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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

6 CFR Parts 1001, 1002, and 1003

[PCLOB; Docket No. 2013–0003; Sequence 1]

RIN 0311–AA01

Freedom of Information, Privacy Act, and Government in the Sunshine Act Procedures

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Final rule.

SUMMARY: The Privacy and Civil Liberties Oversight Board is finalizing regulations to implement the Freedom of Information Act, the Privacy Act of 1974, and the Government in the Sunshine Act. This rule describes the procedures for members of the public to request access to records. In addition, this rule also includes procedures for the Board's responses to these requests, including the timeframe for response and applicable fees.

DATES: *Effective Date:* January 7, 2014.

FOR FURTHER INFORMATION CONTACT: Diane Janosek, Chief Legal Officer, Privacy and Civil Liberties Oversight Board, at 202–331–4084 or *diane.janosek@pclob.gov.*

SUPPLEMENTARY INFORMATION: These regulations were published for public comment in the **Federal Register** on May 15, 2013 (78 FR 28532), the comment period ended on July 15, 2013, and four commenters provided input. Two commenters were private citizens, one commenter was a federal agency and the other commenter was a public interest research center. Both the federal agency and the public interest research center posted their comments on *www.regulations.gov* and those comments are available for public review.

I. Background

The first commenter expressed support of privacy rights in general, although it did not comment specifically on this rulemaking. We appreciate the commenter's remark.

The second commenter provided various comments on the proposed Freedom of Information Act procedures at part 1001. First, the commenter recommended that section 1001.5 include a facsimile number or electronic mail address for the submission of FOIA requests. We agree and have provided a variety of means for requesters to submit FOIA requests, including electronically. The commenter objected to language in the proposed section 1001.5(b) that stated that FOIA requesters shall reasonably describe the requested records ''with sufficient specificity regarding names, dates, and subject matter to permit the FOIA Officer to locate the records.'' The commenter noted that the FOIA statute requires only that records be ''reasonably described,'' not that requesters provide detail about the names, dates, and subject matter. The commenter also expressed concern that a requester's failure to provide this additional information might be used as a basis for denying a request. As the Board did not intend to create additional procedural requirements for FOIA requesters, we have stricken the objected-to language from the rule. Nonetheless, we encourage requesters to provide as much information about the records they are seeking as possible, including names, dates, and subject matter, to facilitate cost-effective identification of responsive records and prompt responses.

In addition, the commenter had several comments about the proposed section 1001.10 concerning fees. First, the commenter asserted that section 1001.10 was defective because it did not include the FOIA's statutory prohibition on the imposition of search or duplication fees when agencies fail to respond to FOIA requests and the submitter appeals within the required timelines. The Board will adhere to the statute. The commenter also expressed that section 1001.10(d), concerning how we will assess review charges, was ambiguous. We have revised this language to comply with the Office of Management and Budget's (OMB) Fee Guidelines.

In addition, the commenter noted that our proposed rule did not identify a threshold below which we would not charge fees. We agree and have set a threshold at $25. Lastly, with respect to fees, the commenter asserted that the section of the proposed regulations that permitted aggregation of certain requests (at section 1001.10(j) in the Notice of Proposed Rulemaking) altered and exceeded the scope and intention of the law. Although the proposed section mirrored the statutory language, the commenter noted that OMB's Fee Guidelines state that agencies may only aggregate requests when an agency reasonable believes that requests were separated for the ''purpose of avoiding the assessment of fees.'' The FOIA permits agencies to aggregate requests for fee purposes, or to determine the presence of unusual circumstances affecting the timeframe for response. 5 U.S.C. 552(a)(6)(B)(iv). We have revised the rule to include a new section 1001.8(g) that clarifies, consistent with 5 U.S.C. 552(a)(6)(B)(iv), that we may aggregate requests for either fee or tolling purposes. We will comply with OMB's Fee Guidelines when determining whether aggregation is appropriate for fee purposes.

The third commenter was a federal agency and offered suggestions to clarify the rule. The commenter provided multiple comments and in some cases suggested language to model agencies' best practices. The commenter had suggestions to add clarity to definitions; specificity was offered on the definitions of ''person,'' ''FOIA'' and its inclusion of third-party-requests, ''FOIA Public Liaison,'' ''Requestor category,'' and ''fee waiver.'' We agree with the suggestions and the definitions were modified.

The commenter suggested informing requestors that although requests are considered either FOIA or Privacy Act requests, agencies process requests in accordance with both laws. We agree and have accepted the change.

The commenter suggested better contact information for the Board. We agree and it has been added. The commenter suggested editing section 1001.6 to align it to changes in 5 U.S.C. 552(b) with regard to agencies indicating, where technically feasible, the amount of information deleted and the exemption. We agree and section 1001.6 has been modified in part.

The commenter suggested the rule provide a point of contact at the receiving agency for a referral. We agree and it has been added.

The commenter asserted that the language in proposed rule at section 1001.7 administrative appeals was counter to the spirit of FOIA. We agree and it has been changed. The commenter further asserted that the proposed rule at section 1001.7 administrative appeals language was too stringent in stating that requesters cite legal authorities in their appeals. We agree and it has been changed. Lastly, the commenter suggested that the proposed rule at section 1001.7 include a reference to the National Archives and Records Administration Office of Government Information Services and the services they provide to both the agency and the requester. We agree and it has been added.

The commenter suggested that a breakdown of fees be provided in section 1001.10. We agree and it has been added.

The commenter suggested that the rule include language on preservation of records and records management. While the Board did not find it necessary to include additional language on records management, the Board will adhere to applicable statutes and is committed to proper records preservation and records management. The Board appreciates the commenter's suggestions.

The fourth commenter was a public interest research center. The comments offered improvements to the rule. Some of the commenter's suggestions mirrored the other comments, and the majority have been accepted.

The commenter proposed that the Chief FOIA Officer be a person other than the Chairman. We agree and have provided for this delegation. Currently, the Board has delegated this function to the Chief Administrative Officer. As the Board is still in the process of hiring staff and flexibility is needed, a provision for delegation is the optimal course at this time. The Board will identify its FOIA point of contact on the Board's Web site.

The commenter suggested a change to the definition of ''confidential business information.'' Although we appreciate the commenter's perspective, the Board has decided to retain the language which mirrors the FOIA statute.

The commenter asserted the section on ''unusual circumstances'' was inconsistent with the FOIA in that the proposed rule deleted the words ''field facilities.'' The deletion of the reference to ''field facilities'' is based on the fact that the Board does not have any field facilities. The Board has used the words ''physically separate facilities'' in the event that in the future the Board maintains records in more than one location, although at this time it does not.

The commenter asserted that in section 1001.2 the words ''all practicable speed'' were omitted. We agree and accept the comment.

The commenter asserted that the proposed rule for exemption (b)(5) did not follow the language in the statute. We agree and accept the comment.

The commenter asserted that the proposed rule on the process for consultations and referrals did not follow the language in the statute that permits this practice only with agencies having a ''substantial interest'' in the record. We agree and accept the comment. The commenter also asserted that the proposed rule on the process for consultations and referrals did not follow the statutory language for classification matters. We agree and accept the change.

The commenter suggested that the language on administrative appeals was too ambiguous. We agree. We accepted the suggestion offered by the federal agency to clarify the language.

The commenter asserted that the provision on multi-track processing was too vague. Although we appreciate the comment, the language follows best practices language used by other agencies.

The commenter asserted that the proposed provision on expedited processing contains confusing and inappropriate language. The commenter suggested the deletion of the words ''beyond the public's right to know about government activity generally.'' We agree and accept the comment. The commenter asserted the proposed rule on the Sunshine Act at section 1003.3(b) did not advance the purpose of the statute in its proposed language addressing the process required to terminate an open meeting. We agree and have changed this section to reflect the more balanced approach advocated by the commenter, which is now consistent with the statute.

The commenter disagreed with proposed procedures at sections 1003.7(a) and 1003.7(c) addressing changes prior to a publicly announced meeting, such as its location or agenda, suggesting that the proposed language provided a ''potential loophole'' to the statutory requirement. We appreciate the commenter's perspective. The Board has modified these sections to adhere more closely to the statutory language. If an item is deleted from an open meeting agenda, and if after the open meeting the Board desires to address the item, the item will be included in the agenda for the next open meeting.

The commenter offered that the words ''in a place easily accessible'' be added to section 1003.9. We agree and accept the change. The Board now has an operational Web site at *www.pclob.gov.*

The commenter offered that the presumption of openness be added to the proposed rule. We agree and accept the change.

The Board will comply with all applicable laws in its FOIA, Privacy Act, and Sunshine Act administration, including Presidential memoranda and Attorney General guidance. We thank all commenters for their thoughtful input.

II. Regulatory Analysis and Notices

Executive Order 12866

This final rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866. The economic impact of these regulations should be minimal, therefore, further economic evaluation is not necessary.

Regulatory Flexibility Act, as Amended

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 601 *et seq.*), generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a number of small entities. Small entities include small businesses, small organizations, and small government jurisdictions. The Board considered the effects on this rulemaking on small entities and certifies that this final rule will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires each agency to assess the effects of its regulatory actions on state, local, and tribal governments, and the private sector. Agencies must prepare a written statement of economic and regulatory alternatives anytime a proposed or final rule imposes a new or additional enforceable duty on any state, local, or tribal government or the private sector that causes those entities to spend, in aggregate, $100 million or more (adjusted for inflation) in any one year (defined in UMRA as a ''federal mandate''). The Board determined that such a written statement is not required in connection with this final rule

because it will not impose a federal mandate, as defined in UMRA.

National Environmental Policy Act

The Board analyzed this final rule for purposes of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.,* and determined that it would not significantly affect the environment; therefore, an environmental impact statement is not required.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This final rule does not include an information collection for purposes of the PRA.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the Board determined that it does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

List of Subjects

6 CFR Part 1001

Administrative practice and procedure, Confidential business information, Freedom of information, Privacy.

6 CFR Part 1002

Administrative practice and procedure, Privacy.

6 CFR Part 1003

Administrative practice and procedure, Public availability of information, Meetings.

Dated: October 30, 2013.

Diane Janosek,

Chief Legal Officer.

In consideration of the foregoing, the Board amends 6 CFR chapter X, by adding parts 1001–1003, to read as follows:

PART 1001—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

Sec.

1001.1 Purpose and scope.
1001.2 Definitions.
1001.3 Availability of records.
1001.4 Categories of exemptions.
1001.5 Requests for records.
1001.6 Responsibility for responding to requests.
1001.7 Administrative appeals.
1001.8 Time frame for Board response.
1001.9 Business information.
1001.10 Fees.

Authority: 5 U.S.C. 552, as amended; Executive Order 12600.

§ 1001.1 Purpose and scope.

The regulations in this part implement the provisions of the FOIA.

§ 1001.2 Definitions.

The following definitions apply to this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board has delegated authority for the matter concerned.

Chief FOIA Officer means the senior official to whom the Board delegated responsibility for efficient and appropriate compliance with the FOIA, currently delegated to the Chief Administrative Officer.

Commercial use request means a FOIA request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, including pursuit of those interests through litigation.

Confidential business information means trade secrets and confidential, privileged, or proprietary business or financial information submitted to the Board by a person.

Direct costs mean in the case of commercial use requesters those expenses the Board has actually incurred to search for, duplicate, and review documents in response to a FOIA request. Direct costs include, but are not limited to, the salary of the employee performing the work and costs associated with duplication.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

Fee waiver means the waiver or reduction of processing fees if a requester can demonstrate that OMB's Fee Guidelines' standards are satisfied, including that the information is in the public interest and is not a commercial interest.

FOIA means the Freedom of Information Act, 5 U.S.C. 552, as amended. The FOIA applies to third-party requests for documents concerning the general activities of the government and the Board in particular. A request by a U.S. citizen or an individual lawfully admitted for permanent residence for access to his or her own records is considered a Privacy Act request, under the Privacy Act of 1974, 5 U.S.C. 552a, as amended. *See* 6 CFR 1002.3.

FOIA Officer means the individual to whom the Board has delegated authority to carry out the Board's day-to-day FOIA administration.

FOIA Public Liaison means the individual designated by the Chairman to assist FOIA requesters with concerns about the Board's processing of their FOIA request, including assistance in resolving disputes.

Non-commercial scientific institution means an organization operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any product or research, and not operated on a commercial basis.

Person includes an individual, partnership, corporation, association, or public or private organization other than an agency.

Record means any writing, drawing, map, recording, diskette, DVD, CD–ROM, tape, film, photograph, or other documentary material, regardless of medium, by which information is preserved, including documentary material stored electronically.

Redact means delete or mark over.

Representative of the news media means any person or entity that gathers information of potential public interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Requester category means one of the three categories in which requesters will be placed for the purpose of determining whether a requester will be charged fees for search, review, or duplication. They are:

(1) Commercial requestors,

(2) Non-commercial scientific or educational institutions or news media requestors, and

(3) All other requestors.

Submitter means any person or entity from whom the Board obtains confidential business information, directly or indirectly.

Unusual circumstances means, to the extent reasonably necessary for the proper processing of a FOIA request:

(1) The need to search for and collect the requested records from physically separate facilities;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 1001.3 Availability of records.

(a) In accordance with 5 U.S.C. 552(a)(1), the Board publishes the following records in the **Federal Register** and makes an index of the records publicly available:

(1) Descriptions of the Board's organization and the established places at which, the employees from whom, and the methods by which, the public may obtain information, submit documents, or obtain decisions;

(2) Statements of the general course and method by which the Board's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by the Board; and

(5) Each amendment, revision, or repeal of any material listed in paragraphs (a)(1) through (4) of this section.

(b) In accordance with 5 U.S.C. 552(a)(2), the Board shall make the following materials available for public inspection and copying:

(1) Statements of policy and interpretation that have been adopted by the Board and not published in the **Federal Register**;

(2) Administrative staff manuals and instructions to staff that affect a member of the public;

(3) Copies of all records, regardless of the form or format, which have been released to any person under paragraph (c) of this section and that, because of their nature or subject matter, the Board determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(4) A general index of the records referred to in paragraph (b)(3) of this section.

(c) In accordance with 5 U.S.C. 552(a)(3), the Board shall make available, upon proper request, as described in section 5 of this part, all non-exempt Board records, or portions of records, not previously made public under paragraphs (a) and (b) of this section.

(d) The FOIA applies only to Board records in existence at the time of the request; the FOIA does not require that the Board create new records in order to respond to FOIA requests. When responsive records are located, the Board adopts a presumption of disclosure and openness.

§ 1001.4 Categories of exemptions.

(a) The FOIA does not require disclosure of matters that are:

(1) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified under executive order;

(2) Related solely to the internal personnel rules and practices of the Board;

(3) Specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b, as amended), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of matters to be withheld; and

(ii) If enacted after October 28, 2009, specifically cites to Exemption 3 of the FOIA, 5 U.S.C. 552(b)(3);

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters, which would not be available at law to a party other than an agency in litigation with the Board;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) [Reserved]

§ 1001.5 Request for records.

(a) You may request copies of records under this part by email to *FOIA@pclob.gov* or in writing addressed to FOIA Officer, Privacy and Civil Liberties Oversight Board, 2100 K Street NW., Suite 500, Washington, DC 20427.

(b) Your request shall reasonably describe the records sought with sufficient specificity, and when possible, include names, dates, and subject matter, in order to permit the FOIA Officer to locate the records with a reasonable amount of effort. If the FOIA Officer cannot locate responsive records based on your written description, you will be notified and advised that further identifying information is necessary before the request can be fulfilled. Although requests are considered either FOIA or Privacy Act requests, the Board processes requests for records in accordance with both laws so as to provide the greatest degree of lawful access while safeguarding an individual's personal privacy.

(c) Your request should specify your preferred form or format (including electronic formats) for the records you seek. We will accommodate your request if the record is readily available in that form or format. When you do not specify the form or format of the response, we will provide responsive records in the form or format most convenient to us.

§ 1001.6 Responsibility for responding to requests.

(a) *In general.* The Board delegates authority to grant or deny FOIA requests in whole or in part to the FOIA Officer. When conducting a search for responsive records, the FOIA Officer generally will search for records in existence on the date of the search. If another date is used, the FOIA Officer shall inform the requester of the date used.

