalty tonnage for the LMU or the 3-year advance royalty tonnage for the LMU.

The 3-year advance royalty test can only be used beginning in the third continued operation year, and therefore in this example it is not applicable to continued operation years 1 and 2. In this example, advance royalty for the LMU is not due for continued operation years 1 through 7 because the advance royalty tonnage from either the 1-year or 3-year advance royalty methods is zero. The LMU in this example, and the Federal coal leases included in the LMU, would be considered in compliance with the continued operation requirement for COY 1 through 7. However, advance royalty for the LMU is due in continued operation year 8 because both the 1-year and 3-year advance royalty tests result in an advance royalty tonnage of greater than zero. The advance royalty tonnage in continued operation year 8 is 150,000 tons, which represents the result from the 3-year advance royalty test (150,000 tons), which is less than the result from the 1-year advance royalty test (600,000 tons). Similarly, advance royalty is also due in continued operation year 9 because both the 1-year and 3-year advance royalty tests result in an advance royalty tonnage of greater than zero. The advance royalty tonnage in continued operation year 9 is 525,000 tons, which represents the result from the 1-year advance royalty test (525,000 tons), which is less than the result from the 3-year advance royalty test (1,275,000 tons). The LMU in this example, and the Federal coal leases included in the LMU, would be considered in compliance with the continued operation requirement for COY 8 and 9 only after the required advance royalty has been paid.

While this example illustrates the advance royalty calculation for an LMU, it also applies to an individual Federal coal lease by making the CQ ratio equal to 1 (i.e., 100 percent Federal coal) and using the corresponding production and CQ values for the individual lease.

k. The BLM proposes to add a new paragraph at 3483.4(h) concerning BLM's authority to stop accepting advance royalties in lieu of continued operation, upon 6 months' notification to the lessee or LMU operator. This provision is being moved from 3483.3(a)(2) as an administrative action so that regulations relative to advance royalty are located under section 3483.4.

2. The BLM proposes to amend section 3483.6(a) by adding a sentence to provide that the production of non-Federal coal from an LMU may be credited toward the diligent development requirements of the LMU only if such production occurs after the BLM approves inclusion of the non-Federal resources within the LMU. This issue was addressed in *Carbon Tech Fuels, Inc.,* 161 IBLA 147 (April 13, 2004), a case in which the Interior Board of Land Appeals upheld the BLM's refusal to credit non-Federal coal production for LMU diligence purposes where such production occurred before the non-Federal coal resources were included in the LMU.

There are two reasons why the BLM proposes to adopt the provision to allow crediting of non-Federal production only after the resources are in the LMU. First, the BLM is unable to verify the tonnages produced from non-Federal resources before inclusion in the LMU; and second, the MLA encourages the diligent production of Federal coal. Allowing the crediting of production of non-Federal coal resources that may have occurred years earlier would not encourage diligent development of the Federal coal today and might provide an avenue to avoid production of Federal coal, as occurred in the *Carbon Tech Fuels* case.

3. The proposed rule would amend section 3483.6(b) by removing the reference to the submission date for R2P2s. A new paragraph (c) would be added to section 3483.6 addressing the relationship of LMU continued operation requirements to lease-specific continued operation requirements. The proposed rule would require that the LMU continued operation requirement be satisfied independently of whether the Federal coal leases within the LMU produce sufficient coal to meet the individual continued operation requirements that would apply if the leases were not in an LMU.

L. Section-by-Section Analysis of 43 CFR Subpart 3487—Logical Mining Unit

1. The proposed rule would divide section 3487.1(b) into three subordinate paragraphs to make the provision easier to follow. The proposed rule would also add the 40-year LMU term to the list of uniform requirements that apply to all pre-August 4, 1976, Federal leases that would be included in an LMU.

2. The proposed rule would redesignate existing section 3487.1(c) as proposed section 3487.2 and reorganize it. Redesignated section 3487.2(b) (currently section 3487.1(c)(2)) would

be amended to require a complete description of all lands, Federal, state, and private, that are to be in an LMU. This provision was previously in the LMU Guidelines, 50 FR at 35148 and 35149.

3. Existing section 3487.1(c)(3) would be expanded in redesignated section 3487.2(c) to include a list of specific information required to demonstrate that the applicant for an LMU has effective control of all coal within the LMU boundary. This provision was previously in the LMU Guidelines, 50 FR at 35149.

4. Existing section 3487.1(c)(4) (new paragraph 3487.2(d)) would be revised to cross reference the requirements for submittal of an R2P2 that are found at section 3482.1. This paragraph is revised to structure the LMU application requirements consistent with Section 435 of the EPAct.

5. The proposed rule would redesignate existing section 3487.1(d)(1) as section 3487.3(a) and revise the section to be consistent with Section 433 of the EPAct that allows the term of an LMU to be extended beyond the current maximum term of 40 years. The proposed rule also makes editorial changes in this paragraph.

6. Existing section 3487.1(e)(1) would be amended in proposed redesignated section 3487.4(a) by removing the requirement for submission of an R2P2 within 3 years after the effective date of the LMU approval. This is parallel to the lease-specific R2P2 requirements enacted by Section 435 of the EPAct. The proposal would provide that an LMU applicant must submit an R2P2 containing the information required by section 3482.1(c) for all Federal and non-Federal lands within the LMU, before the LMU or LMU modification would be approved. This earlier submission of the R2P2 would provide a basis for the BLM to decide whether to approve an LMU. The proposal also provides that the BLM will adjust the estimates of an LMU's recoverable coal reserves at the time of approving the R2P2.

7. Similarly, the criteria for establishing the beginning date for the initial 40-year term of an LMU found at existing section 3487.1(g)(6) is proposed to be amended in proposed section 3487.4(e) to be consistent with Section 435 of the EPAct. The proposal would begin the initial 40-year term of the LMU through two alternatives. First, if coal is actively being mined from the LMU when the LMU is established, the initial 40-year LMU term would begin on the effective date of the LMU. Alternatively, if coal is being produced when the LMU becomes effective, the initial 40 year term of the LMU would begin whenever coal is first produced from any part of the LMU.

8. In proposed sections 3487.5(c) and 3487.7(a), corresponding to existing sections 3487.1(f)(3) and (h)(1), respectively, the BLM proposes to correct an error that appears twice in the regulations. The proposed rule would remove both references in the text that make it appear that the BLM consults with itself. The proposed rule would require, in new paragraph (g) of redesignated section 3487.5 (see existing section 3487.1(f)), submission of the R2P2 before the LMU or LMU modification is approved in order to establish a basis for the agency's approval of the LMU or LMU modification.

9. Existing section 3487.1(g) is proposed to be redesignated as section 3487.6 with a new section heading of ''LMU decision.''

10. The BLM is proposing to add a new section 3487.7(d) to allow a change in the LMU recoverable coal reserve to be effective either when the BLM approves an LMU modification, or when the BLM determines that the LMU recoverable coal reserves have changed due to new geologic information. The LMU Guidelines required that a change in the LMU recoverable coal reserve for LMUs that had achieved diligent development be effective beginning on the first day of the next LMU continued operation year. In contrast, the diligent development or continued operation status of the LMU would not be relevant in determining whether or not to change the LMU recoverable coal reserve.

Under the existing rules, advance royalty is determined at the beginning of a continued operation year. If the LMU recoverable coal reserve were to change during the continued operation year, there would be a need for a corresponding adjustment to the LMU continued operation requirement, and as needed, the advance royalty payment if advance royalty was paid.

A constant LMU recoverable coal reserve throughout a continued operation year, and thereby a fixed LMU continued operation requirement, is no longer required because, consistent with the provisions of 30 U.S.C. 207(b)(4), which codify amendments made by the EPAct, the BLM is proposing to change the period for determining advance royalty from the beginning of the year to run through to the end of the continued operation year. See proposed section 3483.4(b). Only the LMU recoverable coal reserve, and thereby the LMU continued operation requirement, that is in effect at the end of the continued operation year, will be used to determine the tonnage upon which advance royalty is due. Thus, the BLM is proposing to simplify the regulations.

11. The BLM is proposing to add a new section 3487.7(e) similar to existing section 3487.1(h)(4) to make it clear that an LMU modification will not extend the initial 40-year period of an LMU. It would also cross-reference section 3487.10, which would implement Section 433 of the EPAct by providing procedures for extending an LMU beyond the current maximum term of 40 years.

12. Existing section 3487.1(i) is proposed to be redesignated as section 3487.8 with a new section heading of ''LMU operations.''

13. The BLM is proposing a new section 3487.9 to provide specific standards and procedures for termination of an LMU. Proposed section 3487.9(a)(5) would be modified from the provisions in the LMU Guidelines to be consistent with Section 433 of the EPAct. The BLM is also proposing a new provision that states that any Federal coal lease in an LMU would continue under the terms and conditions of the lease if the LMU is terminated or relinquished. These provisions were previously in the LMU Guidelines, 50 FR at 35157.

14. Section 433 of the EPAct amends 30 U.S.C. 202a(2) and allows the Secretary of the Interior (Secretary) to extend the term of an LMU to more than the 40 years previously allowed, if specific conditions are met. The statute provides that a 40-year LMU mine-out period may be extended to a longer period if:

(1) The extension will ensure the maximum economic recovery of the coal deposit; or

(2) The longer period is in the interest of the orderly, efficient, or economic development of a coal resource.

These standards differ somewhat from the MLA's standards for the initial approval of an LMU. Initially, a proposed LMU must meet the standards of maximum economic recovery; orderly, efficient, and economical development; and ''due regard to conservation of coal reserves and other resources.'' 30 U.S.C. 202a(1). As amended by Section 433 of the EPAct, the MLA provides that an extension need only meet one of the first two standards for initial approval.