(b) *Responses.* The FOIA Officer will notify you of his or her determination to grant or deny your FOIA request in the time frame stated in § 1001.8. The Board will release reasonably segregable non-exempt information. For any adverse determination, including those regarding any disputed fee matter; a denial of a request for a fee waiver; or a determination to withhold a record, in whole or in part, that a record does not exist or cannot be located; or to deny a request for expedited processing; the notice shall include the following information:

(1) The name(s) of any person responsible for the determination to deny the request in whole or in part;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied in denying the request. The FOIA Officer will indicate, if technically feasible, the amount of information deleted and the exemption under which a deletion is made on the released portion of the record, unless including that indication would harm an interest protected by the exemption;

(3) An estimate of the volume of information withheld, if applicable. This estimate does not need to be provided if it is ascertainable based on redactions in partially disclosed records or if the disclosure of the estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the adverse determination may be appealed and a description of the requirements for an appeal under § 1001.7.

(c) *Consultations and referrals.*

(1) Upon receipt of a FOIA request for a record within the Board's possession, the FOIA Officer should determine if the Board or another federal agency is best able to determine eligibility for disclosure under the FOIA. If the FOIA Officer determines that another agency is better able to evaluate the releasibility of the record, the FOIA Officer shall:

(i) Respond to the FOIA requester after consulting with any other federal agency that has a substantial interest in the record; or

(ii) Refer the responsibility for responding to the request to the department or agency best able to determine whether to disclose it (but only if that other department or agency is subject to FOIA). Ordinarily, the department or agency that originated the record will be presumed best able to determine whether to disclose it.

(2) Whenever a request is made for information that is classified, the FOIA Officer shall refer the responsibility for responding to that portion of the request to the agency that originated the information, or has the primary interest in it, as appropriate. Whenever a record contains information that the Board has derivatively classified because it contains information classified by another agency, the FOIA Officer shall refer the responsibility for responding to the request regarding that information to the agency that classified the underlying information or originated the record.

(3) If responsibility for responding to a request is referred to another department or agency, the FOIA Officer shall notify you of the referral. This notice shall identify the part of the request that has been referred and the name of each department or agency to which the request, or part of the request, has been referred, when appropriate and available, the notice will include a point of contact for the referral agency or department.

§ 1001.7 Administrative appeals.

(a) You may appeal an adverse determination related to your FOIA request, or the Board's failure to respond to your FOIA request within the prescribed time limits, to the Chief FOIA Officer, Privacy and Civil Liberties Oversight Board, 2100 K Street NW., Suite 500, Washington, DC 20427.

(b) Your appeal must be in writing and received by the Chief FOIA Officer within 60 days of the date of the letter denying your request, in whole or in part. In case of the Board's failure to respond within the statutory time frame, you may submit an administrative appeal at any time until an agency response has been provided. For the most expeditious handling, your appeal letter and envelope should be marked ''Freedom of Information Act appeal.''

(c) Your appeal letter should state facts and may cite legal or other authorities in support of your request.

(d) The Chief FOIA Officer shall respond to all administrative appeals in writing and within the time frame stated in § 1001.8(d). If the decision affirms, in whole or in part, the FOIA Officer's determination, the letter shall contain a statement of the reasons for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA's provisions for court review. If the Chief FOIA Officer reverses or modifies the FOIA Officer's determination, in whole or in part, you will be notified in writing and your request will be reprocessed in accordance with that decision. The Board may work with Office of Government Information Services (OGIS) to resolve disputes between FOIA requestors and the Board. A requester may also contact OGIS in the following ways: Via mail to OGIS, National Archives and Records Administration, 8601 Adelphi Road—OGIS, College Park, MD 20740 (ogis.archives.gov), via email at *ogis@nara.gov,* or via the telephone at 202–741–5770 or 877–684–6448. Facsimile is also available at 202–741–5769.

§ 1001.8 Time frame for Board response.

(a) *In general.* The Board ordinarily shall respond to requests according to their order of receipt.

(b) *Multi-track processing.* The Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work or time needed to process the request.

(c) *Initial decisions.* The Board shall determine whether to comply with a FOIA request within 20 working days after our receipt of the request, unless the time frame for response is extended due to unusual circumstances as further described in paragraph (f) of this section. A request is received by the Board, for purposes of commencing the 20-day timeframe for its response, on the day it is received by the FOIA Officer or, in any event, not later than ten days after the request is first received by any Board office.

(d) *Administrative appeals.* The Chief FOIA Officer shall determine whether to affirm or overturn a decision subject to administrative appeal within 20 working days after receipt of the appeal, unless the time frame for response is extended in accordance with subsection (e) of this section.

(e) *Tolling timelines.* We may toll the 20-day timeframe set forth in paragraphs (c) or (d) of this section:

(1) One time to await information that we reasonably requested from you, as permitted by 5 U.S.C. 552(a)(6)(A)(iii)(I);

(2) As necessary to clarify with you issues regarding the fee assessment.

(3) If we toll the time frame for response under paragraphs (e)(1) or (2) of this section, the tolling period ends upon our receipt of your response.

(f) *Unusual circumstances.* In the event of unusual circumstances, we may extend the time frame for response provided in paragraphs (c) or (d) of this section by providing you with written notice of the unusual circumstances and

the date on which a determination is expected to be made. Where the extension is for more than ten working days, we will provide you with an opportunity either to modify your request so that it may be processed within the statutorily-prescribed time limits or to arrange an alternative time period for processing your request or modified request.

(g) *Aggregating requests.* When we reasonably believe that multiple requests submitted by a requester, or by a group of requesters acting in concert, involving clearly related matters, can be viewed as a single request that involves unusual circumstances, we may aggregate the requests for the purposes of fees and processing activities, which may result in an extension of the processing time.

(h) *Expedited processing.* You may request that the Board expedite processing of your FOIA request. To receive expedited processing, you must demonstrate a compelling need for such processing.

(1) For requests for expedited processing, a ''compelling need'' involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) A request made by a person primarily engaged in disseminating information, with a time urgency to inform the public of actual or alleged federal government activity.

(2) Your request for expedited processing must be in writing and may be made at the time of the initial FOIA request or at any later time.

(3) Your request for expedited processing must include a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. If you are a person primarily engaged in disseminating information, you must establish a particular urgency to inform the public about the federal government activity involved in the request.

(4) The FOIA Officer will decide whether to grant or deny your request for expedited processing within ten calendar days of receipt. You will be notified in writing of the determination. Appeals of adverse decisions regarding expedited processing shall be processed expeditiously.

§ 1001.9 Business information.

(a) *Designation of confidential business information.* In the event a FOIA request is made for confidential business information previously submitted to the Government by a commercial entity or on behalf of it (hereinafter 'submitter'), the regulations in this section apply. When submitting confidential business information, you must use a good-faith effort to designate, by use of appropriate markings, at the time of submission or at a reasonable time thereafter, any portions of your submission that you consider to be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. 552(b)(4). Your designation will expire ten years after the date of submission unless you request, and provide justification for, a longer designation period.

(b) *Notice to submitters.* Whenever you designate confidential business information as provided in paragraph (a) of this section, or the Board has reason to believe that your submission may contain confidential business information, we will provide you with prompt written notice of a FOIA request that seeks your business information. The notice shall:

(1) Give you an opportunity to object to disclosure of your information, in whole or in part;

(2) Describe the business information requested or include copies of the requested records or record portions containing the information; and

(3) Inform you of the time frame in which you must respond to the notice.

(c) *Opportunity to object to disclosure.* The Board shall allow you a reasonable time to respond to the notice described in paragraph (b) of this section. If you object to the disclosure of your information, in whole or in part, you must provide us with a detailed written statement of your objection. The statement must specify all grounds for withholding any portion of the information under any FOIA exemption and, when relying on FOIA Exemption 4, it must explain why the information is a trade secret or commercial or financial information that is privileged and confidential. If you fail to respond within the time frame specified in the notice, the Board will conclude that you have no objection to disclosure of your information. The Board will only consider information that we receive within the time frame specified in the notice.

(d) *Notice of intent to disclose.* The Board will consider your objection and specific grounds for non-disclosure in deciding whether to disclose business information. Whenever the Board decides to disclose business information over your objection, we will provide you with written notice that includes:

(1) A statement of the reasons why each of your bases for withholding were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time after the notice.

(e) *Exceptions to the notice requirement.* The notice requirements of paragraphs (c) and (d) of this section shall not apply if:

(1) The Board determines that the information shall not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600;

(4) The designation made by the submitter under paragraph (a) of this section appears obviously frivolous, except that, in such a case, the Board shall, within a reasonable time prior to the date the disclosure will be made, give the submitter written notice of the final decision to disclose the information.

(f) *Notice to requesters.* Whenever we provide a submitter with the notice described in paragraph (b) of this section, we also will provide notice to the requester that notice and opportunity to object to the disclosure are being provided to the submitter.

§ 1001.10 Fees.

(a) We will charge fees that recoup the full allowable direct costs we incur in processing your FOIA request. Fees may be charged for search, review or duplication. As a matter of administrative discretion, the Board may release records without charge or at a reduced rate whenever the Board determines that the interest of the United States government would be served. We will use the most efficient and least costly methods to comply with your request.

(b) With regard to manual searches for records, we will charge the salary rate(s) (calculated as the basic rate of pay plus 16 percent of that basic rate to cover benefits) of the employee(s) performing the search.

(c) In calculating charges for computer searches for records, we will charge at the actual direct cost of providing the service, including the cost of operating the central processing unit directly attributable to searching for records potentially responsive to your FOIA request and the portion of the salary of the operators/programmers performing the search.

(d) We may only charge requesters seeking documents for commercial use for time spent reviewing records to

determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review—that is the review undertaken the first time we analyze the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. We may assess the costs for such subsequent review.

(e) Records will be duplicated at a rate of $.10 per page, except that the Board may adjust this rate from time to time by rule published in the **Federal Register**. For copies prepared by computer, such as tapes, CDs, DVDs, or printouts, we will charge the actual cost, including operator time, of production. For other methods of reproduction or duplication, we will charge the actual direct costs of producing the document(s). If we estimate that duplication charges are likely to exceed $25, we will notify you of the estimated amount of fees, unless you indicated in advance your willingness to pay fees as high as those anticipated. Our notice will offer you an opportunity to confer with Board personnel to reformulate the request to meet your needs at a lower cost.

(f) We will charge you the full costs of providing you with the following services:

(1) Certifying that records are true copies; or

(2) Sending records by special methods such as express mail.

(g) We may assess interest charges on an unpaid bill starting on the 31st calendar day following the day on which the billing was sent. Interest shall be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing.

(h) We will not charge a search fee for requests by educational institutions, non-commercial scientific institutions, or representatives of the news media. A search fee will be charged for a commercial use requests.

(i) Except for a commercial use request, we will not charge you for the first 100 pages of duplication and the first two hours of search.

(j) You may not file multiple requests, each seeking portions of a document or documents, solely for the purpose of avoiding payment of fees. When the Board reasonably believes that a requester, or a group of requesters acting in concert, has submitted requests that constitute a single request involving clearly related matters, we may aggregate those requests and charge accordingly.

(k) We may not require you to make payment before we begin work to satisfy the request or to continue work on a request, unless:

(1) We estimate or determine that the allowable charges that you may be required to pay are likely to exceed $250; or

(2) You have previously failed to pay a fee charged within 30 days of the date of billing.

(l) Upon written request, we may waive or reduce fees that are otherwise chargeable under this part. If you request a waiver or reduction in fees, you must demonstrate that a waiver or reduction in fees is in the public interest because disclosure of the requested records is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in your commercial interest. After processing, actual fees must be equal to or exceed $25, for the Board to require payment of fees.

PART 1002—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

1002.1 Purpose and scope.
1002.2 Definitions.
1002.3 Privacy Act requests.
1002.4 Responses to Privacy Act requests.
1002.5 Administrative appeals.
1002.6 Fees.
1002.7 Penalties.

Authority: 5 U.S.C. 552a.

§ 1002.1 Purpose and scope.

The regulations in this part implement the provisions of the Privacy Act.

§ 1002.2 Definitions.

The following terms used in this part are defined in the Privacy Act: *Individual, maintain, record, system of records, statistical record,* and *routine use.* The following definitions also apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110–53, or any person to whom the Board has delegated authority in the matter concerned.

General Counsel means the Board's principal legal advisor, or his or her designee.

Privacy Act means the Privacy Act of 1974, 5 U.S.C. 552a, as amended.

Privacy Act Officer means the person designated by the Board to be responsible for the day-to-day administration of the Privacy Act.

§ 1002.3 Privacy Act requests.

(a) *Requests to determine if you are the subject of a record.* You may request that the Board inform you if we maintain a system of records that contains records about you. Your request must follow the procedures described in paragraph (b) of this section.

(b) *Requests for access.* You may request access to a Board record about you in writing or by appearing in person. You should direct your request to the Privacy Act Officer. Written requests may be sent to: Privacy Act Officer, Privacy and Civil Liberties Oversight Board, 2100 K Street NW., Suite 500, Washington, DC 20427. Your request should include the following information:

(1) Your name, address, and telephone number;

(2) The system(s) of records in which the requested information is contained; and

(3) At your option, authorization for copying expenses.

(4) *Written requests.* In addition to the information described in paragraphs (b)(1) through (3) of this section, written requests must include a statement affirming your identity, signed by you and witnessed by two persons (including witnesses' addresses) or notarized.

(i) *Witnessed.* If your statement is witnessed, it must include a sentence above the witnesses' signatures attesting that they personally know you or that you have provided satisfactory proof of your identity.

(ii) *Notarized.* If your statement is notarized, you must provide the notary with adequate proof of your identity in the form of a drivers' license, passport, or other identification acceptable to the notary.

(iii) The Board, in its discretion, may require additional proof of identification depending on the nature and sensitivity of the records in the system of records.

(iv) For the quickest possible handling, your letter and envelope should be marked ''Privacy Act Request''.

(5) *In person requests.* In addition to the information described in paragraphs (b)(1) through (3) of this section, if you make your request in person, you must provide adequate proof of identification at the time of your request. Adequate proof of identification includes a valid

drivers' license, valid passport, or other current identification that includes your address and photograph.

(c) *Requests for amendment or correction of records.* You may request an amendment to or correction of a record about you in person or by writing to the Privacy Act Officer following the procedures described in paragraph (b) of this section. Your request for amendment or correction should identify each particular record at issue, state the amendment or correction sought, and describe why the record is not accurate, relevant, timely, or complete.

(d) *Requests for an accounting of disclosures.* Except for those disclosures for which the Privacy Act does not require an accounting, you may request an accounting of any disclosure by the Board of a record about you. Your request for an accounting of disclosures must be made in writing following the procedures described in subsection (b) of this section.

(e) *Requests for access on behalf of someone else.*

(1) If you are making a request on behalf of someone else, your request must include a statement from that individual verifying his or her identity, as provided in paragraph (b)(4) of this section. Your request also must include a statement certifying that individual's agreement that records about him or her may be released to you.

(2) If you are the parent or guardian of the individual to whom the requested record pertains, or the individual to whom the record pertains has been deemed incompetent by a court, your request for access to records about that individual must include:

(i) The identity of the individual who is the subject of the record, including his or her name, current address, and date and place of birth;

(ii) Verification of your identity in accordance with paragraph (b)(4) of this section;

(iii) Verification that you are the subject's parent or guardian, which may be established by a copy of the subject's birth certificate identifying you as his or her parent, or a court order establishing you as guardian; and

(iv) A statement certifying that you are making the request on the subject's behalf.

§ 1002.4 Responses to Privacy Act requests.

(a) *Acknowledgement.* The Privacy Act Officer shall provide you with a written acknowledgment of your written request under section 3 within ten business days of our receipt of your request.

(b) *Grants of requests.* If you make your request in person, the Privacy Act Officer shall respond to your request directly, either by granting you access to the requested records, upon payment of any applicable fee and with a written record of the grant of your request and receipt of the records, or by informing you when a response may be expected. If you are accompanied by another person, you must authorize in writing any discussion of the records in the presence of the third person. If your request is in writing, the Privacy Act Officer shall provide you with written notice of the Board's decision to grant your request and the amount of any applicable fee. The Privacy Act Officer shall disclose the records to you promptly, upon payment of any applicable fee.

(c) *Denials of requests in whole or in part.* The Privacy Act Officer shall notify you in writing of his or her determination to deny, in whole or in part, your request. This writing shall include the following information:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason for the denial(s), including any applicable Privacy Act exemption;

(3) A statement that you may appeal the denial and a brief description of the requirements for appeal under § 1002.5.

(d) *Request for records not covered by the Privacy Act or subject to Privacy Act exemption.* If the Privacy Act Officer determines that a requested record is not subject to the Privacy Act or the records are subject to Privacy Act exemption, your request will be processed in accordance with the Board's Freedom of Information Act procedures at 6 CFR part 1001.

§ 1002.5 Administrative appeals.

Appeal procedures.

(1) You may appeal any decision by the Board to deny, in whole or in part, your request under § 1002.3 no later than 60 days after the decision is rendered.

(2) Your appeal must be in writing, sent to the General Counsel at the address specified in § 1002.3(b) and contain the following information:

(i) Your name;

(ii) Description of the record(s) at issue;

(iii) The system of records in which the record(s) is contained;

(iv) A statement of why your request should be granted.

(3) The General Counsel shall determine whether to uphold or reverse the initial determination within 30 working days of our receipt of your appeal. The General Counsel shall notify you of his or her decision, including a brief statement of the reasons for the decision, in writing. The General Counsel's decision will be the final action of the Board.

(b) *Statement of disagreement.* If your appeal of our determination related to your request for amendment or correction is denied in whole or in part, you may file a Statement of Disagreement that states the basis for your disagreement with the denial. Statements of Disagreement must be concise and must clearly identify each part of any record that is disputed. The Privacy Act Officer will place your Statement of Disagreement in the system of records in which the disputed record is maintained and shall mark the disputed record to indicate that a Statement of Disagreement has been filed and where it may be found.

(c) *Notification of amendment, correction, or disagreement.* Within 30 working days of the amendment or correction of a record, the Privacy Act Officer shall notify all persons, organizations, or agencies to which the Board previously disclosed the record, if an accounting of that disclosure was made, that the record has been corrected or amended. If you filed a Statement of Disagreement, the Privacy Act Officer shall append a copy of it to the disputed record whenever it is disclosed and also may append a concise statement of its reason(s) for denying the request to amend or correct the record.

§ 1002.6 Fees.

We will not charge a fee for search or review of records requested under this part, or for the correction of records. If you request copies of records, we may charge a fee of $.10 per page.

§ 1002.7 Penalties.

Any person who makes a false statement in connection with any request for a record or an amendment or correction thereto under this part is subject to the penalties prescribed in 18 U.S.C. 494 and 495 and 5 U.S.C. 552a(i)(3).

PART 1003—IMPLEMENTATION OF THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

1003.1 Purpose and scope.
1003.2 Definitions.
1003.3 Open meetings.
1003.4 Procedures for public announcement of meetings.
1003.5 Grounds on which meetings may be closed or information withheld.
1003.6 Procedures for closing meetings or withholding information, and requests by affected persons to close a meeting.

1003.7 Changes following public announcement.
1003.8 Transcripts, recordings, or minutes of closed meetings.
1003.9 Public availability and retention of transcripts, recordings, and minutes, and applicable fees.

Authority: 5 U.S.C. 552b.

§ 1003.1 Purpose and scope.

(a) The regulations in this part implement the provisions of the Sunshine Act.

(b) Requests for all records other than those described in § 1003.9, shall be governed by the Board's Freedom of Information Act procedures at 6 CFR part 1001.

§ 1003.2 Definitions.

The following definitions apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board delegated authority in the matter concerned.

General Counsel means the Board's principal legal advisor, or his or her designee.

Meeting means the deliberations of three or more Board members that determine or result in the joint conduct or disposition of official Board business. A meeting does not include:

(1) Notational voting or similar consideration of business for the purpose of recording votes, whether by circulation of material to members' individually in writing or by a polling of the members individually by phone.

(2) Action by three or more members to:

(i) Open or close a meeting or to release or withhold information pursuant to section 1003.6 of this part;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice, as permitted by § 1003.4; or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1003.7.

(3) A session attended by three or more members for the purpose of having the Board's staff or expert consultants, another federal agency, or other persons or organizations brief or otherwise provide information to the Board concerning any matters within the purview of the Board, provided that the members do not engage in deliberations that determine or result in the joint conduct or disposition of official business on such matters.

(4) A gathering of members for the purpose of holding informal, preliminary discussions or exchanges of views which do not effectively predetermine official action.

Member means an individual duly appointed and confirmed to the Board.

Public observation means attendance by the public at a meeting of the Board, but does not include public participation.

Public participation means the presentation or discussion of information, raising of questions, or other manner of involvement in a meeting of the Board by the public in a manner that contributes to the disposition of official Board business.

Sunshine Act means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1003.3 Open meetings.

(a) Except as otherwise provided in this part, every portion of a Board meeting shall be open to public observation.

(b) Board meetings, or portions thereof, shall be open to public participation when an announcement to that effect is published under § 1003.4. Public participation shall be conducted in an orderly, non-disruptive manner and in accordance with any procedures the Chairman may establish. Public participation may be terminated for good cause as determined by the Board upon the advice of the General Counsel based on unanticipated developments.

§ 1003.4 Procedures for public announcement of meetings.

(a) Except as otherwise provided in this section, the Board shall make a public announcement at least seven days prior to a meeting. The public announcement shall include:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting is to be open, closed, or portions of a meeting will be closed;

(4) Whether public participation will be allowed;

(5) The name and telephone number of the person who will respond to requests for information about the meeting;

(b) The seven day prior notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all members determine by recorded vote that Board business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by this section is made at the earliest practicable time.

(c) If public notice is provided by means other than publication in the **Federal Register,** notice will be promptly submitted to the **Federal Register** for publication.

§ 1003.5 Grounds on which meetings may be closed or information withheld.

A meeting, or portion thereof, may be closed and information pertinent to such meeting withheld if the Board determines that the meeting or release of information is likely to disclose matters that are:

(a) Specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy; and, in fact, are properly classified pursuant to such executive order. In making the determination that this exemption applies, the Board shall rely on the classification assigned to the document or assigned to the information from the federal agency from which the document was received.

(b) Related solely to the internal personnel rules and practices of the Board;

(c) Specifically exempt from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involved with accusing any person of a crime or formally censuring any person;

(f) Of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Either investigatory records compiled for law enforcement purposes or information which, if written, would be contained in such records, but only to the extent that the production of records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to either a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source or sources and, in the case of a record compiled either by

a criminal law enforcement authority or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source(s);

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Contained in or relating to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) If prematurely disclosed, likely to significantly frustrate implementation of a proposed action of the Board, except that this subsection shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; and

(j) Specifically concerned with the Board's issuance of a subpoena, or its participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case or formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1003.6 Procedures for closing meetings or withholding information, and requests by affected persons to close a meeting.

(a) A meeting or portion of a meeting may be closed and information pertaining to a meeting withheld under § 1003.5 only by vote of a majority of members.

(b) A separate vote of the members shall be taken with respect to each meeting or portion of a meeting proposed to be closed and with respect to information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings or portions of a meeting that are proposed to be closed, so long as each meeting or portion thereof in the series involves the same particular matter and is scheduled to be held no more than 30 days after the initial meeting in the series. The vote of each member shall be recorded and no proxies shall be allowed.

(c) A person whose interests may be directly affected by a portion of a meeting may request in writing that the Board close that portion for any of the reasons referred to in § 1003.5(e), (f) and (g). Upon the request of a member, a recorded vote shall be taken whether to close such meeting or portion thereof.

(d) For every meeting closed, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant basis for closing the meeting. If the General Counsel invokes the bases set forth in § 1003.5(a) or (c), he/she shall rely upon the classification or designation assigned to the information by the originating agency. A copy of such certification, together with a statement by the presiding officer setting forth the time and place of the meeting and the persons present, shall be retained by the Board as part of the transcript, recording, or minutes required by § 1003.8.

§ 1003.7 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public announcement described in § 1003.4. The Board must publicly announce such change at the earliest practicable time.

(b) The subject matter of a meeting or the determination of the Board to open or close a meeting, or a portion thereof, to the public may be changed following public announcement only if:

(1) A majority of all members determine by recorded vote that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces such change and the vote of each member thereon at the earliest practicable time.

§ 1003.8 Transcripts, recordings, or minutes of closed meetings.

Along with the General Counsel's certification and presiding officer's statement referred to in § 1003.6(d), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. Alternatively, for any meeting closed pursuant to § 1003.5(h) or (j), the Board may maintain a set of minutes adequate to record fully the proceedings, including a description of each of the views expressed on any item and the record of any roll call vote.

§ 1003.9 Public availability and retention of transcripts, recordings, and minutes, and applicable fees.

(a) The Board shall make available, in a place easily accessible, such as *www.pclob.gov,* to the public the transcript, electronic recording, or minutes of a meeting, except for items of discussion or testimony related to matters the Board determines may be withheld under § 1003.6.

(b) Copies of the nonexempt portions of the transcripts or minutes shall be provided upon receipt of the actual costs of the transcription or duplication.

(c) The Board shall maintain meeting transcripts, recordings, or minutes of each meeting closed to the public for a period ending at the later of two years following the date of the meeting, or one year after the conclusion of any Board proceeding with respect to the closed meeting.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1267, 1269, and 1270

RIN 2590–AA40

Removal of References to Credit Ratings in Certain Regulations Governing the Federal Home Loan Banks

AGENCIES: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires Federal agencies to review regulations that require the use of an assessment of the credit-worthiness of a security or money market instrument and any references to, or requirements in, such regulations regarding credit ratings issued by credit rating organizations registered with the Securities and Exchange Commission (SEC) as nationally recognized statistical rating organizations (NRSROs), and to remove such references or requirements. To implement this provision, the Federal Housing Finance Agency (FHFA) proposed on May 23, 2013, to amend certain of its rules and remove a number of references and requirements in certain safety and soundness regulations affecting the Federal Home Loan Banks (Banks). To replace the provisions that referenced NRSRO ratings, FHFA proposed to add requirements that the Banks apply internal analytic standards and criteria to determine the credit quality of a security or obligation, subject to FHFA oversight and review through the examination and supervisory process. FHFA also proposed to delete certain provisions from its regulations that contained references to NRSRO credit ratings because they appeared

duplicative of other requirements or because they applied only to Banks that had not converted to the capital structure required by the Gramm-Leach-Bliley Act (GLB Act) and no longer applied to any Bank. After considering the comments received on its notice of proposed rulemaking (Proposed Rule), FHFA has determined to adopt as final these proposed rule amendments without change.

DATES: The rule is effective May 7, 2014.

FOR FURTHER INFORMATION CONTACT: Julie Paller, Senior Financial Analyst, *Julie.Paller@FHFA.gov,* 202–649–3201, Amy Bogdon, Associate Director for Regulatory Policy and Programs, *Amy.Bogdon@FHFA.gov,* 202–649–3320, Division of Federal Home Loan Bank Regulation, Federal Housing Finance Agency; or Thomas E. Joseph, Associate General Counsel, *Thomas.Joseph@FHFA.gov,* 202–649–3076 (these are not toll-free numbers), Office of General Counsel (OGC), Federal Housing Finance Agency, Constitution Center, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Dodd-Frank Act Provisions

Section 939A of the Dodd-Frank Act requires federal agencies to: (i) Review regulations that require the use of an assessment of the creditworthiness of a security or money market instrument; and (ii) to the extent those regulations contain any references to, or requirements regarding credit ratings, remove such references or requirements. *See* section 939A, Public Law 111–203, 124 Stat. 1887 (July 21, 2010). In place of such credit-rating based requirements, agencies are instructed to substitute appropriate standards for determining creditworthiness. The new law further provides that, to the extent feasible, an agency should adopt a uniform standard of creditworthiness for use in its regulations, taking into account the entities regulated by it and the purposes for which such regulated entities would rely on the creditworthiness standard.

B. The Bank System

The twelve Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act (Bank Act).[1] The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[2] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential credit through its member institutions.[3] Any eligible institution (generally a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock.[4]

As government-sponsored enterprises, the Banks are granted certain privileges under federal law. In light of those privileges, the Banks typically can borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity lower than most other entities. The Banks pass along a portion of their funding advantage to their members—and ultimately to consumers—by providing advances and other financial services at rates that would not otherwise be available to their members. Consolidated obligations (COs), consisting of bonds and discount notes, are the principal funding source for the Banks. The Bank System's Office of Finance (OF) issues all COs on behalf of the twelve Banks. Although each Bank is primarily liable for the portion of COs corresponding to the proceeds received by that Bank, each Bank is also jointly and severally liable with the other eleven Banks for the payment of principal and interest on all COs.[5]

C. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[6] The Director also may consider any other differences that are deemed appropriate.

The amendments adopted in this rulemaking apply exclusively to the Banks. FHFA considered the differences between the Banks and the Enterprises as required by section 1313(f) of the Safety and Soundness Act in developing this final rule. As part of its proposed rulemaking, FHFA also specifically requested comments from the public about whether differences related to these factors should result in any revisions to the proposal, but received no specific comments in response to that request.[7]

II. Final Amendments to Parts 1267, 1269, and 1270 of the FHFA Regulations

A. Proposed Rule

On May 23, 2013, FHFA published in the **Federal Register** proposed amendments to rules governing Bank investments, standby letters of credit, and liabilities that would remove specific references to NRSRO ratings from these rules and provide alternative credit requirements for the Banks to apply.[8] These rules are found respectively in parts 1267, 1269, and 1270 of the FHFA regulations.

In developing the proposed amendments, FHFA considered comments received on an earlier advance notice of proposed rulemaking (ANPR) that had solicited comments from the public on potential alternatives to the use of NRSRO credit ratings in its regulations applicable to the Banks, as well as in its regulations applicable to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).[9] FHFA also considered comments received on a notice of proposed rulemaking addressing Bank liabilities and COs, in which it solicited comments on implementing section 939A of the Dodd-Frank Act with regard to certain provisions addressed in that rulemaking.[10] Finally, FHFA reviewed

[1] *See* 12 U.S.C. 1423, 1432(a).

[2] *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b.

[3] *See* 12 U.S.C. 1427.

[4] *See* 12 U.S.C. 1424; 12 CFR part 1263.

[5] *See* 12 U.S.C. 1431(c); 12 CFR 1270.10.

[6] *See* 12 U.S.C. 4513 (*as amended by* section 1201 Pub. L. 110–289, 122 Stat. 2782–83).

[7] *See* Proposed Rule, Removal of References to Credit Ratings in Certain Regulations Governing the Federal Home Loan Banks, 78 FR 30784, 30786–87 (May 23, 2013) (hereinafter Proposed Rule).

[8] *See* Proposed Rule, 78 FR 30784 (proposing amendments to 12 CFR part 1267, part 1269, and part 1270).

[9] *See* Advance Notice of Proposed Rulemaking, Alternatives to Use of Credit Ratings in Regulations Governing the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, 76 FR 5292 (Jan. 31, 2011).

[10] *See* Proposed Rule, Federal Home Loan Bank Liabilities, 75 FR 68534, 68536–38 (Nov. 8, 2010) (Bank Liabilities Rule). FHFA ultimately decided to adopt the part 1270 Bank Liabilities Rule without amending those provisions that referenced credit ratings, but noted that it would propose changes to those provisions in a future rulemaking and stated that it would consider relevant comments made on

Continued

and considered actions taken by other regulators to implement this Dodd-Frank Act provision.[11]

To remove specific references to NRSRO ratings from the investment requirements in §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii), FHFA proposed to add a new defined term, ''investment quality,'' to part 1267.[12] FHFA proposed to define ''investment quality'' as a determination made by a Bank based on documented analysis that there is adequate financial backing for any security or obligation so that full and timely payment of principal and interest is expected, and there is only minimal risk that such timely payment would not occur because of adverse changes in financial or economic conditions over the life of the instrument. Under the proposed amendments to §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii), a Bank would need to determine that a particular covered investment qualified as ''investment quality'' under the proposed definition rather than demonstrate that the instrument had a particular NRSRO credit rating at the time of purchase. The Bank determination would be subject to FHFA oversight and review through the examination and supervisory process.