Under proposed section 3487.10, the operator/lessee of an LMU would be required to apply to the BLM for an extension of the LMU term and provide documentation concerning how the request complies with either of the two approval criteria noted above. To ensure that the LMU continues to promote the

maximum economic recovery of Federal and non-Federal resources, the BLM is proposing that the term of an LMU be extended in increments of 10 years or less. The BLM selected a period of 10 years to provide a reasonable amount of time for recovery of coal from the LMU while not overly burdening the LMU operator/lessee. Increments of 10 years or less also would ensure continued BLM review of the circumstances surrounding the LMU operation. A lessee or LMU operator would be allowed to apply for repeated extensions of its LMU. Since passage of the EPAct, the BLM has approved one LMU extension for a period of 10 years.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget has determined that this rule is a significant regulatory action.

The rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities.

The change in the royalty rate for highwall mining is the most significant proposed provision that would likely increase the cost associated with the development of some Federal coal resources. Since 1998, highwall mining has been used to mine an estimated 6 million tons of Federal coal at seven different mines with an estimated difference in royalty value between the underground royalty rate and the surface royalty rate of nearly $7.3 million. The average annual total production since 1998 is about 588,000 tons per year and the average difference in royalty value for the same period is about $662,000 per year. The BLM estimates an average annual cost difference of $662,000, depending on the quantity of coal produced using highwall mining techniques.

With one exception, Federal royalties for coal severed by highwall mining have been assessed at the surface mining royalty rate of 12½ percent. One coal company elected to pay royalties at the underground royalty rate of 8 percent. In 2006, the Minerals Management Service (now the ONRR) and this coal company entered into a settlement agreement tolling the statute of limitations for payment of royalties until the BLM determines the applicable royalty rate. If BLM determines the applicable royalty rate for highwall mining is greater than the underground royalty rate of 8 percent, the agreement provides that the coal company will pay the difference in royalties between what was paid at the underground rate, and the royalty rate established by the BLM. The coal company also agreed to waive appeal rights. Therefore, if the BLM concludes that the surface royalty rate of 12½ percent is applicable to coal severed by highwall mining methods, there would be no practical effect on royalty receipts.

This proposed rule would implement new processing fees of $170 per application for applications to pay advance royalty, and $170 per application to extend an LMU, and $160 per application for applications to apply for a history of timely payments determination (that will lead to a decision not to consider the remaining deferred bonus payments in the total bond requirement of a lease). These fees are included in Table 4, under the heading ''Paperwork Reduction Act.'' The other proposed provisions that implement the EPAct, including lease modification acreage, approval of LMUs, payment of advance royalties, lease operation and reclamation plan, and bonding for deferred bonus bids, will potentially reduce the cost of maintaining Federal coal leases by making administrative actions more efficient. The BLM notes that any change in costs to the regulated community from changes in the way advance royalty is valued will be addressed by the ONRR. Any cost savings are, however, case-specific. It is highly unlikely the savings would exceed the threshold established by the Executive Order.

The proposed rule also includes several technical corrections to the regulations that will be solely administrative.

1. The rule will not create inconsistencies with other agencies' actions. It will not change the relationships of the BLM to other agencies and their actions. We have closely coordinated with the ONRR in developing this proposed rule.

2. The rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.

3. The rule will implement the EPAct by amending the coal management regulations to conform to it. See parts II.A. and B. of the **SUPPLEMENTARY INFORMATION** discussed earlier in this preamble. However, the change in the royalty rate for highwall mining, which would be codified at 43 CFR 3473.3–2(a), may raise novel policy issues. That provision would continue the current 8 percent royalty rate for coal recovered from underground mines, and establish that a minimum royalty rate of 12½ percent would apply to coal recovered by any other extraction method.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Small Business Administration (SBA) has two standards that apply to Federal coal. The first standard is found at 13 CFR 121.201 and provides that in the coal industry a ''small entity'' is an individual, limited partnership, or small company, at ''arm's length'' from the control of any parent companies with fewer than 500 employees. The second standard, 13 CFR 121.509, applies to Federal coal leasing (see companion BLM regulations at 43 CFR 3420.1–3(b)(2)) and provides that an entity is considered a small business if:

- Together with its affiliates, the entity has no more than 250 employees;
- The entity maintains management and control of the actual mining operations of the Federal coal tract; and
- Agrees that if the entity subleases the Government land, it will be to another small business, and that it will require its sublessors to agree to the same.

The BLM has elected to use the SBA standard found at 13 CFR 121.201 that includes all firms with fewer than 500 employees. The BLM selected this standard for its analysis because the collection of firms identified as having 500 or fewer employees will include all the firms that meet the other standard. Thus, by using the 500-employee standard, the BLM has completed this analysis with the more inclusive standard.

Based on national data, the preponderance of firms involved in developing coal are small entities as defined by the SBA. However, this proposed rule would affect only those firms leasing and developing coal resources on Federal lands, and the makeup of current Federal coal lessees does not reflect that of the overall industry. This disparity between the composition of the overall industry and that of the subset of the industry that holds Federal leases likely reflects the type of mine development occurring in the West where most of the Federal leasing occurs. Much of the coal currently being produced from Federal lands is from extremely large deposits that favor large-scale, capital-intensive

development, and requires a large workforce. Therefore, because the changes proposed apply primarily to western lease and LMU operations, it appears that this rule would not affect a substantial number of small entities.

In addition to determining whether a substantial number of small entities are likely to be affected by this rule, the BLM must also determine whether the rule is anticipated to have a significant economic impact on those small entities. All of the proposed provisions will apply to lessees or mine operators regardless of size. The proposed changes to the lease modification acreage, approval of payment of advance royalties, and lease operation and reclamation plans will not subject lessees or mine operators to any new costs. In addition, large competitors would not gain any advantage over small entities due to these proposed provisions.

The proposed changes in bonding for deferred bonus bids would not increase the costs to current and future lessees. Lessees that have a history of timely payments to the government are allowed to make deferred bonus payments without providing the agency a bond. This benefit would apply to all qualified Federal coal lessees. However, in certain situations, the provision could give existing lessees that have a history of timely payments a competitive advantage over lessees or prospective lessees, including those that are small entities, that either do not have a history of timely payments or that have not held a Federal coal lease long enough to establish a history of timely payments. An entity that does not need to bond for its deferred bonus bid will have lower costs than those entities that must pay to provide the BLM with the requisite bond.

Where this advantage would be most acute would be in the competitive bidding for a lease associated with a new coal mining operation. Prospective lessees would be competing for the right to lease the tract through the competitive sale process that requires bidding a bonus value for the lease. An entity without a payment history would have higher acquisition costs than those entities that qualify to defer a bond for future bonus bid payments. The development of a new coal mine is not, however, a common scenario. There have only been 3 leases, out of 59 leases that the BLM issued in the past 10 years, which were associated with the development of a new coal mine.

Any disadvantage small entities may face due to this provision is mitigated by the availability of the small business leasing opportunity provided under 43 CFR 3420.1–3(b)(2). This regulation provides special leasing opportunities for small businesses, where only small entities are allowed to bid on Federal coal leases. Larger competitors, who may have a competitive advantage, are not allowed to bid for these coal tracts set aside for small businesses.

Proposed section 3473.3–2 would set the royalty rate for highwall coal mining at 12½ percent. Proposed section 3483.4(d) would address the royalty rate that would be used for the calculation of advance royalty, setting it at 12½ percent where the Federal LMU recoverable coal reserves contained in the LMU would be recovered by mining operations other than underground mining. These proposed provisions would increase costs to a limited number of operators. As of this analysis, 7 operations have or are employing highwall mining technology on Federal lands, and all 7 companies are not considered small entities as defined by the SBA. At some point in the future, a small entity may incorporate highwall mining into its operation. The operator would be subject to the higher royalty rate, but it would be the same rate large competitors would pay.

Based on the available information, we conclude that the proposed rule would not have a significant impact on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act (SBREFA). This rule will not have an annual effect on the economy of $100 million or more. As explained under the preamble discussion concerning Executive Order 12866, Regulatory Planning and Review, clarification of the royalty rate for non-underground mining may increase the annual cost associated with the development of specific Federal coal resources by an estimated average of $662,000 per year. However, as all federal coal lessees have paid, or have agreed to pay, royalties consistent with this proposed rulemaking, there is no practical economic impact. Further, the prospective increased cost is limited to specific mining conditions that are only found within a few mines, none of which have operators that qualify as small business entities. Therefore, the proposed clarification in royalty rates will have no effect on small business.

This rule proposes to implement new processing fees for applications to pay advance royalty, extend an LMU, and to avoid providing a bond for deferred bonus payment. These proposed fees would total an estimated $2,690 per year.

The other proposed provisions that implement the EPAct, including lease modification acreage, approval of LMUs, payment of advance royalties, lease operation and reclamation plan, and bonding for deferred bonus bids, would potentially reduce the cost of maintaining Federal coal leases by making the administration of the coal program more efficient. The BLM notes that any changes in costs to the regulated community from changes in the way advance royalty is valued will be addressed by the ONRR. Any cost savings are, however, case-specific. It is highly unlikely the savings would exceed the threshold established by SBREFA. This rule:

- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and
- Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we find that:

- This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is unnecessary.
- This rule will not produce a Federal mandate of $100 million or greater in any single year.

The rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The changes proposed in this rule would not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the BLM finds that the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a compensable taking.