In explaining this approach, FHFA stated that the proposed definition would allow Banks to build upon their current internal credit risk assessment and management practices and provide flexibility to consider differences in credit quality of different investments—considerations that were supported by many commenters to the ANPR. FHFA also emphasized that under the proposed definition, a Bank had to document its analysis as to the credit quality determination so FHFA could review these decisions as part of its supervisory and examination process and thereby could help ensure consistency and rigor in the analysis across all Banks.

FHFA identified a non-exclusive list of factors that a Bank could consider in its credit analysis: Internal or external credit risk assessments, including scenario analysis; security or asset-class related research; credit analysis of cash flow and debt service projections; credit spreads for like financial instruments; loss distributions, default rates, and other statistics; relevant market data, for example, bid-ask spreads, most recent sales price, and historical price volatility, trading volume, implied market rating, and size, depth and concentration level of the market for the investment; local and regional economic conditions; legal or other contractual implications to credit and repayment risk; underwriting, performance measures and triggers; and other financial instrument covenants and considerations. FHFA also noted that although mandating use or reliance on NRSRO credit ratings in the investment regulation would be inconsistent with the Dodd-Frank Act provisions, the proposed definition of ''investment quality'' would not prevent a Bank from using NRSRO ratings or other third party analytics in its credit determination so long as the Bank did not rely principally on such rating or third party analysis. FHFA underscored that a Bank's determination of credit quality needed to be driven primarily by the Bank's own internal analysis based on market and financial data, and other relevant factors including the size and complexity of the financial instrument and the Bank's own risk appetite and risk assessment framework.

Under the proposed standard, a Bank would have to make its determination concerning the credit quality of a particular instrument prior to entering into a transaction, and if the Bank determined that the instrument did not meet the proposed definition of ''investment quality,'' it could not purchase the instrument. FHFA also noted its expectation that as part of a Bank's risk management and monitoring process, a Bank needed to update periodically its ''investment quality'' analysis and to consider whether the instrument continued to meet safety, soundness, and business objectives. FHFA stated that the Banks would be expected to develop appropriate strategies to respond to a decline in the credit quality of its investments, consistent with then-current market and financial conditions and considerations, even though the investment regulations, as FHFA proposed to amend them, did not require a Bank to sell a debt instrument if subsequent analysis indicated the instrument became less than ''investment quality'' after the initial purchase.[13]

FHFA proposed a somewhat different approach for the amendments to § 1269.2(c)(2) of FHFA regulations, a provision addressing certain collateral requirements for standby letters of credit issued or confirmed by a Bank on behalf of a member.[14] In this case, FHFA proposed to eliminate the reference to an NRSRO investment grade rating by replacing it with a requirement that the collateral at issue needed to have a readily ascertainable value, could be reliably discounted to account for liquidation and other risks, and could be liquidated in due course. FHFA proposed this approach because it believed that it would have been unrealistic and unnecessarily onerous for a Bank to perform the same type of in-depth credit analysis, as discussed for the investment provisions, for a security that will be accepted as collateral. Instead, FHFA proposed a standard that was more appropriate for collateral and similar to one already applied in other FHFA collateral regulations.[15] FHFA also noted that the proposed standard was consistent with the original intent of the investment grade requirement in the standby letter of credit regulation, given that the rating was meant to serve as a proxy for securities that had ''an established secondary market . . . [so that] they can be easily valued and, if necessary, liquidated by a [Bank].''[16]

FHFA explained that the proposed amendments to § 1269.2(c)(2) would require a Bank to incorporate criteria into its collateral policies to assure that the collateral covered by the rule would meet the proposed criteria. FHFA emphasized that a Bank needed to meet other general requirements applicable to collateral, including having policies and procedures in place to ensure that the

the part 1270 rules as part of that rulemaking. *See* Final Rule: Federal Home Loan Bank Liabilities, 76 FR 18366, 18368 (Apr. 4, 2011) (adopting 12 CFR part 1270).

[11] *See* Proposed Rule, 78 FR 30785–86.

[12] *See id.* at 30787–88 (discussing amendments to 12 CFR 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii)). The first investment provision at issue prohibits the Banks from investing in any debt instrument that is rated below investment grade by an NRSRO at the time the investment is made. The second provision establishes an exception to a general prohibition on a Bank's investment in mortgages or other whole loans, if the investment involves marketable direct obligations of state, local, or tribal government units or agencies having at least the second highest credit rating from an NRSRO, and the purchase would generate customized terms, necessary liquidity, or favorable pricing for the issuer's funding of housing or community lending. *Id.*

[13] Current investment regulations, while prohibiting a Bank from buying debt instruments that are rated less than investment grade by an NRSRO at the time of purchase, do not require a Bank to sell any such instruments if they are downgraded to below investment grade after acquisition. Thus, not requiring a Bank to sell an instrument that became less than investment quality after purchase is consistent with long-standing regulations. *See id.* at 30788.

[14] *See id.* at 30788 (discussing amendments to 12 CFR 1269.2(c)(2)). Specifically, the current provision states that a standby letter of credit issued or confirmed by a Bank on behalf of a member to assist the member in facilitating residential housing finance or community lending may be collateralized by obligations of a state or local government unit or agency, if the obligation is rated investment grade by an NRSRO. *Id.*

[15] *See* 12 CFR 1266.7(a)(4).

[16] *See* Proposed Rule, 78 FR 30788 (*citing* Proposed Rule, Federal Home Loan Bank Standby Letters of Credit, 63 FR 25726, 25729 (May 8, 1998)).

Bank accurately valued the collateral and applied realistic haircuts given the market for the instrument and existing economic conditions.

FHFA also proposed to replace current provisions in §§ 1270.5(b) and (c) of its regulations that require Banks collectively to maintain the highest NRSRO rating for COs and each Bank individually to maintain a rating of at least the second highest from an NRSRO, with a general requirement that the Banks individually and collectively operate in such manner and take any actions necessary to ensure that COs maintain the highest level of acceptance by financial markets and are generally perceived by investors as presenting a very low level of credit risk.[17] FHFA believed that the new proposed provision captured the intent of the current rules and helped protect holders of COs while upholding the intent of the Dodd-Frank Act.[18] FHFA stated, however, that nothing in the language as proposed prohibited the Banks collectively from seeking NRSRO ratings for COs or an individual Bank from maintaining an individual NRSRO rating if such ratings were found desirable or helpful for either business or other reasons.

FHFA also proposed to delete certain provisions from its regulations that contained references to NRSRO credit ratings, either because they appear duplicative of other requirements[19] or because they apply only to Banks that have not converted to the capital structure required by the GLB Act[20] and no longer apply to any Bank because all Banks have now converted to the GLB Act capital stock structure.[21] FHFA also stated that it intended to undertake separate rulemakings to remove references to and requirements based on NRSRO credit ratings in the acquired member asset (AMA) programs regulations as well as to revise and remove NRSRO rating related references and requirements in the Bank capital and related rules.[22] Finally, FHFA noted that it did not intend to amend part 1273 of its regulations to remove references to NRSROs found in § 1273.6(d) of its rules, given that the provision was outside the scope of the requirements in section 939A of the Dodd-Frank Act and need not be changed.[23]

B. Comments on the Proposed Rule

FHFA received three comments in response to the Proposed Rule. One comment letter was from a private citizen, one was a joint letter from eight of the twelve Banks, and one was from a public interest group that focuses on financial market issues. The first two letters were generally supportive of the Proposed Rule. The letter from the public interest group argued that the rule amendments should incorporate specific criteria that a Bank must apply in reaching a credit determination rather than allowing each Bank so much flexibility to develop its own analytic approach.

In generally supporting the proposed rule amendments, the first commenter noted that the list of factors cited by FHFA that a Bank may consider in assessing credit-worthiness for purposes of §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii) was fairly complete and would allow the Banks ''to provide a robust and auditable level of assessment.'' The commenter noted, however, that it would be preferable for a Bank to rely on ''hard'' factors such as credit spreads, default statistics, legal and contractual considerations, market data, and other relevant asset-specific factors, rather than factors such as external credit risk assessments and security or asset-class related research. Similarly, the Banks generally agreed with the FHFA's proposed approach.[24] The Banks suggested, however, that FHFA adopt the approach taken by the Office of the Comptroller of the Currency (OCC) in its final guidance for its Section 939A rule amendments and confirm that the rules would not require the Banks to conduct specific credit analysis under the ''investment quality'' criteria for United States government and agency obligations (including mortgage-backed securities).[25]

The remaining comment letter noted that FHFA, in discussing the proposed rule changes, identified a number of appropriate factors that a Bank could consider in its credit assessment, but argued that the factors should be included in the rule text and that a Bank should be required to consider all the listed factors in its analysis. The commenter also argued that it would be inconsistent with the Dodd-Frank Act provisions to allow a Bank to rely on NRSRO credit ratings to even a limited degree, and that the Banks should be required to justify a credit decision based on a standard without regard to credit ratings. Thus, the commenter urged that the Banks be required to document the extent to which any NRSRO credit ratings were considered in a particular decision.

C. Final Rule

FHFA has considered the comments received on the proposed rule. As discussed above, the specific comments received mainly addressed the proposed rule changes to §§ 1267.3(a)(3)(ii) and 1267.3(a)(4)(iii). FHFA generally agrees with the one comment that the Banks should primarily rely on ''hard,'' asset-specific data in reaching a credit determination. In reviewing Bank determinations, FHFA will look at the required documentation to ascertain whether a Bank's decision is adequately supported by such information and will consider whether Banks are basing determinations on information sources that are independent of a specific issuer or counterparty and not relying on recommendations or other sources that may be biased. The point of the rule change is for the Banks to undertake their own, rigorous analysis prior to making an investment decision and not to defer to the analysis or opinions of third parties that may have conflicts or

[17] *See* Proposed Rule, 78 FR 30789 (discussing amendments to 12 CFR 1270.5(b) and (c)).

[18] In comments to the ANPR, the Banks stated that because the individual Bank rating requirement in § 1270.5(c) did not involve the rating of a security or a money market instrument, it was outside the scope of section 939A of the Dodd-Frank Act. In proposing to amend this provision, however, FHFA disagreed with this statement and noted that FHFA believed that requiring the Banks to maintain a specific credit rating from an NRSRO would have violated of the spirit of the Dodd-Frank provision by requiring the Banks to rely on NRSROs to review and essentially opine on Bank actions. *See id.*

[19] *See id.* at 30788–89 (discussing removal of 12 CFR 1270.4(b)(6)).

[20] Public Law 106–102, 133 Stat. 1338 (1999).

[21] *See* Proposed Rule, 78 FR 30788, 30789 (discussing removal of 12 CFR 1267.5 and 12 CFR 1270.5(a) respectively).

[22] *See id.* at 30786 (discussing 12 CFR part 955 (AMA rules) and 12 CFR part 932 (Bank capital and related rules)).

[23] *See id.* at 30786 (discussing 12 CFR 1273.6(d)). Section 1273.6(d) assigns to OF the responsibility to manage the Bank System's relationship with NRSROs, if NRSRO ratings are considered necessary or desirable in connection with the issuance and sale of COs. FHFA noted that it had stated in the ANPR that this provision appeared to be outside the scope of section 939A of the Dodd-Frank Act and that no commenters on the ANPR disagreed with this statement. *Id.* Similarly, no commenters on the proposed rule specifically addressed FHFA's stated intent not to amend § 1273.6(d).

[24] The Banks, in the joint comment letter, also specifically agreed that 12 CFR 1270.4(b)(6) could be removed as proposed. The joint comment letter did not specifically address the other provisions that FHFA proposed to delete. Nor did the other two comment letters specifically address any of the regulations that FHFA proposed to delete.

[25] The OCC guidance states in relevant part that:

Under OCC rules, Treasury and agency obligations do not require individual credit analysis, but bank management should consider how those securities fit into the overall purpose, plans, and risk and concentration limitations of the investment policies established by the board of directors.

Guidance on Due Diligence Requirements in Determining Whether Securities Are Eligible Investments, 77 FR 35259, 35260 (June 13, 2012).

interests that do not align with those of a Bank.

However, FHFA does not agree with another commenter's suggestion that it prohibit the Banks from using NRSRO ratings or other third party information in their analysis. This information can be useful to a Bank and should be allowed as long as it is not the sole or principal factor underlying a decision. FHFA also does not believe that the proposed rule language needs to be changed to require the Banks to justify a particular decision without regard to NRSRO ratings as the commenter suggested. The proposed definition of ''investment quality'' specifically requires that a Bank's decision be based on ''documented analysis,'' and FHFA intends to review this documentation as part of its ongoing supervisory and examination activities. To be complete, documentation would need to demonstrate how a Bank reached a particular determination and be supportive of the final decision. Thus, failure to maintain sufficient documentation indicating that the Bank's decision was primarily based on information and analysis other than NRSRO ratings would be inconsistent with the rule.

FHFA also does not intend to alter the proposed rule to incorporate into the definition of ''investment quality'' specific factors that a Bank must consider in reaching a determination. Instead, FHFA believes that its proposed approach provides the Banks needed flexibility to adjust their analysis to changing conditions and specific investments and to build on internal processes and procedures that are already in place. Moreover, it will allow the Banks' procedures and approaches to evolve over time in response to changes in thinking on ''best practices'' for credit risk management. FHFA will, however, provide more specific guidance on the Banks' credit analysis, including specific recommendations as to factors that need to be considered, if it finds that the Banks' practices are not rigorous or are otherwise deemed faulty.

In response to the request for clarification with respect to the application of the rule to United States government and agency obligations, FHFA agrees that instruments backed by the full faith and credit of the United States government can be deemed to meet the ''investment quality'' standard without specific analysis by a Bank. A Bank would still need to consider how such investment would conform to other investment and risk management policies of the Bank.

With regard to obligations, including agency obligations, that are not backed or guaranteed explicitly by the United States, however, FHFA believes that a Bank should make a specific credit determination as to ''investment quality.'' Such agency obligations include those issued by Fannie Mae, Freddie Mac, and Federal Farm Credit Banks, among others. These obligations carry no explicit federal government guarantee, and while the probability of default generally is considered to be low, it is not the same as a zero probability of default. Banks should not rely on the assumption of implicit government support but instead should look to the financial strength of an individual entity and its ability to meet its obligations. In making such a determination, a Bank could consider any explicit agreements that provide for federal support or other explicit guarantees that a particular counterparty or instrument may carry.[26]

With the exception of the Banks' comments on the effective date for the final rule amendments, which are addressed below, the comments were either generally supportive or did not specifically address the other amendments in the Proposed Rule. As a consequence, for the reasons discussed above and in the Supplementary Information section of the Proposed Rule, FHFA is adopting the amendments to parts 1267, 1269, and 1270 of its regulations as proposed.

D. Effective Date of the Rule

Finally, in notice of proposed rulemaking, FHFA noted that it would consider a delayed implementation date for any final rule amendments, and specifically requested comments on what time frame would be necessary for the Banks to implement these amendments.[27] The Banks, in their joint comment letter, were the only commenters to address this issue, and requested a six-month phase-in period. In support of this request, the Banks noted that they needed to make changes to risk management, financial management, and credit policies and procedures, including obtaining necessary approvals from their boards of directors, and also would need sufficient time to conduct staff training, observe the effects of the new policies and procedures, and make further adjustments to the policies and procedures, as necessary. FHFA accepts as reasonable the Bank's request for a six-month period to prepare for implementation of the rule changes, and therefore has determined that the final rule amendments will become effective on May 7, 2014.

[26] For example, it would be appropriate for a Bank to consider the Senior Preferred Stock Purchase Agreements (PSPAs) between the Enterprises and the United States Department of the Treasury, which were entered into at the time the Enterprises entered conservatorship, and the capital support provided under those agreements.

[27] Proposed Rule, 78 FR 30789–30790.

III. Paperwork Reduction Act

The rule amendments do not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

IV. Regulatory Flexibility Act

The rule amendments apply only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore in accordance with section 605(b) of the RFA, FHFA certifies that this final rule will not have significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Parts 1267 and 1269

Community development, Credit, Federal home loan bank, Housing, Reporting and recordkeeping requirements.

12 CFR Part 1270

Accounting, Federal home loan banks, Government securities.

Accordingly, for reasons stated in the **SUPPLEMENTARY INFORMATION** and under authority in 12 U.S.C. 4511, 4513, and 4526, FHFA is amending chapter XII of title 12 of the Code of Federal Regulations as follows:

PART 1267—FEDERAL HOME LOAN BANK INVESTMENTS

■ 1. The authority citation for part 1267 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 1436, 4511, 4513, 4526.

■ 2. Amend § 1267.1 by removing the definitions for ''Investment grade'' and ''NRSRO'' and adding in correct alphabetical order a definition for ''Investment quality'' to read as follows:

§ 1267.1 Definitions.

* * * * *

Investment quality means a determination made by the Bank with respect to a security or obligation that, based on documented analysis, including consideration of the sources for repayment on the security or obligation:

(1) There is adequate financial backing so that full and timely payment

of principal and interest on such security or obligation is expected; and

(2) There is minimal risk that the timely payment of principal or interest would not occur because of adverse changes in economic and financial conditions during the projected life of the security or obligation.

* * * * *

■ 3. Amend § 1267.3 by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 1267.3 Prohibited investments and prudential rules.

(a) * * *

(3) Debt instruments that are not investment quality, except:

(i) Investments described in § 1265.3(e) of this chapter; and

(ii) Debt instruments that a Bank determined became less than investment quality because of developments or events that occurred after acquisition of the instrument by the Bank;

(4) Whole mortgages or other whole loans, or interests in mortgages or loans, except:

(i) Acquired member assets;

(ii) Investments described in § 1265.3(e) of this chapter;

(iii) Marketable direct obligations of state, local, or Tribal government units or agencies, that are investment quality, where the purchase of such obligations by the Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community lending;

(iv) Mortgage-backed securities, or asset-backed securities collateralized by manufactured housing loans or home equity loans, that meet the definition of the term ''securities'' under 15 U.S.C. 77b(a)(1) and are not otherwise prohibited under paragraphs (a)(5) through (a)(7) of this section; and

(v) Loans held or acquired pursuant to section 12(b) of the Bank Act (12 U.S.C. 1432(b)).

* * * * *

§ 1267.5 [Removed]

■ 4. Remove § 1267.5.

PART 1269—STANDBY LETTERS OF CREDIT

■ 5. The authority citation for part 1269 continues to read as follows:

Authority: 12 U.S.C. 1429, 1430, 1430b, 1431, 4511, 4513, 4526.

§ 1269.1 [Amended]

■ 6. Amend § 1269.1 by removing the definitions for ''Investment grade'' and ''NRSRO.''

■ 7. Amend § 1269.2 by revising paragraph (c)(2) to read as follows:

§ 1269.2 Standby letters of credit on behalf of members.

* * * * *

(c) * * *

(2) A standby letter of credit issued or confirmed on behalf of a member for a purpose described in paragraphs (a)(1) or (a)(2) of this section may, in addition to the collateral described in paragraph (c)(1) of this section, be secured by obligations of state or local government units or agencies, where such obligations have a readily ascertainable value, can be reliably discounted to account for liquidation and other risks, and can be liquidated in due course.

PART 1270—LIABILITIES

■ 8. The authority citation for part 1270 continues to read as follows:

Authority: 12 U.S.C. 1431, 1432, 1435, 4511, 4512, 4513, 4526.

§ 1270.1 Definitions.

■ 9. Amend § 1270.1 by removing the definition of ''NRSRO.''

■ 10. Amend § 1270.4 by revising paragraph (b) to read as follows:

§ 1270.4 Issuance of consolidated obligations.

* * * * *

(b) *Negative pledge requirement.* Each Bank shall at all times maintain assets described in paragraphs (b)(1) through (b)(5) of this section free from any lien or pledge, in an amount at least equal to a *pro rata* share of the total amount of currently outstanding consolidated obligations and equal to such Bank's participation in all such consolidated obligations outstanding, provided that any assets that are subject to a lien or pledge for the benefit of the holders of any issue of consolidated obligations shall be treated as if they were assets free from any lien or pledge for purposes of compliance with this paragraph (b). Eligible assets are:

(1) Cash;

(2) Obligations of or fully guaranteed by the United States;

(3) Secured advances;

(4) Mortgages as to which one or more Banks have any guaranty or insurance, or commitment therefor, by the United States or any agency thereof; and

(5) Investments described in section 16(a) of the Bank Act (12 U.S.C. 1436(a)).

■ 11. Revise § 1270.5 to read as follows:

§ 1270.5 Bank operations.

The Banks, individually and collectively, shall operate in such manner and take any actions necessary, including without limitation reducing leverage, to ensure that consolidated obligations maintain a high level of acceptance by financial markets and are generally perceived by investors as presenting a low level of credit risk.

Dated: October 31, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–26775 Filed 11–7–13; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0514; Directorate Identifier 2012–SW–068–AD; Amendment 39–17647; AD 2013–22–15]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Sikorsky Model S–76A, B, and C helicopters to require certain inspections of each spindle cuff assembly or blade fold cuff assembly for a crack. If there is a crack, this AD requires replacing the cracked part. If there is no crack, this AD requires applying white paint to the inspection area to enhance the existing inspection procedure. This AD was prompted by discovery of cracks in the spindle cuffs. The actions are intended to prevent failure of a spindle cuff assembly or blade fold cuff assembly, loss of a rotor blade, and subsequent loss of control of the helicopter.

DATES: This AD is effective December 13, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of December 13, 2013.

ADDRESSES: For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email *tsslibrary@sikorsky.com;* or at *http://www.sikorsky.com.http://www.eurocopter.com/techpub.* You may

review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Nicholas Faust, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7763; email *nicholas.faust@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On June 20, 2013, at 78 FR 37160, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Sikorsky Model S–76A, B, and C helicopters. The NPRM proposed either a one-time nondestructive inspection (NDI) or a visual inspection of each spindle cuff assembly or blade fold cuff assembly for a crack and replacing any cracked part. If there was no crack in the part, the NPRM proposed applying white paint to a portion of each spindle cuff assembly or blade fold cuff assembly lower cuff plate to enhance the existing inspection procedure. The NPRM was prompted by the discovery of five cracked spindle cuffs found during aircraft overhaul. The proposed requirements were intended to prevent failure of a spindle cuff assembly or blade fold cuff assembly, loss of a rotor blade, and subsequent loss of control of the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 37160, June 20, 2013).

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

Sikorsky issued S–76 Alert Service Bulletin ASB 76–65–67A, Revision A, dated July 18, 2012 (ASB), which specifies performing an NDI of the upper and lower cuff plate on each spindle cuff assembly or blade fold cuff assembly for a crack, either by eddy current, fluorescent penetrant, or ultrasonic inspection. If a crack indication is detected and not verified, the ASB specifies performing a different NDI to verify a crack. If there is a crack, the ASB specifies removing the spindle cuff assembly or blade fold cuff assembly from service. If a crack cannot be verified, the ASB specifies contacting Sikorsky for further instruction. Finally, if no crack is found, the ASB specifies applying white paint to a portion of the spindle cuff assembly or blade fold cuff assembly lower cuff plate to enhance the existing inspection procedure.

Differences Between This AD and the Service Information

The ASB specifies contacting the manufacturer if suspect cracks are not confirmed in the spindle cuff assembly or blade fold cuff assembly; this AD does not require contacting the manufacturer. This AD applies to spindle cuff assembly, part number (P/N) 76102–08001–043, which was inadvertently omitted in the ASB. The manufacturer has since revised the ASB to apply to this spindle cuff assembly. The ASB applies to spare parts; this AD does not.

Costs of Compliance

We estimate that this AD will affect 181 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD, based on an average labor cost of $85 per work hour: It will take 2.5 work hours to do an NDI and 2 work hours to apply the white paint. It will cost $15 in materials for the paint for each helicopter. Based on these estimates, it will cost a total of $398 per helicopter and $72,038 for the fleet.

If it is necessary to replace a spindle cuff assembly or a blade cuff assembly, it will take 2.5 work hours and an estimated parts cost of $54,000, for a total cost of $54,212 for each helicopter.

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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–15 Sikorsky Aircraft Corporation: Amendment 39–17647; FAA–2013–0514; Directorate Identifier 2012–SW–068–AD.

(a) Applicability

This AD applies to Model S–76A, S–76B, and S–76C helicopters with a serial number up to and including 760822 and with a spindle cuff assembly, part number (P/N) 76102–08001–043, –045 or –046, or a blade fold cuff assembly, P/N 76150–09601–041, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a spindle cuff assembly or blade fold cuff assembly. This condition could result in failure of a spindle cuff assembly or blade fold cuff assembly, loss of a rotor blade, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective December 13, 2013.

(d) 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.

(e) Required Actions

Within 150 hours time-in-service (TIS):

(1) For each spindle cuff assembly or blade cuff assembly with 1,900 or more hours TIS, conduct a nondestructive inspection (NDI) by following the Accomplishment Instructions, paragraph 3.B., of Sikorsky S–76 Alert Service Bulletin ASB 76–65–67A, Revision A, dated July 18, 2012 (ASB), except this AD does not require you to contact Sikorsky Aircraft Corporation. This inspection must be done by a level 2 or higher technician with National Aerospace Standard 410 or equivalent certification.

(2) For each spindle cuff assembly or blade cuff assembly with less than 1,900 hours TIS, visually inspect the area indicated in Figure 4 of the ASB as ''white paint application area'' for a crack by using a 5x or higher power magnifying glass.

(3) If there is a crack, before further flight, replace the cracked part.

(4) If there is no crack, apply white paint by following the Accomplishment Instructions, paragraph 3.D., of the ASB.

(5) Do not install an affected spindle cuff assembly or blade fold cuff assembly on any helicopter unless it has been inspected in accordance with paragraphs (e)(1) through (e)(4) of this AD.

(f) Special Flight Permit

Special flight permits will not be issued.

(g) Alternative Methods of Compliance (AMOC)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Nicholas Faust, Aviation Safety Engineer, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7763; email *nicholas.faust@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.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6220 Main Rotor Head.

(i) Material Incorporated by Reference

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

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

(i) Sikorsky S–76 Alert Service Bulletin ASB 76–65–67A, Revision A, dated July 18, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email *tsslibrary@sikorsky.com;* or at *http://www.sikorsky.com.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on October 24, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–26043 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0928; Directorate Identifier 2013–CE–036–AD; Amendment 39–17645; AD 2013–22–13]

RIN 2120–AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain PILATUS Aircraft Ltd. Model PC–7 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafing on the wiring harness attached to the engine mounting frame on the right-hand side of the engine compartment, which could cause a short circuit and could result in a fire in the engine compartment. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 29, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 29, 2013.

We must receive comments on this AD by December 23, 2013.

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

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

For service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Technical Support (MCC), P.O. Box 992, CH–6371 STANS, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; Internet:

http://www.pilatus-aircraft.com or email: *Techsupport@pilatus-aircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued AD HB–2013–009, dated October 7, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> This Airworthiness Directive (AD) is prompted due to a report of chafing of the wiring harness attached to the engine mounting frame on the RH side of the engine compartment. Due to the limited space available in this area the wiring harness can chafe against the RH flexible duct for the condenser.
>
> Such a condition, if left uncorrected, could lead to a short circuit which could cause a fire in the engine compartment.
>
> In order to correct and control the situation, this AD requires a one-time inspection of the wiring harness and flexible duct of the condenser for chafing. If major damage is found, the damaged parts must be replaced. If minor damage is found, this AD requires the installation of a protective sleeve on the wiring harness.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0928.

Relevant Service Information

PILATUS Aircraft Ltd. has issued PILATUS PC–7 Service Bulletin No. 24–009, dated September 6, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because chafing of the wiring harness in the engine compartment could cause a short circuit and could result in a fire in the engine compartment. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0928; Directorate Identifier 2013–CE–036–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $850, or $85 per product.

In addition, we estimate that necessary follow-on actions will take about 5 work-hours to install a protective sleeve on the wiring harness, if minor damage is found, and require parts costing approximately $100, for a cost of $525 per product. We also estimate that it will take about 12 work-hours to replace damaged parts, if major damage is found, and require parts costing approximately $500, for a cost of $1,520 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–13 PILATUS Aircraft Ltd.: Amendment 39–17645; Docket No. FAA–2013–0928; Directorate Identifier 2013–CE–036–AD.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to PILATUS Aircraft Ltd. Model PC–7 airplanes, manufacturers' serial numbers (MSN) 101 through 618, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 24: Electrical Power.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafing on the wiring harness attached to the engine mounting frame on the right-hand side of the engine compartment. We are issuing this AD to prevent a short circuit, which could result in fire in the engine compartment.

(f) Actions and Compliance

Unless already done, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD.

(1) Within the next 90 days after November 29, 2013 (the effective date of this AD), visually inspect the wiring harness and the flexile duct in the engine compartment for signs of chafing following the Accomplishment Instructions in PILATUS Aircraft Ltd. PC–7 Service Bulletin No. 24–009, dated September 6, 2013.

(2) If, during the inspection required in paragraph (f)(1) of this AD, any signs of chafing are found, before further flight, take all necessary corrective actions following the Accomplishment Instructions in PILATUS Aircraft Ltd. PC–7 Service Bulletin No. 24–009, dated September 6, 2013.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, 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.

(h) Related Information

Refer to MCAI Federal Office of Civil Aviation (FOCA) AD HB–2013–009, dated October 7, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0928.

(i) Material Incorporated by Reference

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

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

(i) PILATUS Aircraft Ltd. PC–7 Service Bulletin No. 24–009, dated September 6, 2013.

(ii) Reserved.

(3) For PILATUS Aircraft Ltd. service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Technical Support (MCC), P.O. Box 992, CH–6371 STANS, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; Internet: *http://www.pilatus-aircraft.com* or email: *Techsupport@pilatus-aircraft.com.*

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

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

Issued in Kansas City, Missouri on October 24, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–25953 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0927; Directorate Identifier 2013–CE–030–AD; Amendment 39–17644; AD 2013–22–12]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all DG Flugzeugbau GmbH Models DG–800A, DG–800B, DG–500MB gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective starter motor control unit, which could activate the starter motor without pressing the starter button. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 18, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 18, 2013.

We must receive comments on this AD by December 23, 2013.

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

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

For service information identified in this AD, contact DG-Flugzeugbau GmbH, 76646 Bruchsal, Germany; telephone: +49 7251 3020 140; fax: +49 7251 3020 269; Internet: *http://www.dg-flugzeugbau.de/index.php?id=1329;* email: *dirks@dg-flugzeugbau.de*. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0927; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2013–0212, dated September 13, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> About 8% of the produced starter motor control units, as installed in DG–800 and DG–500MB powered sailplanes, have reportedly been sent in for repair with a defective starter motor control. Investigation results showed that a short circuit can activate the starter motor without pressing the starter button.
>
> This condition, if not corrected, could cause sudden rotation of the propeller, possibly resulting in injury to the pilot or other persons.
>
> To address the potential unsafe condition, DG-Flugzeugbau issues Technical Note (TN) No. 800/42, 500/06 (single document).
>
> For the reason described above, this AD requires identification and replacement of the affected control units.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0927.

Relevant Service Information

DG Flugzeugbau GmbH has issued Technical note No. 800/42, 500/06 (co-published as one document), dated May 29, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the starter motor could become activated without pressing the starter button and cause sudden propeller rotation, which could result in injury to the pilot and/or other persons. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0927; Directorate Identifier 2012–CE–030–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 27 products of U.S. registry. We also estimate that it will take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,147.50, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions will take about 2 work-hours and require parts costing $302, for a cost of $472 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–12 DG Flugzeugbau GmbH: Amendment 39–17644; Docket No. FAA–2013–0927; Directorate Identifier 2012–CE–036–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 18, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH DG–800A, DG–800B, and DG–500MB gliders, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 80: Engine Starting.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective starter motor control, which could activate the starter motor without pressing the starter button. We are issuing this AD to prevent sudden propeller rotation, which could result in injury to the pilot and/or other persons.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) and (f)(2) of this AD:

(1) Within 10 days after November 18, 2013 (the effective date of this AD), inspect to determine if an unmodified starter control unit is installed. If an unmodified starter control unit is installed, remove the unit and replace it with a modified unit. Do the removal and replacement following the Instructions section of DG Flugzeugbau GmbH Technical note No. 800/42, 500/06 (co-published as one document), dated May 29, 2013.