Executive Order 13132, Federalism

In accordance with Executive Order 13132, the BLM finds that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the

role of or responsibilities among Federal, state, and local governmental entities. It does not relate to the structure and role of the states or have direct, substantive, or significant effects on states.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have found that a portion of this proposed rule may include policies that have Tribal implications. The proposed rule would make changes to the coal management regulations, 43 CFR parts 3000, 3400, 3430, 3470, and 3480. As noted below, some of the provisions of 43 CFR part 3480 are applicable to ''Indian lands.'' Under the regulations of the Bureau of Indian Affairs, the term ''Indian lands'' includes Tribal lands. See 25 CFR 211.3, 212.3, and 225.3.

The Bureau of Indian Affairs regulations at 25 CFR 211.4, 212.4, and 225.1(c) incorporate, through an explicit cross-reference, the BLM regulations at 43 CFR part 3480 and thus, unless expressly exempted, the provisions contained in part 3480 apply to Indian lands. The BLM coal management regulations at 43 CFR parts 3400 through 3470, are not similarly incorporated by cross reference, are not applicable to Indian lands, and thus, proposed amendments to regulations in parts 3000, 3400, 3430, and 3470 are not subject to Tribal consultation.

The BLM regulations at 43 CFR 3480.0–4 further provide that the provisions of part 3480 relating to advance royalty, diligent development, continued operation, maximum economic recovery, and LMUs do not apply to Indian lands, leases, and permits. Thus, the proposed amendments contained in this rule to 43 CFR subpart 3483, Diligence Requirements, and subpart 3487, Logical Mining Unit, are excluded from Tribal consultation. The proposed definitions of ''continued operation'' and ''diligent development period'' are similarly excluded from Tribal consultation. A proposed amendment to add a new paragraph (h) to section 3482.3 is not subject to Tribal consultation, because the proposed paragraph would be specifically limited in its application to LMUs.

As noted above, the BLM regulations at 43 CFR subpart 3482 would be generally applicable to Indian lands unless otherwise specifically exempted, as noted above for proposed section 3482.3. Since 43 CFR 3482.1(b) is not similarly specifically exempted from applicability to Indian lands, proposed regulatory amendments to that provision would be applicable to Indian lands if adopted by the BLM. Accordingly, this portion of the proposed rule would be a policy that could have Tribal implications.

Inasmuch as proposed amendments to 43 CFR 3482.1(b) may have Tribal implications by reason of its potential applicability to Indian lands, the BLM will begin consultation with potentially affected Tribes upon publication of the proposed rule. Further, the BLM will continue to consult with Tribes during the comment period of the proposed rule.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, we find that the proposed rule would not unduly burden the judicial system, and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order. The BLM consulted with the Department of the Interior's Office of the Solicitor throughout the rule making process.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that this proposed rule would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources. The rule would properly accommodate local participation in the Federal decision-making process, and would provide that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

This proposed rule contains information collection requirements that are subject to review by the OMB under the Paperwork Reduction Act (44 U.S.C. 3501–3520). Collections of information include any request or requirement that persons obtain, maintain, retain, or report information to an agency, or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)).

The OMB has approved the existing information collection requirements associated with coal management, and has assigned control number 1004–0073 to those requirements.

The BLM has requested OMB approval, under a new control number, for:

- Modifications of some of the existing information collection requirements currently approved under control number 1004–0073; and
- New information collection requirements.

After promulgating a final rule and receiving approval from the OMB, the BLM intends to request that the new control number be combined with existing control number 1004–0073. Therefore, the BLM intends that, over the long term, all of the information collection requirements and burdens associated with coal management will be authorized under control number 1004–0073.

Both types of proposed changes are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection requirements.

Title: Coal Management Revisions (43 CFR Parts 3000 and 3400 through 3480).

OMB Control Number: 1004–XXXX.

Abstract: Provisions of this proposed rule that would affect coal management information collections are described below. The burdens and effects of these provisions are itemized at Tables 2 through 5, below.

1. The proposed rule would add 3 new fixed processing fees to 43 CFR 3000.12. One of these new fees would be $170 for each Request for Payment of Advance Royalty in Lieu of Continued Operation (43 CFR subpart 3483). The OMB has approved this collection activity under control number 1004–0073, but has not yet approved the processing fee. The other proposed processing fees would be for the following new information collection requirements:

- $160 per response for each Application for History of Timely Payments Determination (Proposed 43 CFR 3474.10); and
- $170 per response for each Application to Extend an LMU Beyond the Initial 40-Year Period (Proposed 43 CFR 3487.10).

A complete discussion of how the amounts of these 3 fees were determined is in the preamble of this proposed rule.

2. The BLM proposes new 43 CFR 3474.10, which would require a lessee or mine operator to submit an application in order to seek a determination of a history of timely payments. It would be necessary for a lessee or mine operator to obtain such a determination from the BLM in order to obtain a waiver of the bond requirement for deferred bonus bid

installment payments. In accordance with Section 436 of the EPAct, the BLM may grant (or will grant, in the case of leases issued after August 8, 2005) such a waiver only after determining, in consultation with the ONRR, that the lessee has a history of timely payments of non-contested royalties, advance royalties, and bonus bid installment payments. As indicated at proposed section 3474.10(b), an applicant for a history of timely payments determination would have to submit to the BLM two copies of the following information:

- The name, address, and phone number of the applicant and the applicant's primary contact person;
- Identification of the lease or leases for which the applicant requests a surety bond or other financial guarantee waiver for deferred bonus bid installment payments;
- Identification of the surety bonds or other financial guarantee instruments, if applicable, that the applicant desires to reduce or discontinue;
- The serial numbers and names of the lessee(s) of record of all Federal coal leases that constitute the basis for a history of timely payments determination under paragraph (c) of this section and sufficient documentation to demonstrate that the Federal coal leases are under the control of the lessee(s) of record;
- The SMCRA permit number and mine name or the LMU serial number and LMU name that are controlled by or under common control with, as defined in section 3400.0–5(b) of this chapter, the history of timely payments applicant, and that adjoin the leases identified in paragraph (b)(2)(ii) of this section; and
- Any other information requested by the BLM.

The BLM estimates it would take 8 hours to complete a history of timely payments application, and there would be on average three such applications per year. As noted above, the BLM is proposing a new processing fee of $160 for an application for a history of timely payments determination. The BLM has decided not to develop a specific form to apply for a history of timely payments determination.

3. Section 433 of the EPAct provides that the Secretary may extend the term of an LMU beyond the 40th year. The BLM proposes new 43 CFR 3487.10, which would provide for applications to extend the term of an LMU beyond the initial 40-year period in increments of 10 years or less.

An application to extend an LMU term beyond the initial 40-year period must provide sufficient information for the BLM to determine whether the extension complies with the provisions at proposed section 3487.5(b)(1) or proposed § 3487.5(b)(2).

The text of proposed section 3487.5(b)(1) appears in the existing coal management regulations as 43 CFR 3487.1(f)(2)(i), which requires respondents to show that mining operations on the LMU would achieve maximum economic recovery of Federal recoverable coal reserves within the LMU.

The text of proposed section 3487.5(b)(2) appears in the existing coal management regulations at 43 CFR 3487.1(f)(2)(ii), which requires respondents to show that mining operations on the LMU would facilitate development of the coal reserves in an efficient, economical, and orderly manner.

The BLM does not intend to develop a specific form for applications to extend the term of an LMU beyond the initial 40-year period. As noted above, the BLM proposes to assess a $170 processing fee for each application. The BLM estimates the public burden hours for an application to extend an LMU to be 5 hours per response, and anticipates one response per year.

4. Section 435 of the EPAct eliminated the requirement for the lessee or mine operator to provide the BLM with an operations and reclamation plan under the MLA, as amended (30 U.S.C. 207(c)), within 3 years of lease issuance. However, the MLA still requires that an operations and reclamation plan be approved by the Secretary before mining begins (see 43 CFR 3482.1(b)). The BLM implements this statutory requirement with its regulatory requirement of a resource recovery and protection plan (R2P2).

The BLM proposes to remove from section 3482.1(b) the requirement to submit a 3-year R2P2. This proposal would have the effect of adjusting the public burden downward (from 980 responses to 975 annually) for the information collection activity titled, ''Resource Recovery and Protection Plans (43 CFR Part 3480, Subpart 3482).''

5. The BLM proposes to re-designate existing section 3487.1(c)(2) as new section 3487.2(b), and codify a provision of the LMU Guidelines that has required a description of other mineral interests within the LMU as a part of the LMU application. This proposal would aid the BLM in making a determination that the LMU applicant has the right to enter and mine coal from all the lands proposed to be within an LMU. Since the quantity and quality of the information varies depending to a great extent on the geographic location of the LMU, the BLM will not develop a specific form to report this information. The BLM estimates this requirement would add an average of 5 public burden hours to each of the two anticipated LMU applications per year.

As required by the Paperwork Reduction Act at 44 U.S.C. 3507(d), the BLM has submitted an information collection request to the OMB for review. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the information collection displays a current OMB control number.

We invite the public and other Federal agencies to comment on any aspect of the reporting burden through the information collection process. You may submit comments on the information collection burdens directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, fax (202–395–5806), or *oira_submission@omb.eop.gov.* Please indicate ''Attention: OMB Control Number 1004–XXXX.'' If you submit comments on the information collection burdens, you should provide the BLM with a copy of your comments (see **ADDRESSES**), so that we can summarize all written comments and address them in the preamble to the final rule.

The estimated hour burdens of this proposed rule are itemized in Tables 2 and 3, and the estimated processing fees are itemized in Table 4.

TABLE 2—ESTIMATED HOUR BURDENS FOR PROPOSED INFORMATION COLLECTION CHANGES: NEW COLLECTION ACTIVITIES

Proposed change A.	Estimated number of responses annually B.	Estimated hours per response C.	Estimated hour burden (column B × column C) D.
Application for History of Timely Payments Determination (New 43 CFR 3474.10)	3	8	24
Application to Extend an LMU Beyond the Initial 40-Year Period (New 43 CFR 3487.10)	1	5	5

TABLE 3—ESTIMATED HOUR BURDENS FOR PROPOSED INFORMATION COLLECTION CHANGES: REVISIONS OF EXISTING COLLECTION ACTIVITIES

Proposed change A.	Estimated number of responses annually B.	Estimated hours per response C.	Estimated hour burden (column B × column C) D.
Removal of "3-year R2P2" Requirement from "43 CFR Part 3480, Subpart 3482 Resource Recovery and Protection Plans" (Revised 43 CFR 3482.1(b)).	975 (5 fewer responses than in the IC currently authorized under control number 1004–0073).	20	19,500 (100 fewer hours than in the IC currently authorized under control number 1004–0073)
Revision of "43 CFR Part 3840, Subpart 3487 Application for Formation or Modification of Logical Mining Unit" (Revision of 43 CFR 3487.1(c)(2) and re-designation as 43 CFR 3487.2(b)).	2 (Same as the number of responses in the IC currently authorized under control number 1004–0073).	175 (5 hours more than in the IC currently authorized under control number 1004–0073).	350 (10 more than in the IC currently authorized under control number 1004–0073)

TABLE 4—PROPOSED PROCESSING FEES

Proposed change A.	Estimated number of responses annually B.	Estimated fee for each response C.	Total estimated fees annually (column B × column C) D.
New Processing Fee for New IC: Application for History of Timely Payments Determination (New 43 CFR 3474.10)	3	$160	$480
New Processing Fee for Existing IC: Request for Payment of Advance Royalty in Lieu of Continued Operation\ (Revised 43 CFR subpart 3483)	12	170	2,040
New Processing Fee for New IC: Application to Extend an LMU Beyond the Initial 40-Year Period (New 43 CFR 3487.10)	1	170	170
Totals	16		2,690

The BLM is requesting comments by the public on these proposed changes to:

(a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(c) Enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication. This does not affect the deadline for the public to comment to the BLM on the proposed rule.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA), BLM's January 2008 NEPA Handbook H–1790–1, and 516 DM 1 through 4 and 11. We have prepared an Environmental Assessment (EA) and have concluded that this rule would not have a significant impact on the quality of the human environment under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C), and therefore an Environmental Impact Statement is not required. The EA is available for review at the address specified under **ADDRESSES**.

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

This proposed rule would amend the BLM's coal management regulations and therefore might have an effect on the supply of coal. The effect of each provision is discussed separately as follows:

• The proposed rule would implement the Federal coal provisions of the EPAct by amending existing regulations. These amendments include: Increasing the maximum acreage for a lease modification from 160 acres to 960 acres; new procedures for extending the life of an LMU beyond 40 years; changes in the procedures and standards for payment of advance royalty for leases and LMUs; elimination of the requirement to submit an R2P2 within 3 years after lease issuance or establishment of an LMU; and changes in procedures and standards for bonds that are used to ensure payment of the remaining balance of deferred bonus bids. All of these changes are administrative in nature and do not have a direct impact on the cost or supply of energy. However, as these changes may reduce the administrative cost to hold a Federal coal lease, they likewise might indirectly help to increase energy supplies by helping enable otherwise uneconomic resources to be recovered.

• Portions of the LMU Guidelines (published in the **Federal Register** on August 29, 1985) are no longer consistent with the statute as amended by the EPAct. The BLM is therefore proposing a formal withdrawal of the LMU Guidelines and proposing to incorporate into the regulations those parts of the guidelines that remain valid, to the extent those parts of the LMU Guidelines that are not currently in regulations. The LMU Guidelines are administrative in nature and do not directly affect the supply of energy. Hence, the BLM anticipates no net change in energy supplies from this action.

• The BLM is proposing to make it clear that a royalty rate of 12½ percent will be assessed on all Federal coal except coal that is mined from underground mines. The proposed rule will define underground mines as mine workings where personnel work with undisturbed earth directly overhead and that have authorization from MSHA for personnel to work underground. We expect no net change in the quantity of coal that is developed from mines that are not underground mines, such as auger or continuous highwall mining operations, which are conducted on Federal coal leases.

Information Quality Act

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554). In accordance with the Information Quality Act, the Department of the Interior has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at DOI's Web site at *http://www.doi.gov/ocio/iq.html.*

Author

The principal author of this proposed rule is William Radden-Lesage, Mining Engineer, Solid Minerals Division, assisted by Jean Sonneman, Division of Regulatory Affairs, Washington Office, BLM, and Harvey Blank, Office of the Solicitor, Department of the Interior.

List of Subjects

43 CFR Part 3000

Public lands-mineral resources.

43 CFR Part 3400

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mines, Public lands-mineral resources.

43 CFR Part 3430

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mines, Public lands-mineral resources, Public lands-rights-of-way, reporting and recordkeeping requirements.

43 CFR Part 3470

Coal, Government contracts, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3480

Government contracts, Intergovernmental relations, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements.

Tommy P. Beaudreau,

Acting Assistant Secretary of the Interior, Land and Minerals Management.

For the reasons stated in the preamble, and under the authorities listed below, parts 3000, 3400, 3430, 3470, and 3480, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations, are proposed to be amended as follows:

PART 3000—MINERALS MANAGEMENT: GENERAL

■ 1. The authority citation for part 3000 continues to read as follows:

Authority: 16 U.S.C. 3101 *et seq.;* 30 U.S.C. 181 *et seq.,* 301–306, 351–359, and 601 *et seq.;* 31 U.S.C. 9701; 40 U.S.C. 471 *et seq.;* 42 U.S.C. 6508; 43 U.S.C. 1701 *et seq.;* and Pub. L. 97–35, 95 Stat. 357.

■ 2. Section 3000.12 is amended by adding, in the table in paragraph (a), after the fee for coal lease or lease interest transfer, three new fixed fees for processing applications for particular coal actions to read as follows:

§ 3000.12 What is the fee schedule for fixed fees?

(a) * * *

Document/action	FY 2013 fee
* * *	
Coal (parts 3400, 3470)	
* * *	
History of timely payments application	160
Advance royalty application	170
Logical mining unit extension application	170
* * *	

* * * * *

PART 3400—COAL MANAGEMENT: GENERAL

■ 3. The authority citation for part 3400 continues to read as follows:

Authority: 30 U.S.C. 189, 359, 1211, 1251, 1266, and 1273; and 43 U.S.C. 1461, 1733, and 1740.

■ 4. Section 3400.0–3 is amended by adding paragraphs (a)(10) and (11) to read as follows:

§ 3400.0–3 Authority.

(a) * * *

(10) The Energy Policy Act of 1992 (Pub. L. 102–486).

(11) The Energy Policy Act of 2005 (Pub. L. 109–58).

* * * * *

■ 5. Amend § 3400.0–5 by:

■ a. Revising the introductory text and redesignating it as paragraph (a) introductory text;

■ b. Removing the lettered paragraph designations (a) through (qq) and arranging the definitions in alphabetical order;

■ c. Adding a definition of ''Underground mine'' to paragraph (a) in alphabetical order; and

■ d. Redesignating paragraph (rr) as paragraph (b).

The revision and addition read as follows:

§ 3400.0–5 Definitions.

(a) As used in parts 3400 through 3480 of this chapter:

* * * * *

Underground mine means, for purposes of establishing the royalty rate under the terms of a coal lease, an excavation in the earth for the purpose of severing coal in which persons routinely work in an environment where undisturbed earth is directly overhead and where roof control and ventilation plans are approved by the Mine Health and Safety Administration, Department of Labor, to allow persons to work in areas where undisturbed earth is directly overhead.

* * * * *

■ 6. Add § 3400.7 to read as follows:

§ 3400.7 Information collection.

(a) The Office of Management and Budget (OMB) has approved the information collection requirements in parts 3400 through 3480 of this chapter in accordance with 44 U.S.C. 3507, and has assigned the requirements Control Number 1004–0073.

(b) Respondents are coal mining applicants, lessees, licensees, and operators. The information collection requirements in these parts are in accordance with the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), the Energy Policy Act of 2005 (Pub. L. 109–58), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), and the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701 *et seq.).* A response may be mandatory, voluntary, or required in order to obtain or retain a benefit.

(c) The Paperwork Reduction Act of 1995 requires the BLM to inform the public that an agency may not conduct or sponsor, and the public is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding any aspect of the collection of information under these parts, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240.

PART 3430—NONCOMPETITIVE LEASES

■ 7. The authority citation for part 3430 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.;* 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 *et seq.;* and 43 U.S.C. *1701 et seq.*

Subpart 3432—Lease Modifications

■ 8. Section 3432.0–3 is amended by revising paragraph (b) to read as follows:

§ 3432.0–3 Authority.

* * * * *

(b) These regulations primarily implement Section 3 of the Mineral Leasing Act of 1920, as amended, by:

(1) Section 13 of the Federal Coal Leasing Amendments Act (FCLAA) of 1976 (30 U.S.C. 203); and

(2) Section 432 of the Energy Policy Act of 2005 (Pub. L. 109–58).

■ 9. Section 3432.1 is amended by removing the second sentence of paragraph (a) and adding paragraph (c) to read as follows:

§ 3432.1 Application.

* * * * *

(c) The acreage added to the lease by modification after August 4, 1976, must not exceed the lesser of 960 acres or the acreage of the lease when the lease was issued.