(2) As of November 18, 2013 (the effective date of this AD), do not install any starter motor control unit unless it has been modified and labeled with placard ''MS.''

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov*. Before using any approved AMOC on any glider to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2013–0212, dated September 13, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0927. For service information related to this AD, contact DG-Flugzeugbau GmbH, 76646 Bruchsal, Germany; telephone: +49 7251 3020 140; fax: +49 7251 3020 269; Internet: *http://www.dg-flugzeugbau.de/index.php?id=1329;* email: *dirks@dg-flugzeugbau.de*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(i) Material Incorporated by Reference

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

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

(i) DG Flugzeugbau GmbH Technical note No. 800/42, dated May 29, 2013.

(ii) DG Flugzeugbau GmbH Technical note No. 500/06, dated May 29, 2013.

Note 1 to paragraph (i)(2): DG Flugzeugbau GmbH Technical note No. 800/42, dated May 29, 2013, and DG Flugzeugbau GmbH Technical note No. 500/06, dated May 29, 2013, are co-published as one document.

(3) For DG-Flugzeugbau GmbH service information identified in this AD, contact DG-Flugzeugbau GmbH, 76646 Bruchsal, Germany; telephone: +49 7251 3020 140; fax: +49 7251 3020 269; Internet: *http://www.dg-flugzeugbau.de/index.php?id=1329;* email: *dirks@dg-flugzeugbau.de*.

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

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

Issued in Kansas City, Missouri, on October 24, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–25955 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0529; Directorate Identifier 2011–SW–050–AD; Amendment 39–17648; AD 2013–22–16]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. (Type Certificate Currently Held by Agusta Westland) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Agusta S.p.A. (Agusta) Model AW139 helicopters. This AD requires replacing certain solder splices in the co-pilot audio system. This AD was prompted by the discovery of improper installation of solder splices on the co-pilot audio system causing intermittent noise through the audio system during flight. The actions of this AD are intended to prevent degradation and complete loss of communications between the pilot and co-pilot during flight, impairing the co-pilot's capability to react immediately to operational difficulties, which could lead to subsequent loss of control of the helicopter.

DATES: This AD is effective December 13, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of December 13, 2013.

ADDRESSES: For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39- 0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: John VanHoudt, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5110, email *john.vanhoudt@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 22, 2012, at 77 FR 30236, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to certain Agusta AW139 helicopters. The NPRM proposed to require within 500 hours time-in-service (TIS) or six months or when an ''AVIONICS FAULT'' crew alerting system (CAS) message is displayed, whichever occurs first, replacing all solder splices in the co-pilot audio system. The proposed requirements were intended to prevent degradation and complete loss of communications between the pilot and co-pilot during flight, impairing the co-pilot's capability to react immediately to operational difficulties, which could lead to subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2011–0140, dated July 20, 2011, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD No. 2011–0140 to correct an unsafe condition for certain Agusta AW139 helicopters. EASA advises that some occurrences of intermittent noise in the co-pilot audio system have been reported. The technical investigation carried out by Agusta showed that some of the solder splices on the audio panel were the possible cause of these malfunctions. This condition, if not detected and corrected, could impair the co-pilot's capability to react immediately to operational difficulties. The EASA AD requires inspecting the solder splices and related wires for their condition and for proper installation, and if required, replacing the solder splices.

Comments

After our NPRM (77 FR 30236, May 22, 2012) was published, we received comments from four commenters.

Request

One commenter requested we include a statement that previous compliance with Agusta Bollettino Tecnico No. 139–249 fulfills the requirements of the proposed AD. We disagree that compliance with this service information will always fulfill the requirements of this AD. The service information only requires the replacement of damaged splices, while this AD requires the replacement of all solder splices. We have made a minor change to the language of paragraph (e) to clarify this requirement.

Three commenters expressed support for proposed changes to the living history flight experience regulations. These comments appear to have been posted in error in this docket as they are not relevant to the NPRM (77 FR 30236, May 22, 2012).

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA, reviewed the relevant information, considered the comments received, and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for minor editorial changes in paragraph (e) to clarify the intent of that paragraph. These minor editorial changes are consistent with the intent of the proposals in the NPRM (77 FR 30236, May 22, 2012) and will not increase the economic burden on any operator nor increase the scope of the AD.

Differences Between This AD and the EASA AD

The EASA AD requires performing a visual inspection and manual pull-test of the solder splices, while this AD does not. The EASA AD requires that damaged or defective splices be replaced, while this AD requires the replacement of all splices with a part number listed in the service information. The EASA AD requires compliance within 600 flight hours or 6 months, while this AD requires compliance within 500 hours TIS or 5 months.

Related Service Information

Agusta has issued Bollettino Tecnico (BT) No. 139–249, dated July 13, 2011 (BT 139–249), which specifies performing an inspection and manual pull-test of the solder splices and replacing any splices which fail the inspection or pull-test. EASA classified this BT as mandatory and issued 2011–0140 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD will affect 32 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. Replacing the solder splices will require approximately 110 work-hours at an average labor cost of $85 per

hour and required parts will cost $200, for a total cost to the operator of $9,550 and a total cost to the U.S. operator fleet of $305,600.

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 helicopters 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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–16 Agusta S.P.A. (Type Certificate Currently Held By Agustawestland) Helicopters: Amendment 39–17648; Docket No. FAA–2012–0529; Directorate Identifier 2011–SW–050–AD.

(a) Applicability

This AD applies to Agusta S.p.A. Model AW139 helicopters, serial numbers 31248, 31249, 41001 through 41023, 41201 through 41234, 41236, 41237 through 41255 (except 41240, 41242, 41246, 41249, 41251, and 41252), and 41257, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as intermittent noise through the audio system during flight caused by improper installation of solder splices on the co-pilot's audio panel. This condition could result in degradation and complete loss of communications between the pilot and co-pilot during flight, impairing the co-pilot's capability to react immediately to operational difficulties, which could lead to subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective December 13, 2013.

(d) 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.

(e) Required Action

Within 500 hours time-in-service or 5 months, or in the event of an AVIONICS FAULT crew alerting system (CAS) message, whichever occurs first, replace each co-pilot audio panel solder splice listed in Tables 1 and 2 of Agusta Bollettino Tecnico No. 139–249, dated July 13, 2011 (BT), by following the procedures in paragraphs 7.1 through 7.11. and Figures 12, 14, and 15 of the BT.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: John VanHoudt, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5110, email *john.vanhoudt@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.

(g) Additional Information

(1) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2011–0140, dated July 20, 2011. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2012–0529.

(h) Subject

Joint Aircraft System Component (JASC) Code: 2397: Communications System Wiring.

(i) Material Incorporated by Reference

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

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

(i) Agusta Bollettino Tecnico No. 139–249, dated July 13, 2011.

(ii) Reserved.

(3) For Agusta service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on October 25, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–26048 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0936; Directorate Identifier 2013–CE–033–AD; Amendment 39–17652; AD 2013–22–20]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Embraer S.A. Model EMB–505 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking in the stator pressure plate of the brake assembly, which may lead to loss of brake parts on the runway and reduced brake capability with possible runway excursion. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 8, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 8, 2013.

We must receive comments on this AD by December 23, 2013.

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

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

For service information identified in this AD, contact EMBRAER S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, Putim, CEP: 12227–901, Sao Jose dos Campos, Sao Paulo, Brasil; phone: (+55 12) 3927–1000; Fax: (+55 12) 3927–6600, Ext. 1448; email: *phenom.reliability@embraer.com.br:* Internet: *http://www.embraerexecutivejets.com/en-US/customer-support/Pages/Service-Center-Network.aspx*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The Agencia Nacional De Aviacoa Civil (ANAC), which is the aviation authority for Brazil, has issued emergency AD No.: 2013–09–01, dated September 26, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It has been found the occurrence of cracks in the stator pressure plate of the brake assembly of the airplane, which may lead to loss of brake parts in the runway, and to a reduced airplane brake capability with possible runway excursion event. Since this condition may occur in other airplanes of the same type and affects flight safety, an immediate corrective action is required. Thus, sufficient reason exists to request compliance with this EAD in the indicated time limit without prior notice.

The MCAI requires an inspection to determine if the airplane has the affected part number (P/N) brake assembly installed and inspection for cracks of the affected brake assembly with repair or replacement as necessary. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0936.

Relevant Service Information

Embraer S.A. has issued Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracking of the stator pressure plate of the brake assembly could lead to loss of brake parts on the runway, which could result in reduced brake capability with a possible runway excursion. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0936; Directorate Identifier 2013–CE–033–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We

will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD will affect 88 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $14,960, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $2,324, for a cost of $2,409 per product for repair; or 3 work-hours and require parts costing $25,187, for a cost of $25,442 per product for brake assembly replacement. We have no way of determining the number of products that may need these actions.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–20 Embraer—Empresa Brasileira de Aeronautica S.A.: Amendment 39–17652; Docket No. FAA–2013–0936; Directorate Identifier 2013–CE–033–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 8, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Models EMB–505 airplanes, all serial numbers, that are:

(1) Equipped with a part number (P/N) DAP00097–01 or P/N DAP00097–02 brake assembly; and

(2) certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking in the stator pressure plate of the brake assembly, which may lead to loss of brake parts on the runway. We are issuing this AD to detect and correct cracking of the stator pressure plate and possible loss of brake parts on the runway, which could result in reduced brake capability and a possible runway excursion.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(9) of this AD, including all subparagraphs.

(1) If the number of cycles is unknown, calculate the compliance times of cycles in this AD by using hours time-in-service (TIS). Multiply the number of hours TIS on the brake assembly by .71 to come up with the number of cycles. For the purposes of this AD some examples are below:

(i) 500 hours TIS equates to 355 cycles; and

(ii) 12 hours equates to 9 cycles.

(2) Do a general visual inspection (GVI) for cracks in the stator pressure plate on both the left hand (LH) and right hand (RH) brake assemblies following the Accomplishment Instructions in Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013. Use the compliance times in paragraphs (f)(2)(i) and (f)(2)(ii):

(i) *For brake assemblies with 300 flight cycles or less since new or since the last overhaul:* Before or upon accumulating 150 flight cycles or within the next 30 flight cycles, whichever occurs later, and repetitively thereafter at intervals not to exceed 60 flight cycles or the next tire change, whichever occurs first.

(ii) *For brake assemblies with more than 300 flight cycles since new or since the last overhaul:* Within the next 10 flight cycles and repetitively thereafter at intervals not to exceed 60 flight cycles or the next tire change, whichever occurs first.

(3) If no cracks are found during any of the inspections required in paragraph (f)(2) of this AD, continue the repetitive inspection intervals required in paragraph (f)(2) of this AD, including all subparagraphs.

(4) If during any of the inspections required in paragraph (f)(2) of this AD, including all subparagraphs, any crack is found in the stator pressure plate, before further flight, do a detailed inspection (DET) following the Accomplishment Instructions in Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013.

(5) If no cracks beyond the acceptable limits are found during the DET required in paragraph (f)(4) of this AD, continue the repetitive inspection intervals required in paragraph (f)(2) in this AD, including all subparagraphs.

(6) If cracks that exceed the acceptable limits are found during the DET required in paragraph (f)(4) of this AD, before further flight, repair the brake assembly following Appendix 2 of Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013; or replace the brake assembly with a brake assembly that has been inspected and found free of cracks that exceed the acceptable limits following the Accomplish Instructions of Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013. After repair or replacement of the brake assembly, the brake assembly is subject to the inspections required in paragraphs (f)(2), including all subparagraphs, of this AD.

Note 1 to paragraph (f)(6) of this AD: Appendix 2 of Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013, includes Meggitt Aircraft Braking System Service Bulletin No. SB–32–1625, dated September 13, 2013.

(7) For the purposes of this AD, a GVI is a visual examination of an interior or exterior area, installation or assembly, to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance, unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light. It may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.

(8) For the purposes of this AD, a DET is an intensive examination of a specific item, installation or assembly, to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate access procedures may be required.

(9) After the effective the date of this AD, do not install on any airplane a brake assembly P/N DAP00097–01 or P/N DAP00097–02 unless it is inspected per the requirements of this AD and continues to be crack free or the cracks do not exceed the allowable limits.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, 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.

(h) Related Information

Refer to MCAI Agencia Nacional De Aviacoa Civil (ANAC) AD No.: 2013–09–01, dated September 26, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0936.

(i) Material Incorporated by Reference

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

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

(i) Embraer Phenom Alert Service Bulletin No. 505–32–A011, dated September 13, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact EMBRAER S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, Putim, CEP: 12227–901, Sao Jose dos Campos, Sao Paulo, Brasil; phone: (+55 12) 3927–1000; Fax: (+55 12) 3927–6600, Ext. 1448; email: *phenom.reliability@embraer.com.br;* Internet: *http://www.embraerexecutivejets.com/en-US/customer-support/Pages/Service-Center-Network.aspx.*

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

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

Issued in Kansas City, Missouri, on October 30, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–26474 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0519; Directorate Identifier 2010–SW–068–AD; Amendment 39–17623; AD 2013–20–17]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for ECD Model BO105C (C–2 and CB–2 Variants) and BO105S (CS–2 and CBS–2 Variants) helicopters with a certain third stage turbine wheel installed. This AD requires installing a placard on the instrument panel and revising the limitations section of the rotorcraft flight manual (RFM). This AD is prompted by several incidents of third stage engine turbine wheel failures, which were caused by excessive vibrations at certain engine speeds during steady-state operations. These actions are intended to alert pilots to avoid certain engine speeds during steady-state operations, prevent failure of the third stage engine turbine, engine power loss, and subsequent loss of control of the helicopter.

DATES: This AD is effective December 13, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of December 13, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the foreign authority's AD, any incorporated-by-reference service information, the economic evaluation, any comments

received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Chinh Vuong, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *chinh.vuong@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On June 20, 2013, at 78 FR 37150, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to ECD Model BO105C (C–2 and CB–2 Variants) and BO105S (CS–2 and CBS–2 Variants) helicopters with a third stage turbine wheel, part number (P/N) 23065833, installed. The NPRM proposed to require installing a placard on the instrument panel next to the triple RPM indicator and revising the Limitations sections of the Model BO 105C/CS and BO105 CB/CBS RFMs to limit steady-state operations between speeds of 86.5% and 95.5%. The proposed requirements were intended to alert pilots to avoid certain engine speeds during steady-state operations, prevent failure of the third stage engine turbine, engine power loss, and subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2010–0128, dated June 25, 2010, issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD No. 2010–0128 to correct an unsafe condition for Model BO 105 C, BO 105 D, and BO 105 S helicopters, and certain variants of those models. EASA advises that several failures of third stage turbine wheels used in Rolls Royce Corporation (RRC) 250 series engines have occurred. According to EASA, RRC has determined that detrimental vibrations can occur within a particular range of turbine speeds, and may be a contributing factor to these failures. This condition, if not corrected, could result in loss of engine power, possibly resulting in an emergency landing and injuries to the helicopter occupants. To address this, RRC issued Commercial Engine Bulletin (CEB) A–1400, now at revision 3, for engines with a third stage turbine wheel, P/N 23065833, installed. CEB A–1400 introduces an operational limitation to avoid engine power turbine (N2) steady-state operation in a speed range between 86.5% and 95.5% for more than 60 seconds in single or cumulative events. In response, ECD has revised the RFM and has provided a placard to inform pilots to avoid steady-state operations between 86.5% and 95.5% turbine speeds.

The EASA AD requires amending the RFMs and installing a placard as described in ECD Alert Service Bulletin No. BO105–60–110, Revision 1, dated March 3, 2010 (ASB BO105).