■ 10. Section 3432.2 is amended by revising paragraph (c) as follows:

§ 3432.2 Availability.

* * * * *

(c) The lands applied for shall be added to the existing lease without competitive bidding. The United States shall receive the fair market value of the lands added to a lease either by cash bonus payment or by deferred bonus payments as provided at section 3422.4(c).

Subpart 3435—Lease Exchange

■ 11. Section 3435.3–5 is amended by revising the last sentence to read as follows:

§ 3435.3–5 Notice of public hearing.

* * * Any notice of the availability of an environmental assessment or draft environmental impact statement on the exchange may be used to comply with this section.

PART 3470—COAL MANAGEMENT PROVISIONS AND LIMITATIONS

■ 12. The authority citation for part 3470 is revised to read as follows:

Authority: 30 U.S.C. 189, 207, and 359; and 43 U.S.C. 1733 and 1740.

Subpart 3473—Fees, Rentals, and Royalties

■ 13. Amend § 3473.2 by adding paragraphs (h), (i), and (j) to read as follows:

§ 3473.2 Fees.

* * * * *

(h) An application for a history of timely payments determination must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter.

(i) An application to pay advance royalty in lieu of continued operation must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter.

(j) An application for a 10-year extension to the term of a logical mining unit must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter.

■ 14. Amend § 3473.3–2 by revising paragraph (a) to read as follows:

§ 3473.3–2 Royalties.

(a)(1) Except as provided in paragraph (a)(2), a lease shall require payment of a royalty of not less than 12½ percent of the value of the coal recovered. Among other methods, the royalty rate established under this paragraph shall apply to all coal recovered by surface mining, highwall mining systems, including auger mining, continuous highwall mining and other similar systems where personnel do not work in an underground mine.

(2) A lease shall require payment of a royalty of 8 percent of the value of the coal recovered from an underground mine.

(3) The Office of Natural Resources Revenue (ONRR) determines the value of the coal recovered from a mine in accordance with the regulations set forth at 30 CFR part 206, subpart F.

* * * * *

Subpart 3474—Bonds

■ 15. Amend § 3474.1 by revising the section heading and paragraph (b) and by removing paragraph (c).

The revisions read as follows:

§ 3474.1 Acceptable bonds.

* * * * *

(b) For exploration licenses, a bond shall be furnished in accordance with § 3410.3–4 of this chapter.

■ 16. Revise § 3474.2 to read as follows:

§ 3474.2 Filing requirements for bonds.

(a) The applicant or bidder must file the lease bond in the proper office within 30 days after receiving notice. The lease bond must be furnished on a form approved by the BLM.

(b) The BLM may approve a brief extension to the filing requirement when the applicant or bidder experiences delays in securing a bond that are beyond the control of the applicant or bidder.

(c) The BLM will issue a new lease or lease modification only after a lease bond or other financial surety has been submitted to the proper BLM office, found adequate by the BLM, and accepted.

§§ 3474.3 through 3474.6 [Redesignated as §§ 3474.5 through 3474.8]

■ 17. Redesignate §§ 3474.3 through 3474.6 as §§ 3474.5 through 3474.8, respectively.

■ 18. Add new § 3474.3 to read as follows:

§ 3474.3 Required amount of the bond.

Except as provided in § 3474.5, the authorized officer will determine the amount of the required bond. The bond must be sufficient to cover the cumulative amount of 1 year's rental, 3 months of production royalty or 1 year's advance royalty, 1 annual deferred bonus payment, and 100 percent of the cost of reclamation for exploration licenses or exploration on leases not yet in a Surface Mining Control and Reclamation Act (SMCRA) mining permit. The required bond amount must be at least $5,000.

■ 19. Add new § 3474.4 to read as follows:

§ 3474.4 Review and adjustment of bond amount.

The bond for a lease, exploration license, or license to mine will be reviewed at regular intervals, or as changes in conditions warrant, to assure that the bond amount remains appropriate under § 3474.3 of this part. This review may result in the amount of a bond being modified upward or downward.

■ 20. Revise newly redesignated § 3474.5 to read as follows:

§ 3474.5 Bond Release.

After consultation with the Office of Surface Mining Reclamation and Enforcement, the authorized officer may release the amount of any outstanding bond which is related to, and is not necessary to secure, the performance of reclamation within a permit area.

■ 21. Revise newly redesignated § 3474.6 to read as follows:

§ 3474.6 Qualified sureties.

The Financial Management Service of the Department of the Treasury annually publishes in the **Federal Register** a list of companies that hold certificates of authority from the Secretary of the Treasury and are, therefore, acceptable sureties for Federal bonds. The BLM will accept bonds only from sureties with current certificates of authority from the Secretary of the Treasury.

■ 22. Amend newly redesignated § 3474.8 by adding two sentences at the end to read as follows:

§ 3474.8 Termination of the period of liability.

* * * The surety or other bond provider remains responsible for obligations that accrued during the period of liability while the bond was in effect and until such liability is released by the BLM. An existing lease bond or other financial surety must remain in effect until another bond or other financial surety is filed and accepted as a replacement.

■ 23. Add § 3474.9 to read as follows:

§ 3474.9 Consolidated lease bonds.

An operator/lessee may combine the bond requirements for all the leases that it holds and that are within the boundary of a single mine permit into a single consolidated lease bond. The amount of the consolidated lease bond will be equal to the combined amount of the bond requirements for all of the leases within the mine permit boundary.

■ 24. Add § 3474.10 to read as follows:

§ 3474.10 Bonds for deferred bonus.

(a) *Introduction to history of timely payments.* (1) For Federal coal leases issued before August 8, 2005, the BLM may waive the bond requirement for deferred bonus bid installment payments if the BLM determines, in consultation with the Office of Natural Resources Revenue (ONRR), that the lessee has a history of timely payments of non-contested royalties, advance royalties, and bonus bid installment payments.

(2) For leases and lease modifications issued after August 8, 2005:

(i) The BLM will not require a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment payments if the BLM determines, in consultation with the ONRR, that the lessee or successor in interest has a history of timely payments. If the BLM determines that the lessee does not have a history of timely payments, the lease or modified lease may be issued only if an amount sufficient to cover one annual deferred bonus payment is added to the lease bond, logical mining unit bond, or consolidated lease bond.

(ii) When a lease or a lease modification is issued based upon the lessee providing a lease bond that includes one annual deferred bonus payment, the BLM will reduce the lease bond requirement for that lease or lease modification by an amount equal to one deferred bonus payment, if:

(A) At a later date the lessee submits a new history of timely payments application and the BLM determines that the lessee has a history of timely payments that is in compliance with this subpart; or

(B) The deferred bonus for the lease or lease modification has been paid in full.

(b) *Application requirements for a history of timely payments determination.* (1) A lessee or successful bidder may apply for a history of timely payments determination.

(i) A current lease holder may apply for a history of timely payments determination at any time.

(ii) In the case of a lease modification, the lessee may apply for a history of timely payments determination only after the lessee and the BLM have agreed upon the fair market value for the lease modification.

(iii) For new leases, the successful bidder may apply for a history of timely payments determination only after the BLM provides written notification to the successful bidder that the BLM has accepted its bonus bid as the fair market value for a coal tract that was offered for competitive sale.

(2) You must submit to the BLM two copies of a written application for the history of timely payments determination. The application must include:

(i) The name, address, and phone number of the applicant and the applicant's primary contact person;

(ii) Identification of the lease or leases for which the applicant requests a surety bond or other financial guarantee waiver for deferred bonus bid installment payments;

(iii) Identification of the surety bonds or other financial-guarantee instruments, if applicable, that the applicant desires to reduce or discontinue;

(iv) The serial numbers and names of the lessee(s) of record of all Federal coal leases that constitute the basis for a history of timely payments determination under paragraph (c) of this section and sufficient documentation to demonstrate that the Federal coal leases are under the control of the lessee(s) of record;

(v) The SMCRA permit number and mine name or the LMU serial number and LMU name that are controlled by or under common control with, as defined in § 3400.0–5(b) of this chapter, the history of timely payments applicant, and that adjoin the leases identified in paragraph (b)(2)(ii) of this section; and

(vi) Any other information requested by the BLM.

(3) Any confidential data in the application must be marked consistent with § 3481.3 of this chapter.

(4) The applicant may aggregate into one history of timely payments application all leases or lease modifications that have a portion of their bonus payments deferred only if all the leases or lease modifications are within the same boundary, as described in paragraph (c)(1) of this section.

(c) *Basis for a history of timely payments determination.* (1) The BLM will base its history of timely payments determination on the applicant's payment history for the 5 years immediately preceding a history of timely payments application for all Federal coal leases that are:

(i) Encompassed by an adjoining LMU boundary or SMCRA mining permit boundary; and

(ii) Under the control of the history of timely payments applicant during the 5-year period.

(2) If the applicant has less than 5 years of payment history, or there is not an adjoining mine as provided in paragraph (c)(1) of this section, the BLM may consider the nationwide payment history of an applicant's corporate owner and affiliates under common control with the applicant.

(3) If the history of timely payments applicant, or the applicant's corporate owner or affiliates under common control with the applicant, does not have a 5-year history of payments for a Federal coal lease, the applicant cannot qualify for a history of timely payments determination.

(4) To satisfy the history of timely payments requirement, every non-contested production royalty, advance royalty, and deferred bonus bid payment during the 5-year period must have been paid in full on or before the date the payment was due. Contested payments may be considered if the lessee or mine operator has provided an assurance of full payment to the satisfaction of the ONRR. Partial payment or nonpayment does not satisfy this requirement unless the lessee or mine operator has also provided an assurance of full payment to the satisfaction of the ONRR.