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 37150, June 20, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing 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 helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

ECD has issued ASB BO105, which contains procedures for installing a placard on the instrument panel stating the prohibited steady-state turbine operating range. Revision 1 of ASB BO105 removed the temporary RFM pages as these changes were included in the most recent revisions of the BO105C/CS and BO105CB/CBS RFMs.

Costs of Compliance

We estimate that this AD affects 80 helicopters of U.S. Registry.

Based on an average labor rate of $85 per hour, we estimate that operators will incur the following costs in order to comply with this AD. Amending the RFM will require about 0.5 work-hour, for a cost per helicopter of about $43 and a cost to U.S. operators of $3,440. Installing the decal will require about 0.2 work-hour, and required parts will cost about $5, for a cost per helicopter of $22 and a cost to U.S. operators of $1,760. Based on these estimates, the total cost of this AD is $65 per helicopter and $5,200 for the U.S. operator fleet.

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 helicopters 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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–20–17 Eurocopter Deutschland GMBH (ECD): Amendment 39–17623; Docket No. FAA–2013–0519; Directorate Identifier 2010–SW–068–AD.

(a) Applicability

This AD applies to ECD Model BO105C (C–2 and CB–2 Variants) and BO105S (CS–2 and CBS–2 Variants) helicopters with a third stage turbine wheel, part number 23065833, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a third stage turbine vibration, which could result in turbine failure, engine power loss and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective December 13, 2013.

(d) 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.

(e) Required Actions

Within 30 days:

(1) For BO105C–2 and BO105CS–2 Variant helicopters, revise the Rotorcraft Flight Manual (RFM), Section 2, Limitations Section, by inserting page 2–25 of ECD Flight Manual BO 105 C/CS, revision 5, dated March 12, 2010.

(2) For BO105CB–2 and BO105CBS–2 Variant helicopters, revise the RFM, Section 2, Limitations Section, by inserting pages 2–8 and 2–27 of ECD Flight Manual BO 105 CB/CBS, revision 8, dated March 12, 2010.

(3) Install a placard on the instrument panel next to the triple RPM indicator that states: MIN. CONTINUOUS 98% N_2—MIN. TRANSIENT 95% N_2.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Chinh Vuong, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *chinh.vuong@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.

(g) Additional Information

(1) ECD Alert Service Bulletin No. BO105–60–110, Revision 1, dated March 3, 2010, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2010–0128, dated June 25, 2010. You may view the EASA AD on the internet in the AD Docket at *http://www.regulations.gov.*

(h) Subject

Joint Aircraft Service Component (JASC) Code: 7250: Turbine Section.

(i) Material Incorporated by Reference

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

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

(i) Page 2–25 of Section 2, Limitations, of Eurocopter Deutschland GmbH Flight Manual BO 105 C/CS, Revision 5, dated March 12, 2010.

(ii) Pages 2–8 and 2–27 of Section 2, Limitations, of Eurocopter Deutschland GmbH Flight Manual BO 105 CB/CBS, Revision 8, dated March 12, 2010.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

(4) You may review a copy of this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

Issued in Fort Worth, Texas, on September 20, 2013.

Scott A. Horn,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–26562 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0481; Directorate Identifier 2011–SW–003–AD; Amendment 39–17653; AD 2013–22–21]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc., Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (Bell), Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, and 407 helicopters with an Apical Industries, Inc. (Apical) emergency float kit installed under Supplemental Type Certificate (STC) Number SR01535LA. This AD was prompted by an incident in which the floats installed on a helicopter failed to deploy. This AD requires inspecting, labeling, and replacing the float inflation hoses. We are issuing this AD to prevent failure of the emergency floatation gear to deploy during an emergency event.

DATES: This AD is effective December 13, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 13, 2013.

ADDRESSES: For service information identified in this AD, contact Apical Industries, Inc., 2608 Temple Heights Drive, Oceanside, CA 92056–3512; telephone (760) 724–5300; fax: (760) 758–9612; or at *www.apicalindustries.com.* You may review copies of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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 STC, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor,

Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Venessa Stiger, Cabin Safety/Mechanical & Environmental Systems, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, California 90712–4137; telephone (562) 627–5337; email *venessa.stiger@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Bell Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, and 407 helicopters with an Apical emergency float kit installed under STC number SR01535LA. The NPRM published in the **Federal Register** on June 5, 2013 (78 FR 33770). The NPRM proposed to require inspecting each float inflation hose port fitting for correct installation and condition, labeling each port fitting, installing a port fitting adapter on each port fitting, and replacing each aft float hose. The NPRM was prompted by an incident in which the floats did not deploy evenly and the right-hand mid-float ruptured on a helicopter modified with an Apical emergency float kit. Subsequent investigation determined that the uneven deployment resulted from incorrect installation of the float inflation hoses on the port fitting at the base of the forward crosstube saddle. The NPRM was proposed to prevent failure of the emergency floats to inflate fully in an emergency.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 33770, June 5, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type design and that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 265 helicopters of U.S. Registry. Based on an average labor rate of $85 per hour, we estimate that operators may incur the following costs in order to comply with this AD. Inspecting the float inflation hoses and installing the marking labels will require about 1 work hour, and required parts will cost about $2, for a cost per helicopter of $87, and a total cost to U.S. operators of $23,055. Installing the port fitting adaptor and replacing the aft float hose assembly will require about 1 work hour, and required parts will cost about $165, for a cost per helicopter of $250. Thus, we estimate a total cost to U.S. operators of $89,305.

If any fitting has excessive corrosion or damage, replacing the fitting will require about 1 work hour, and required parts will cost about $125, for a cost per helicopter of $210.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–22–21 Bell Helicopter Textron, Inc.: Amendment 39–17653; Docket No. FAA–2013–0481; Directorate Identifier 2011–SW–003–AD.

(a) Applicability

This AD applies to Bell Helicopter Textron, Inc. (Bell), Model 206A, 206B, 206L, 206L–1, 206L–3, 206L–4, and 407 helicopters with an Apical Industries, Inc. (Apical), emergency float kit installed under Supplemental Type Certificate (STC) Number SR01535LA, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as incorrectly installed float inflation hoses, which could result in failure of the emergency floats to inflate fully during an emergency.

(c) Effective Date

This AD is effective December 13, 2013.

(d) 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.

(e) Required Actions

(1) Within 45 hours time-in-service:

(i) Inspect each float inflation hose port fitting at the left-hand (LH) and right-hand (RH) forward crosstube saddles for corrosion, damage, or a bend in the tubing greater than 5 degrees from their original position.

(A) If there is corrosion that has penetrated the base material more than .010 inch, or damage that has removed more than .010 inch of base material, before further flight, replace the port fitting.

(B) If there is a bend in the port fitting tubing greater than 5 degrees from the original position of the tube, bend the port fitting back to its original position to enable complete sealing of the port fitting adapter.

(ii) Inspect the position of each float inflation hose for proper connection and routing to the LH and RH port fittings. If the position of any float inflation hose is not as shown in figure 2 of Apical Alert Service Bulletin No. SB2010–03, Revision C, dated December 21, 2011 (ASB SB2010–03), before further flight, correct the installation of the float inflation hose at the port fitting.

(iii) Install a marking label on the LH and RH port fittings as shown in figures 3 and 4

of ASB SB2010–03 and seal the marking label with clear shrink tubing.

(2) Within 6 months:

(i) Remove each hose connecting the aft float to the port fitting, part number (P/N) 602.1417 for Model 206A and 206B helicopters, P/N 602.1420 for Model 206L, 206L–1, 206L–3, and 206L–4 helicopters, or P/N 602.1413 for Model 407 helicopters, from each skid tube.

(ii) Install a port fitting adaptor, P/N 614.8709, onto the straight line fitting on the LH and RH port fittings as depicted in figure 6 of ASB SB2010–03.

(iii) Install an aft float hose, P/N 602.1430 for Model 206A and 206B helicopters, P/N 602.1431 for Model 206L, 206L–1, 206L–3, and 206L–4 helicopters, or P/N 602.1429 for Model 407 helicopters, to each port fitting adaptor and aft float.

(3) Do not install a hose, P/N 602.1417 for Model 206A and 206B helicopters, P/N 602.1420 for Model 206L, 206L–1, 206L–3, and 206L–4 helicopters, or P/N 602.1413 for Model 407 helicopters, on any helicopter.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Venessa Stiger, Cabin Safety/Mechanical & Environmental Systems, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, FAA, 3960 Paramount Blvd., Lakewood, California 90712–4137; telephone (562) 627–5337; *email venessa.stiger@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.

(g) Additional Information

STC No. SR01535LA, amended February 2, 2007, may be found on the internet in the AD Docket at *https://www.regulations.gov* in Docket No. FAA–2013–0481.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3212: Emergency Flotation Section.

(i) Material Incorporated by Reference

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

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

(i) Apical Alert Service Bulletin No. SB2010–03, Revision C, dated December 21, 2011.

(ii) Reserved.

(3) For Apical service information identified in this AD, contact Apical Industries, Inc., 2608 Temple Heights Drive, Oceanside, CA 92056–3512; telephone (760) 724–5300; fax: (760) 758–9612; or at *www.apicalindustries.com.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on October 30, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–26563 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71

[Docket FAA No. FAA–2013–0529; Airspace Docket No. 13–ANM–17]

Establishment of Class E Airspace; Glasgow, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the Federal Register of September 30, 2013, that establishes Class E airspace at the Glasgow VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME) navigation aid, Glasgow, MT. A favorable comment from the National Business Aviation Association (NBAA) was received in the public Docket but was not referenced in the Final Rule.

DATES: Effective date: 0901 UTC, December 12, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** establishing Class E airspace at the Glasgow VOR/DME navigation aid, Glasgow, MT (78 FR 59807, September 30, 2013). The FAA received a comment in support of the rule from the NBAA for inclusion in FAA Docket No. FAA–2013–0529 prior to the closing of the comment period. However, the preamble incorrectly references that there were no comments to the proposal. This action corrects that statement.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the description under the History heading, as published in the **Federal Register** of September 30, 2013 (78 FR 59807), Airspace Docket No. 13–ANM–17, FR Doc. 2013–23669, is corrected as follows: On page 59808, column 1, line 4, remove the words ''No comments were received.'', and add in their place ''One comment was received from the National Business Aviation Association fully supporting the establishment of Class E en route airspace.''.

Issued in Seattle, Washington, on October 30, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–26717 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0576; Airspace Docket No. 13–ANM–11]

Modification of Class E Airspace; Prineville, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Prineville, OR, to accommodate Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Prineville Airport. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also adjusts the geographic coordinates of the airport.

DATES: Effective date, 0901 UTC, February 6, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation

Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW, Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On August 26, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify controlled airspace at Prineville, OR (78 FR 52717). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes this rule is the same as published in the NPRM.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface, expanding the segments west and southeast of Prineville Airport, Prineville, OR, to accommodate RNAV (GPS) standard instrument approach procedures at the airport. This action is necessary for the safety and management of IFR operations. The geographic coordinates of the airport are adjusted in accordance with the FAA's aeronautical database.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Prineville Airport, Prineville, OR.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR 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 the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

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

* * * * *

ANM OR E5 Prineville, OR [Modified]

Prineville Airport, OR

(Lat. 44°17′16″ N., long. 120°54′19″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the airport, and 5 miles each side of the 281° bearing of the airport to 12.4 miles west, and 3.5 miles each side of the 120° bearing of the airport to 7.7 miles southeast; that airspace extending upward from 1,200 feet above the surface within a 9.2-mile radius of the airport clockwise from the 320° bearing to the 190° bearing of the airport, thence within a 27.4-mile radius of the airport clockwise from the 190° bearing to the 230° bearing of the airport, thence within a 37.5-mile radius of the airport clockwise from the 230° bearing to the 320° bearing of the airport, thence 6.8 miles each side of the 121° bearing of the airport to 34.3 miles southeast.

Issued in Seattle, Washington, on October 30, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–26718 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

BROADCASTING BOARD OF GOVERNORS

22 CFR Part 502

Domestic Requests for Broadcasting Board of Governors Program Materials

AGENCY: Broadcasting Board of Governors.

ACTION: Final rule.

SUMMARY: The Broadcasting Board of Governors (''BBG'') finalizes an interim final rule, published in the **Federal Register** on July 2, 2013. The interim final rule established procedures for the BBG to respond to domestic requests from members of the public, organizations, and media, for program materials disseminated by BBG abroad. The BBG received and reviewed one public comment regarding the interim final rule, which is supportive of BBG broadcasting. BBG adopts the interim rule as final, with minor, technical amendments.

DATES: Effective November 8, 2013.

FOR FURTHER INFORMATION CONTACT: April Cabral, Senior Policy Advisor, International Broadcasting Bureau, Broadcasting Board of Governors, 330 Independence Avenue SW., Washington, DC 20237. Telephone number: (202) 203–4515.

SUPPLEMENTARY INFORMATION: For a more thorough explanation of the background for this rule, see the **SUPPLEMENTARY INFORMATION** section of 78 FR 39584.

Background

Section 501 of the U.S. Information and Educational Exchange Act, as amended, allows the BBG to respond to domestic requests for the BBG program materials, and requires the BBG to issue regulations that establish procedures for responding to such requests. The BBG published an interim final rule in the

Federal Register, 78 FR 39584, on July 2, 2013, adding 22 CFR part 502. This rule established procedures for the BBG to respond to domestic requests for the agency's program materials.

Regulatory Findings and Analyses

For the complete regulatory findings and analyses regarding this rulemaking, please refer to the findings and analyses included in the Supplementary Information section of the interim final rule, 78 FR 39584, which are adopted herein. This rule was submitted to and reviewed by OMB. As noted in the interim final rule, OMB designated this rule non-significant, as defined by Executive Order 12866. Regardless, the BBG has reviewed the rule to ensure its consistency with the regulatory principles set forth in Executive Orders 12866 and 13563, and affirms that this rule is consistent with the guidance in these Executive Orders.

Analysis of Comments

The interim final rule, 78 FR 39584, contained a 60 day period for public comments that ended on September 2, 2013. The BBG received one comment. The only comment expressed support for the BBG and encouraged the agency to continue broadcasting.

Amendments to the Final Rule

BBG proposes minor changes to make a technical amendment in paragraph 502.3(b), correct a typographical error in paragraph 502.5(a), clarify the process for media and organization one-time requests for broadcast-quality agency program materials, and simplify explanations of requestors' responsibilities to secure rights and licenses before using agency program materials that contain third-party copyrighted materials.

List of Subjects in 22 CFR Part 502

Broadcasting, Foreign relations, News media, Public affairs, Radio, Recordings, Smith-Mundt, Television.

Accordingly, the interim final rule, amending 22 CFR part 502, published in the **Federal Register** on July 2, 2013, at 78 FR 39584, is adopted as final, with the following changes:

PART 502—DOMESTIC REQUESTS FOR BROADCASTING BOARD OF GOVERNORS PROGRAM MATERIALS

■ 1. The authority citation for part 502 continues to read as follows:

Authority: 22 U.S.C. 1461, 1461–1a.

■ 2. Section 502.3, in paragraph (b) introductory text, is amended by removing the clause ''after their dissemination abroad''.

■ 3. Section 502.4 is revised to read as follows:

§ 502.4 Media or organization one-time requests for broadcast quality agency program materials.

Upon request, the Agency may provide a broadcast-quality copy of Agency program materials to media entities, educational organizations, not-for-profit corporations, or other requestors. Requestors will be informed if materials are subject to third party content holders' restrictions. One-time requests for broadcast quality copies of Agency program materials should be directed to:

(a) The Voice of America Office of Public Relations for broadcast-quality copies of Voice of America program materials; and

(b) The TV Marti Division of the Office of Cuba Broadcasting for broadcast-quality copies of TV or Radio Marti program materials.