(d) *Resolution of disputed payment history.* If the ONRR informs the BLM that the applicant does not satisfy the criteria for a history of timely payments determination, before the BLM makes a final determination, the BLM will notify the applicant and provide the applicant 30 days to resolve any differences in the payment history between the applicant and ONRR.

(e) *The history of timely payments determination.* (1) If the applicant satisfies the criteria for a history of timely payments determination, the BLM will make a written history of timely payments determination that will be effective for all leases covered by the application until the deferred bonus is paid in full in accordance with the terms and conditions of the leases.

(2) If the applicant fails to satisfy the criteria for a history of timely payments determination, the BLM will reject the application, and will immediately require:

(i) A separate bond in an amount equal to one deferred bonus payment; or

(ii) An increase in an existing bond amount that is equal to the amount of one deferred bonus payment.

(3) Failure to make a timely deferred bonus bid payment will result in cancellation of the history of timely payments determination and the BLM will immediately require:

(i) A separate bond in an amount equal to one deferred bonus payment; or

(ii) An increase in an existing bond amount that is equal to the amount of one deferred bonus payment.

(f) *Lease termination for failure to pay a deferred bonus bid installment.* (1) The BLM will provide written notice to the lessee that an annual deferred bonus bid payment is past due. The notice will demand that the lessee, within 10 days beginning on the date of receipt of the notice, remit full payment of the deferred bonus payment or provide evidence, to the satisfaction of the BLM, to demonstrate that the deferred bonus payment was previously made.

(2) If the lessee provides the BLM with evidence to demonstrate that the full amount of the past due bonus payment was paid either before receipt or within 10 days after receipt of the notice under paragraph (f)(1) of this section, the BLM will review all submitted evidence and, in consultation with the ONRR, determine whether full payment was made.

(i) If the BLM concludes that the lessee paid the deferred bonus bid payment either before receipt or within the 10 days after receipt of the notice under paragraph (f)(1) of this section, the BLM will notify the operator/lessee of this conclusion and the lease will not terminate.

(ii) If the BLM concludes that the lessee did not pay the deferred bonus bid payment either before receipt or within 10 days after receipt of the notice under paragraph (f)(1) of this section, the BLM will notify the lessee that the lease is terminated.

(3) If the lessee does not respond within 10 days after receipt of the notice under paragraph (f)(1) of this section, the BLM will consult with the ONRR to confirm that the past due bonus payment was not made within 10 days after receipt of the notice under paragraph (f)(1) of this section, and, upon confirmation, will notify the lessee that the lease is terminated as a matter of law.

(4) If a lease is terminated under paragraph (f)(2) or (f)(3) of this section, any bonus payments made to United States with respect to the lease:

(i) Will not be returned to the lessee; and

(ii) Cannot be credited to any future coal lease sale.

■ 25. Add § 3474.11 to read as follows:

§ 3474.11 Logical Mining Unit (LMU) bonds.

(a) Upon approval of an LMU (subpart 3487 of this chapter) the LMU operator may, in lieu of individual lease bonds for each Federal coal lease in the LMU, furnish and maintain an LMU bond. In addition to all the lease bond requirements in this subpart, an LMU bond must also comply with the following specific LMU bond requirements:

(1) The amount of the LMU bond must be sufficient to cover all of the lease bond obligations for all Federal leases within the LMU; and

(2) All LMU bonds must be in an amount not less than that specified by the BLM.

(b) The BLM will review the amount of the LMU bond at regular intervals to ensure that the LMU bond continues to meet the bond requirements of all the Federal coal leases in the LMU.

(c) When an LMU is terminated, the period of liability under the LMU bond continues until the remaining Federal coal leases that were in the LMU are covered by individual lease bonds in the manner prescribed by the BLM.

PART 3480—COAL EXPLORATION AND MINING OPERATIONS RULES

■ 26. The authority citation for part 3480 continues to read as follows:

Authority: 30 U.S.C. 189, 359, 1211, 1251, 1266, and 1273; and 43 U.S.C. 1461, 1733, and 1740.

Subpart 3480—Coal Exploration and Mining Operations Rules: General

■ 27. Amend section 3480.0–5 by:

■ a. Removing from paragraph (a) the numbered paragraph designations (1) through (36) and arranging the definitions in alphabetical order; and

■ b. Revising the definitions of ''continued operation'' and ''diligent development period'' to read as follows:

§ 3480.0–5 Definitions.

(a) * * *

Continued operation means the annual production of at least

commercial quantities of recoverable coal reserves following the achievement of diligent development. An operator/lessee may achieve continued operation in any continued operation year by producing at least commercial quantities of coal from a lease or LMU during the continued operation year. Beginning in the third continued operation year, the operator/lessee may alternatively achieve continued operation if its cumulative coal production from a lease or LMU during the continued operation year in question and the 2 preceding continued operation years (a total of 3 continued operation years) is equal to or greater than the sum of the commercial quantities for the same continued operation years. Advance royalty may be paid, with approval from the BLM, in lieu of continued operation (43 CFR subpart 3483).

* * * * *

Diligent development period means:

(i) For Federal leases, a 10-year period that begins on either:

(A) The effective date of the Federal lease for Federal leases issued on or after August 4, 1976; or

(B) The effective date of the first lease readjustment after August 4, 1976, for Federal leases issued before August 4, 1976;

(ii) For LMUs, a 10-year period that begins on either:

(A) The effective date of the most recent Federal lease issued or readjusted before LMU approval; or

(B) The effective date of the LMU, if the LMU contains a Federal lease issued before August 4, 1976, that has not been readjusted after August 4, 1976; and

(iii) For Federal coal leases and LMUs, the diligent development period terminates at the end of the royalty reporting period in which the production of recoverable coal reserves in commercial quantities was achieved, or at the end of 10 years, whichever occurs first.

* * * * *

Subpart 3482—Exploration and Resource Recovery and Protection Plans

■ 28. Amend § 3482.1 by revising paragraph (b) to read as follows:

§ 3482.1 Exploration and resource recovery and protection plans.

* * * * *

(b) *Resource recovery and protection plans.* (1) Before conducting any development or mining operations on a Federal lease or under a license to mine under part 3440 of this chapter, the operator/lessee must:

(i) Submit and obtain approval of a resource recovery and protection plan from the BLM; and

(ii) Submit a permit application package under 30 CFR 740.13 to the Office of Surface Mining Reclamation and Enforcement or to the state regulatory authority under a Federal/state cooperative agreement entered into under 30 CFR part 745, containing, among other documents, the operator/lessee's resource recovery and protection plan and the BLM's approval of the resource recovery and protection plan.

(2) A resource recovery and protection plan for an LMU must be submitted to the BLM as provided in § 3487.2(d).

* * * * *

■ 29. Amend § 3482.3 by adding paragraph (h) to read as follows:

§ 3482.3 Mining operations maps.

* * * * *

(h) *Logical mining unit maps.* Maps for logical mining units must conform to the applicable parts of this section and the requirements at § 3487.8(a).

Subpart 3483—Diligence Requirements

■ 30. Amend § 3483.3 by revising paragraph (a)(2) to read as follows:

§ 3483.3 Suspension of continued operation or operations and production.

(a) * * *

(2) The authorized officer may suspend the requirement for continued operation upon the payment of advance royalty in accordance with § 3483.4(h) of this title.

* * * * *

■ 31. Amend section 3483.4 by:

■ a. Revising paragraphs (a), (b), and (c);

■ b. Removing paragraph (e) and (f);

■ c. Redesignating paragraphs (d) and (g) as paragraphs (e) and (f), respectively;

■ d. Adding new paragraph (d);

■ e. Revising redesignated paragraph (e);

■ f. Adding a paragraph heading to newly redesignated paragraph (f); and

■ g. Adding new paragraphs (g) and (h).

The revisions and additions read as follows:

§ 3483.4 Payment of advance royalty in lieu of continued operation.

(a) *Conditions for payment of advance royalty.* (1) The BLM may authorize the payment of advance royalty in lieu of continued operation for a lease or LMU if:

(i) Coal has not been produced in sufficient quantity from the lease or LMU during a continued operation year to satisfy the continued operation requirement of the lease or LMU;

(ii) The aggregate number of continued operation years for accepting advance royalties, as determined under paragraph (e) of this section, has not been exceeded; and

(iii) The BLM determines that payment of advance royalty in lieu of continued operation will serve the public interest.

(2) The continued operation requirement for a lease or an LMU for a continued operation year may be met by a combination of coal production and payment of advance royalty.

(3) The lessee is responsible for paying advance royalty for a lease that is not within an LMU, and the LMU lessee/operator is responsible for paying advance royalty for an LMU.

(b) *Application to pay advance royalty.* (1) An operator/lessee's application to pay advance royalty in lieu of the continued operation requirement for a specific continued operation year must be received by the BLM during the same specified continued operation year.

(2) Failure to apply to pay advance royalty in lieu of continued operation within the continued operation year to which the advance royalty will apply will result in the following:

(i) The BLM recommending that the ONRR assess late payment penalties for the period between the last day of the continued operation year to which the advance royalty will apply and the date that the application to pay advance royalty in lieu of continued operation is actually received;

(ii) The operator/lessee may not qualify to obtain rights to another existing or new lease as described at § 3472.1–2(e); or

(iii) Cancellation of the lease as provided at § 3483.2(c).

(c) *Calculation of coal value for advance royalty purposes.* For advance royalty purposes, the value of the Federal coal will be calculated by ONRR in accordance with applicable regulations.

(d) *Royalty rate used for calculation of advance royalty.* (1) The royalty rate specified in the lease document will be used for calculation of advance royalty for a lease.

(2) The advance royalty rate for an LMU is 8 percent where the Federal LMU recoverable coal reserves contained in the LMU will be recovered only by underground mining operations and not less than 12½ percent where the Federal LMU recoverable coal reserves contained in the LMU will be recovered by mining operations other than underground mining. For an LMU that contains Federal LMU recoverable coal reserves that are recoverable by a combination of underground and other

mining methods, the advance royalty rate is not less than 12½ percent.

(e) *Allowable number of years to pay advance royalty.* (1) The aggregate number of continued operation years during which the BLM may accept advance royalty in lieu of continued operation for a Federal coal lease or LMU may not exceed 20. For any continued operation year when advance royalty is paid in lieu of continued operation, regardless of the amount of the advance royalty paid, the BLM will count such continued operation year against the 20-year maximum number of continued operation years for which advance royalty may be paid.

(2)(i) When an LMU is formed, the BLM will determine the maximum number of continued operation years for which advance royalty in lieu of continued operation during the term of the LMU may be accepted. Subsequent modification of the LMU does not change this number. The number of continued operation years for which the BLM may approve an LMU operator to pay advance royalty in lieu of continued operation is equal to number of continued operation years for the Federal coal lease in the LMU that has the greatest number of remaining continued operation years. For example, if an LMU is formed that contains two Federal coal leases. One Federal coal lease has 20 remaining continued operation years for which the BLM will accept advance royalty, and the other Federal coal lease has already paid advance royalty for 7 continued operation years, with 13 additional continued operation years for which the BLM will accept advance royalty. In this example, the LMU would have a maximum of 20 continued operation years for which the BLM may accept advance royalty.

(ii) A continued operation requirement that has been met by the payment of advance royalty in lieu of continued operation for a Federal lease before the lease's inclusion in an LMU will be credited to the LMU's continued operation requirement. However, the advance royalty paid in lieu of continued operation will be credited to the LMU only if it has not already been credited against production royalty for the Federal lease as provided at 30 CFR part 1218.

(f) *Failure to pay advance royalty.* * * *

(g) *Tonnage basis for advance royalty payment.* (1) *Determination of the tonnage base.* If the payment of advance royalty has been authorized by the BLM for a lease or LMU, the BLM will determine at the end of a continued operation year the amount of coal, measured in tons, which the ONRR will use to calculate the value of the advance royalty payment. The amount of coal that the BLM determines and authorizes as the basis for paying advance royalty for a continued operation year is called the advance royalty tonnage.

(2) *Calculation methods for a lease.* During the first 2 continued operation years, the BLM will use a 1-year calculation method to determine the advance royalty tonnage for a lease, as described in paragraph (g)(2)(i) of this section. The BLM will provide the advance royalty tonnage information to the ONRR for determining the value of the advance royalty payment. Beginning in the third continued operation year, the BLM will use two calculation methods to determine the advance royalty tonnage for a lease. The tonnage derived from the calculation method that results in the lesser tonnage will then be provided to the ONRR for determining the value of the advance royalty payment. The maximum advance royalty tonnage for any continued operation year will not exceed the commercial quantities amount for the lease. The two calculation methods are:

(i) The 1-year method. The advance royalty tonnage is determined by subtracting the amount of coal actually produced from a lease during the continued operation year from the commercial quantities amount for the lease for the same continued operation year.

(ii) The 3-year method. The advance royalty tonnage is determined by adding the amount of coal produced from a lease during a continued operation year for which payment of advance royalty is authorized to the amount of coal produced in each of the 2 previous continued operation years and subtracting that amount from the sum of the annual commercial quantities amounts for the lease for the same 3 continued operation years.

(3) *Calculation methods for an LMU.* The BLM will use two calculation methods to determine the advance royalty tonnage for an LMU, except that the calculation of advance royalty tonnage will be prorated to reflect the percentage of the total LMU recoverable coal reserves that are Federal recoverable coal reserves. The BLM will provide to the ONRR the tonnage derived from the calculation method that results in the lowest advance royalty tonnage for determining the value of the advance royalty payment. The maximum advance royalty tonnage for any continued operation year for an LMU will not exceed the sum of the commercial quantities amounts for all the Federal coal leases in the LMU. The two calculation methods are:

(i) The 1-year method. The advance royalty tonnage is determined by first subtracting the amount of coal produced from the LMU during the LMU continued operation year, including all coal production from Federal coal leases and non-Federal lands in the LMU, from the LMU commercial quantities amount for the same continued operation year. To account for the recoverable coal reserve under Federal coal leases, take the difference between the LMU commercial quantities amount and LMU production from the previous calculation and multiply that by the sum of the commercial quantities amounts for all the Federal coal leases within the LMU. This amount is then divided by the commercial quantities amount for the entire LMU.

(ii) The 3-year method. The advance royalty tonnage is determined by adding the amount of coal produced from the LMU during the continued operation year for which the payment of advance royalty is authorized and the amount of coal produced in the 2 previous continued operation years and subtracting that amount from the sum of the commercial quantities amounts for the LMU for the continued operation year for which the payment of advance royalty is authorized and the 2 previous continued operation years. To account for the recoverable coal reserve under Federal coal leases only, take the difference between the sum of the LMU commercial quantities amounts for the 3 specified continued operation years and the cumulative actual LMU production during the same 3 years from the previous calculation and multiply that by the sum of the commercial quantities amounts for all the Federal coal leases within the LMU during the same 3 years. This amount is then divided by the sum of the commercial quantities amounts for the entire LMU during the same 3 years.

(h) *Ceasing to accept advance royalties in lieu of continued operation.* The authorized officer may disallow the payment of advance royalty in lieu of continued operation for a lease or LMU after giving the lessee or LMU operator 6-months' advance notice.

■ 32. Revise § 3483.6 to read as follows:

§ 3483.6 Special logical mining unit rules.

(a) *Production requirement.* The BLM will apply production of either Federal or non-Federal recoverable coal reserves, or a combination thereof, from anywhere within an LMU toward satisfaction of the requirements for achieving diligent development and continued operation for the LMU.

Production from non-Federal resources may be credited toward diligent development of the LMU only if such production occurs after the non-Federal resources are approved by the BLM to be included in the LMU.

(b) *Diligence date.* Increasing or decreasing the size of an LMU will not change the date for achieving diligent development.

(c) *Relationship to lease-specific continued operation requirements.* The LMU continued operation requirement must be satisfied independently of whether the Federal coal leases within the LMU produce sufficient coal to meet the individual lease's continued operation requirements that would apply if the leases were not in the LMU.

Subpart 3487—Logical Mining Unit

■ 33. Revise § 3487.1 to read as follows:

§ 3487.1 Logical mining units (LMU)—general considerations.

(a) An LMU shall become effective only upon approval of the authorized officer. The effective date for an LMU may be established by the authorized officer between the date that the authorized officer receives an application for LMU approval and the date the authorized officer approves the LMU. The effective date of the LMU approval shall be determined by the authorized officer in consultation with the LMU applicant. An LMU may be enlarged by the addition of other Federal coal leases or with interests in non-Federal coal deposits, or both, in accordance with paragraph (g) of this section. An LMU may be diminished by creation of other separate Federal leases or LMU's in accordance with § 3487.6 of this subpart.

(b) (1) The BLM may direct, or an operator/lessee may initiate, the establishment of an LMU containing only Federal coal leases issued after August 4, 1976.

(2) The BLM may direct, or an operator/lessee may initiate, the establishment of an LMU containing Federal coal leases issued before August 4, 1976, provided that the operators/lessees consent to making all such Federal leases within the LMU subject to the LMU stipulations and the regulations of this part, for:

(i) Submission of a resource recovery and protection plan;

(ii) An initial LMU term of 40 years;

(iii) Exhaustion of LMU recoverable coal reserves;

(iv) Diligent development;

(v) Continued operation;

(vi) Maximum economic recovery;

(vii) Advance royalty; and

(viii) Royalty reporting periods (but not royalty rates).

(3) The terms of a Federal lease in an LMU will be amended so that the lease terms and conditions are consistent with the stipulations required for the approval of the LMU under section 3487.4.

■ 34. Add §§ 3487.2 through 3487.10 to read as follows:

Sec.

* * * * *

3487.2 LMU application.
3487.3 LMU Consultation.
3487.4 Stipulations.
3487.5 LMU approval criteria.
3487.6 LMU decision.
3487.7 LMU modifications.
3487.8 LMU operations.
3487.9 LMU termination.
3487.10 Extension of the period of an LMU.

§ 3487.2 LMU application.

An operator/lessee must submit five copies of an LMU application to the authorized officer if the operator/lessee is applying on his own initiative to combine lands into an LMU, or if directed to establish an LMU by the authorized officer in accordance with paragraph (b) of this section. Such application shall include the following:

(a) Name and address of the designated operator/lessee of the LMU.

(b) A list of all lands to be included in the LMU; and

(1) The names and addresses of all surface land owners that hold an interest in the lands within the LMU and the legal land description of their respective tracts;

(2) The names and addresses of all entities that hold or control an interest in the mineral rights to the land that are within the LMU, a description of the mineral rights, and the legal land description of their respective mineral rights or interests, including identification of each lease or agreement by serial number or other identifier;

(3) Identification of the coal beds proposed to be included in and excluded from the LMU;

(4) A narrative that describes and quantifies the coal reserve base, the minable reserve base, and the recoverable coal reserves within the LMU, categorized by coal bed and mineral ownership for all minable coal within the LMU boundary. The applicant must also provide a narrative describing how the minability of the coal was determined; and

(5) A narrative that describes and quantifies Federal coal that is proposed to be excluded from the LMU, including a discussion of the rationale for excluding particular coal beds or areas.

(c) Documents and related information supporting a finding of effective control of the lands to be included in the LMU.

(1) For all of the lands that are within the proposed LMU boundary, the applicant must submit copies of all of the surface owner agreements.

(2) For all of the lands within the proposed LMU that include recoverable coal reserves, the applicant must submit copies of all documents that show that the LMU applicant has effective control of the surface and the right to enter and mine.

(d) A resource recovery and protection plan that includes all lands that are proposed for inclusion in the LMU and which complies with the requirements of § 34821.

(e) Any other information required by the authorized officer.

(f) If any confidential information is included in the submittal and is identified as such by the operator/lessee, it shall be treated in accordance with § 3481.3 of this title.

§ 3487.3 LMU Consultation.

(a) Prior to approval, the authorized officer shall consult with the operator/lessee about any Federal recoverable coal reserves within the LMU that the operator/lessee does not intend to mine and any Federal recoverable coal reserves that the operator/lessee intends to relinquish. The authorized officer shall also consult with the operator/lessee about Federal lease revisions to make the time periods for resource recovery and protection plan submittals, the 40-year LMU recoverable coal reserves exhaustion requirement, and diligent development, continued operation, advance royalty and Federal rental and royalty collection requirements applicable to each producing Federal lease consistent with the LMU stipulations. The BLM will also consult with the operator/lessee about Federal lease revisions to make the time periods for resource recovery and protection plan submissions, the LMU initial 40-year term, and diligent development, continued operation, advance royalty, and Federal rental and royalty collection requirements applicable to each producing Federal lease in the LMU, consistent with the LMU stipulations.

(b) The public participation procedures of § 3481.2 of this title shall be completed prior to approval of an LMU.

§ 3487.4 Stipulations.

Prior to the approval of an LMU, the authorized officer shall notify the operator/lessee and responsible officer

of the surface managing agency of stipulations required for the approval of the proposed LMU. The LMU stipulations shall provide for:

(a) A schedule for the achievement of diligent development and continued operation for the LMU. The schedule shall reflect the date for achieving diligent development and maintaining continued operation of the individual Federal leases included in the LMU, consistent with the rules of this part. An operator/lessee may request to pay advance royalty in lieu of continued operation in accordance with § 3482.1(a) of this title.

(b) Uniform reporting periods for Federal rental and royalty on Federal leases.

(c) The revision, if necessary, of terms and conditions of the individual Federal leases included in the LMU. The terms and conditions of the Federal lease, except for Federal royalty rates, must be amended so that they are consistent with the stipulations of the LMU.

(d) Estimates of the Federal LMU recoverable coal reserves, and non-Federal LMU recoverable coal reserves, using data acquired by generally acceptable exploration methods.

(e) Beginning the 40-year period in which the reserves of the entire LMU must be mined, on one of the following dates—

(1) The effective date of the LMU, if any portion of the LMU is producing on that date; or

(2) After the LMU is approved, the date coal is first produced from any portion of the LMU.

(f) Any other condition that the authorized officer determines to be necessary for the efficient and orderly operation of the LMU.

§ 3487.5 LMU approval criteria.

The authorized officer may approve an LMU if it meets the following criteria:

(a) The LMU fully meets the LMU definition.

(b) The LMU application demonstrates that mining operations on the LMU, which may consist of a series of excavations, will:

(1) Achieve maximum economic recovery of Federal recoverable coal reserves within the LMU. In determining whether the proposed LMU meets this requirement, BLM, as appropriate, will consider:

(i) The amount of coal reserves recoverable from the proposed LMU compared to the amount recoverable if each lease were developed individually; and

(ii) Any other factors BLM finds relevant to this requirement;

(2) Facilitate development of the coal reserves in an efficient, economical, and orderly manner. In determining whether the proposed LMU meets this requirement, BLM, as appropriate, will consider:

(i) The potential for independent development of each lease proposed to be included in the LMU;

(ii) The potential for inclusion of the leases in question in another LMU;

(iii) The availability and utilization of transportation and access facilities for development of the LMU as a whole compared to development of each lease separately;

(iv) The mining sequence for the LMU as a whole compared to development of each lease separately; and

(v) Any other factors BLM finds relevant to this requirement; and

(3) Provide due regard to conservation of coal reserves and other resources. In determining whether the proposed LMU meets this requirement, BLM, as appropriate, will consider:

(i) The effects of developing and operating the LMU as a unit; and

(ii) Any other factors BLM finds relevant to this requirement.

(c) All single Federal leases, portions of which are included in more than one LMU, must be segregated into two or more Federal leases. If only a portion of a Federal lease is included in an LMU, the remaining land must be segregated into another Federal lease. The operator/lessee may apply to relinquish any such portion of a Federal lease under 43 CFR 3452.1.

(d) The operator/lessee has agreed to the LMU stipulations required by the authorized officer for approval of the LMU.

(e) The LMU does not exceed 25,000 acres, including both Federal and non-Federal lands.

(f) A lease that has not produced commercial quantities of coal during the first 8 years of its diligent development period can be included in an LMU only if at the time the LMU application is submitted:

(1) A portion of the LMU under consideration is included in a SMCRA permit approved under 30 U.S.C. 1256; or

(2) A portion of the LMU under consideration is included in an administratively complete application for a SMCRA permit.

(g) A resource recovery and protection plan for the LMU or LMU modification must be approved by the BLM at the same time as or before the LMU that it supports.

§ 3487.6 LMU decision.

The authorized officer will state in writing the reasons for the decision on an LMU application.

§ 3487.7 LMU modifications.

(a) The boundaries of an LMU may be modified either upon application by the operator/lessee and approval of the authorized officer after consultation with the responsible officer of the surface managing agency, or by direction of the authorized officer.

(b) Upon application by the operator/lessee, an LMU may be enlarged by the addition of other Federal coal leases or with interests in non-Federal coal deposits, or both. The LMU boundaries may also be enlarged as the result of the enlargement of a Federal lease in the LMU, pursuant to 43 CFR part 3432. An LMU may be diminished by creation of other separate Federal leases or LMU's or by the relinquishment of a Federal lease or portion thereof, pursuant to 43 CFR part 3452.

(c) In considering an application for the modification of an LMU, the authorized officer must consider modifying the LMU stipulations, including the production requirement for commercial quantities.

(d) A change in the LMU recoverable coal reserves will be effective either:

(1) When the BLM approves an LMU modification; or

(2) When the BLM determines that the LMU recoverable coal reserves have changed due to new geologic information.

(e) The 40-year period of an LMU is not extended by a modification of the LMU. The period of an LMU may only be extended by application under § 3487.10.

§ 3487.8 LMU operations.

An LMU shall be administered in accordance with the following criteria:

(a) Where production from non-Federal lands in the LMU is the basis, in whole or in part, for satisfaction of the requirements for diligent development or continued operation, the operator/lessee shall provide a certified report of such production, as determined by the authorized officer. The certified report shall include a map showing the area mined and the amount of coal mined.

(b) Operators/lessees must comply with the diligent development, continued operation, and advance royalty requirements contained at §§ 3483.1 through 3483.6 of this title.

(c) Operators/lessees must comply with the LMU stipulations.

§ 3487.9 LMU termination.

(a) The BLM may terminate an LMU by administrative decision if the operator/lessee or LMU operator:

(1) Fails to comply with the LMU stipulations;

(2) Fails to submit a resource recovery and protection plan or a required resource recovery and protection plan modification:

(3) Fails to achieve diligent development within the 10-year diligent development period;

(4) Fails to maintain the LMU in continued operation or to pay advance royalty in lieu of continued operation;

(5) Fails to secure an extension of the 40-year mine out period, while continuing to sever coal beyond the 40th year of the LMU agreement;

(6) Fails to comply with other requirements of the LMU agreement, such as the requirement to pay royalty or to comply with a notice of noncompliance; or

(7) Produces all recoverable Federal coal within the LMU.

(b) The BLM will not terminate an LMU under paragraph (a) of this section unless it first provides the LMU operator/lessee and other persons with an interest in the LMU an opportunity to submit their views, together with supporting documentation, on whether the LMU should be terminated.

(c) Once an LMU is terminated, any Federal coal lease that was in the LMU will revert to the terms and conditions of the lease as if the LMU never existed.

§ 3487.10 Extension of the period of an LMU.

(a) The designated LMU operator/lessee may apply to the BLM to extend the term of an LMU beyond the initial 40-year period.

(b) An application to extend an LMU term beyond the initial 40-year period must provide sufficient information for the BLM to determine whether the extension complies with the provisions at either § 3487.5(b)(1) or (b)(2). The BLM may require additional information from the applicant to make the determination.

(c) The BLM may approve an extension of the LMU term whenever such an extension complies with either § 3487.5(b)(1) or (b)(2).

(d) The LMU term may be extended by increments of not more than 10 years.

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FEDERAL REGISTER

Vol. 78 Monday,

No. 155 August 12, 2013

Part VI

The President

Notice of August 8, 2013—Continuation of the National Emergency With Respect to Export Control Regulations

Federal Register
Vol. 78, No. 155
Monday, August 12, 2013

Presidential Documents

Title 3—

The President

Notice of August 8, 2013

Continuation of the National Emergency With Respect to Export Control Regulations

On August 17, 2001, consistent with the authority provided to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the President issued Executive Order 13222. In that order, he declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 17, 2001, must continue in effect beyond August 17, 2013. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13222.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
August 8, 2013.

[FR Doc. 2013–19699
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Billing code 3295–F3

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