■ 4. Section 502.5 is revised to read as follows:

§ 502.5 Media or organization requests for ongoing subscriptions to broadcast quality agency program materials

(a) Upon request, the Agency may make program materials available on an ongoing basis to Media entities, or other organizations, through a subscription agreement, provided that the Agency determines that entering into a subscription agreement to make program materials available on an ongoing basis would be consistent with the Agency's mission and authorities. Requested, ongoing subscription agreements must be consistent with the Agency's Policy for domestic distribution which incorporates the Broadcasting principles and standards and other requirements, found in 22 U.S.C. 1461, 1461–1a, 1462, 6201, 6202, 6203, 6204, 6205, 6206; Pub. L. 112–239, section 1078(b), 126 Stat. 1632, 1958; agreements with third-parties that hold a copyright in Agency program materials; and Terms of Use on Agency Web sites. Requestors shall secure all necessary licenses from all persons or organizations that hold a copyright in any portion of program materials before making any use of those program materials, except uses of program materials permitted by the Copyright Act of 1976, as amended.

(b) Media entities or other organizations may request ongoing subscriptions by filling out an application form found on the Web site for the Direct System, the Agency's professional distribution system.

■ 5. Section 502.6 is amended by removing the last sentence in paragraph (b)(2).

Dated: November 5, 2013.

Richard M. Lobo,

Director, International Broadcasting Bureau.

[FR Doc. 2013–26833 Filed 11–7–13; 8:45 am]

BILLING CODE 8610–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0869]

RIN 1625–AA08

Special Local Regulations; Recurring Marine Events in the Seventh Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations pertaining to the Key West World Championship in the Atlantic Ocean, off Key West, FL from 9:30 a.m. until 4:30 p.m. on November 10, 2013. This action is necessary to protect race participants, participant vessels, spectators, and the general public from the hazards associated with high-speed boat races. The special local regulations establish regulated areas on the waters of the Key West Main Ship Channel, Key West Turning Basin, and Key West Harbor Entrance. During the enforcement period, no person or vessel may enter the regulated area without permission from the Captain of the Port.

DATES: The regulations in 33 CFR 100.701 will be enforced from 9:30 a.m. until 4:30 p.m. on November 10, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Marine Science Technician First Class Ian G. Bowes, Sector Key West Prevention Department, Coast Guard; telephone 305–292–8809 extension 5, email *Ian.G.Bowes@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Special Local Regulations for the annual Key West World Championship Super Boat Race in 33 CFR 100.701 on November 10, 2013, from 9:30 a.m. until 4:30 p.m. These regulations can be found in the 2013 issue of the **Federal Register** 33 CFR 100.701.

On November 6, 8, and 10, 2013, Super Boat International Productions,

Inc. is hosting the Key West World Championship, a series of high-speed boat races. Under the provisions of 33 CFR 100.701, no unauthorized person or vessel may enter, transit through, anchor within, or remain in the established regulated areas. The event will be held on the waters of the Atlantic Ocean located southwest of Key West, Florida. Approximately 75 high-speed power boats will be participating in the races. It is anticipated that at least 100 spectator vessels will be present during the races.

The special local regulations will be enforced from 9:30 a.m. until 4:30 p.m. on November 10, 2013. The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation. The events on November 6, 2013 and November 8, 2013 will be enforced with actual notice.

This notice is issued under authority of 33 CFR 100.701 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this enforcement period via a Broadcast Notice to Mariners.

Dated: October 24, 2013.

A.S. Young, Sr.,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2013–26816 Filed 11–7–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0923]

Drawbridge Operation Regulation; Lake Washington, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Evergreen Point Floating Bridge (State Route 520) across Lake Washington at Seattle, WA. The deviation is necessary to accommodate vehicular traffic attending football games at Husky Stadium at the University of Washington, Seattle, Washington. This deviation allows the bridge to remain in the closed position two hours before and two hours after each game.

DATES: This deviation is effective from 8:00 a.m. on November 9, 2013 through 5:30 p.m. on November 29, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0923] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Steven M. Fischer, Thirteenth Coast Guard District Bridge Program Officer, telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Washington State Department of Transportation has requested that the draw span of the Evergreen Point Floating Bridge (State Route 520) remain closed to vessel traffic to facilitate rapid movement of pre-game and post game football traffic. Evergreen Point Floating Bridge (State Route 520) provides three navigational openings for vessel passage: The movable floating span, subject to this closure; and two fixed navigational openings, one on the east end of the bridge and one on the west end. The fixed navigational opening on the east end of the bridge provides a horizontal clearance of 207 feet and a vertical clearance of 57 feet. The opening on the west end of the bridge provides a horizontal clearance of 206 feet and a vertical clearance of 44 feet. Vessels that are able to safely pass through the fixed navigational openings are allowed to do so during this closure period. Under normal conditions, during this time frame, the bridge operates in accordance with 33 CFR § 17.1049(a), which states the bridge shall open on signal if at least two hours notice is given.

This deviation period will cover the dates November 9, 2013 to November 29, 2013 as follows. From 10:30 a.m. to 12:30 p.m. and 3:30 p.m. to 5:30 p.m. on November 29, 2013. The times for the closures on November 9, 2013 will be determined and announced in the Coast Guard's Local Notice to Mariners and Broadcast Notice to Mariners as it becomes available. Due to NCAA television scheduling, the time for the game is not currently available.

The deviation allows the floating draw span of the Evergreen Point Floating Bridge on Lake Washington to remain in the closed position and need not open for maritime traffic for times to be determined on November 9, 2013, and from 10:30 a.m. to 12:30 p.m. and 3:30 p.m. to 5:30 p.m. on November 29, 2013. The bridge shall operate in accordance to 33 CFR § 117.1049(a) at all other times. Waterway usage on the Lake Washington Ship ranges from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The draw span will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

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

Dated: October 25,2013.

Daryl R. Peloquin,

Acting Bridge Administrator.

[FR Doc. 2013–26817 Filed 11–7–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151, 155 and 160

[Docket No. USCG–2008–1070]

RIN 1625–AB27

Nontank Vessel Response Plans and Other Response Plan Requirements

AGENCY: Coast Guard, DHS.

ACTION: Rule; information collection approval.

SUMMARY: On September 30, 2013, the Coast Guard amended regulations on response plans for nontank vessels. The amendment triggered information collection requirements affecting an existing OMB-approved information collection requirement on vessel and facility response plans. This notice announces that the collection of information has been approved by the Office of Management and Budget (OMB) and can now be enforced. The OMB control number is 1625–0066.

DATES: The collection of information requirement under 33 CFR 155.5023, 155.5025, and 155.5055 through 155.5075 can be enforced beginning November 8, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, contact Lieutenant Commander John Peterson, Coast Guard, Office of Commercial Vessel Compliance, Vessel Response Plan Review Team; telephone 202–372–1226, email *vrp@uscg.mil.* If you have questions about viewing the docket (USCG–2008–1070), call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On September 30, 2013, the Coast Guard published the Nontank Vessel Response Plans and Other Response Plan Requirements final rule, implementing the statutory requirement for an owner or operator of a self-propelled, nontank vessel of 400 gross tons or greater, which operates on the navigable waters of the United States, to prepare and submit an oil spill response plan to the Coast Guard (78 FR 60100). Among other things, this rule applied vessel response plan requirements to nontank vessels. Under those requirements, a nontank vessel owner or operator needs to prepare and submit to the Coast Guard a nontank vessel response plan in accordance with 33 CFR part 155, subpart J. The content of the response plan includes the requirement to plan for responding to a worst-case discharge and a substantial threat of such a discharge. Additionally, submissions of international Shipboard Oil Pollution Emergency Plans (SOPEPs) for certain U.S.-flag nontank and tank vessels requires alignment with updated SOPEP rules. With the exception of this collection of information, the rule became effective on October 30, 2013.

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor a collection of information until the collection is approved by OMB. Accordingly, the preamble to the final rule stated that the Coast Guard would not enforce the collection of information requirements occurring under 33 CFR 155.5023, 155.5025, and 155.5055 through 155.5075 until the collection of information request was approved by OMB, and also stated that the Coast Guard would publish a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On September 3, 2013, OMB approved the collection of information and assigned the collection OMB Control Number 1625–0066 entitled ''Vessel and Facility Response Plans (Domestic and Int'l), and Additional Response Requirements for Prince William Sound, Alaska''. The approval for this collection of information expires on September 30, 2016. A copy of the OMB notice of action is available in our online docket (USCG–2008–1070) at *http://www.regulations.gov*.

Dated: November 1, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–26813 Filed 11–7–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0060]

RIN 1625–AA00

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

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adding three new permanent safety zones in the Coast Guard Captain of the Port Boston Zone. When subject to enforcement, these permanent safety zones will restrict vessels from portions of water areas during certain annually recurring marine events. These three new permanent safety zones will ensure the protection of the maritime public and event participants from the hazards associated with these annual recurring events.

DATES: This rule is effective December 9, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0060. 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 the 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 temporary final rule, call or email Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617–223–4000, email *Mark.E.Cutter@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

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On November 9, 2011, the Coast Guard enacted the current version of 33 CFR 165.118, which establishes several permanent safety zones throughout Captain of the Port Boston zone. On June 14, 2013 the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 35798), proposing to amend 33 CFR 165.118 by establishing three new permanent safety zones. No comments were received. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1226, 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

Recently, the Coast Guard Captain of the Port, Sector Boston, determined that public safety requires that a safety zone be enforced around three maritime events that recur annually in Captain of the Port Boston zone. Specifically, the Captain of the Port, Sector Boston, determined that a safety zone is required around the Hull Youth Football Carnival Fireworks, the Boston Harbor Triathlon, and the Boston Harbor Sharkfest Swim.

C. Discussion of Comments, Changes and the Final Rule

For the reasons stated above, the Captain of the Port, Sector Boston, is establishing three new permanent safety zones in 33 CFR 165.118. These new safety zones will be listed in 33 CFR 165.118 as (6.5) Hull Youth Football Carnival Fireworks, (8.8) The Boston

Triathlon, and (9.7) Boston Harbor Sharkfest Swim.

The Hull Youth Football Carnival Fireworks safety zone will consist of all waters within a 450-foot radius around the fireworks barge, which will be located at position 42°16.6′ N, 070°51.7′ W. This safety zone will be enforced between 9:00 p.m. and 11:00 p.m. on the third or fourth weekend of June each year.

The Boston Triathlon safety zone will consist of all waters of Boston Inner Harbor within the following points: from 42°21.7′ N, 071°02.1′ W to 42°21.6′ N, 071°02.8′ W to 42°21.7′ N, 071°02.8′ W and then to 42°21.8′ N, 071°02.4′ W. This safety zone will be enforced between 7:00 a.m. and 10:00 a.m. on the second or third weekend of August each year.

The Boston Harbor Sharkfest Swim will consist of all waters of Boston Inner Harbor within the following points: from 42°21.7′ N, 071°02.1′ W to 42°21.8′ N, 071°02.4′ W to 42°21.3′ N, 071°02.9′ W and then to 42°21.3′ N, 071°02.3′ W. This safety zone will be enforced between 10:00 a.m. and 1:00 p.m. on a Saturday during the second or third weekend of September each year.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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) Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

The Coast Guard has determined that this rule is not a significant regulatory action for the following reasons: The three new safety zones established by this rule will be enforced for relatively short periods. Also, vessels may enter or pass through the affected waterway with the appropriate permission. Additionally, notification of the safety zone will be made to mariners through the local Notice to Mariners and Broadcast Notice to Mariners well in advance of enforcement.

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 entitles 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 final rule would not have a significant economic impact on a substantial number of small entities. This final rule would affect the following entities, some of which might be small entities: owners or operators of vessels intending to transit, fish, or anchor in the areas where the listed annual recurring events are being held. The final rule will not have a significant economic impact on a substantial number of small entities for the same reasons outlined in the *Regulatory Planning and Review* section above. The Coast Guard received no comments from the Small Business Administration about this rule.

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 you believe that this 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on 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 it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

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 concluded 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 the establishment of three new permanent safety zones and thus, is categorically excluded from further review under, paragraph 34(g) of figure 2–1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Marine Safety, Navigation (water), Reporting and Recordkeeping Requirements, 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(g), 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. Revise TABLE 1 to § 165.118 to read as follows:

TABLE 1

6.0	June
6.1 Sand and Sea Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Salisbury Beach Partnership, Inc. • Date: A one-night event on Saturday during the last weekend of June, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:00 p.m. to 10:30 p.m. • Location: All waters of the Atlantic Ocean near Salisbury Beach within a 350-yard radius of the fireworks launch site located at position 42°50.6′ N, 70°48.4′ W (NAD 83).
6.2 St. Peter's Fiesta Fireworks	• Event Type: Fireworks Display. • Sponsor: St. Peters Fiesta. • Date: A one-night event on Saturday during the last weekend of June, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:00 p.m. to 10:00 p.m. • Location: All waters of Gloucester Harbor, Stage Fort Park, within a 350-yard radius of the fireworks launch site on the beach located at position 42°36.3′ N, 070°40.5′ W (NAD 83).
6.3 Surfside Fireworks	• Event Type: Fireworks Display. • Sponsor: Salisbury Beach Partnership and Chamber of Commerce. • Date: Every Saturday from June through September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:30 p.m. to 10:30 p.m. • Location: All waters of the Atlantic Ocean near Salisbury Beach, MA, within a 350-yard radius of the fireworks barge located at position 42°50.6′ N, 070°48.4′ W (NAD 83).
6.4 Cohasset Triathlon	• Event Type: Swim. • Sponsor: Bill Burnett. • Date: A one-day event on Sunday during the last weekend of June, as specified in the USCG District 1 Local Notice to Mariners. • Time: 08:30 a.m. to 10:00 a.m. • Location: All waters in the vicinity of Cohasset Harbor around Sandy Beach, within the following points (NAD 83): 42°15.6′ N, 070°48.1′ W. 42°15.5′ N, 070°48.1′ W. 42°15.4′ N, 070°47.9′ W. 42°15.4′ N, 070°47.8′ W.
6.5 Hull Youth Football Carnival Fireworks	• Event Type: Fireworks Display. • Sponsor: Hull Youth Football. • Date: A one-night event on the third or fourth weekend of June, as specified in the USCG District 1 Local Notice to Mariners Time: 9:00 p.m. to 11:00 p.m. • Location: All waters within a 450-foot radius of the fireworks barge located approximately 500 feet of off Nantasket Beach, Hull MA located at position 42°16.6′ N, 070°51.7′ W (NAD 83).

TABLE 1—Continued

7.0	July
7.1 City of Lynn 4th of July Celebration Fireworks	• Event Type: Firework Display. • Sponsor: City of Lynn. • Date: July 3rd, as specified in the USCG District 1 Local Notice to Mariners. • Time: 6:00 p.m. to 11:00 p.m. • Location: All waters of Nahant Bay, within a 350-yard radius of the fireworks barge located at position 42°27.62 ′ N, 070°55.58′ W (NAD 83).
7.2 Gloucester July 4th Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: The Gloucester Fund. • Date: July 3rd, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:30 p.m. to 11:00 p.m. • Location: All waters of Gloucester Harbor, Stage Fort Park, within a 350-yard radius of the fireworks launch site on the beach located at position 42°36.3′ N, 070°40.5′ W (NAD 83).
7.3 Manchester by the Sea Fireworks	• Event Type: Fireworks Display. • Sponsor: Manchester Parks and Recreation Department. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:30 p.m. to 10:00 p.m. • Location: All waters of Manchester Bay within a 350-yard radius of the fireworks launch site barge located at position 42°35.03′ N, 070°45.52′ W (NAD 83).
7.4 Weymouth 4th of July Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Weymouth 4th of July Committee. • Date: Friday or Saturday during the first weekend before July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:00 p.m. to 10:30 p.m. • Location: All waters of Weymouth Fore River, within a 350-yard radius of the fireworks launch site located at position 42°15.5′ N, 070°56.1′ W (NAD 83).
7.5 Beverly 4th of July Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: Beverly Harbormaster. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of Beverly Harbor within a 350-yard radius of the fireworks launch barge located at position 42°32.62′ N, 070°52.15′ W (NAD 83).
7.6 Beverly Farms 4th of July Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: Farms-Pride 4th of July Committee. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 9:30 p.m. • Location: All waters of Manchester Bay within a 350-yard radius of the fireworks launch site near West Beach located at position 42°33.84′ N, 070°48.5′ W (NAD 83).
7.7 Boston Pops Fireworks	• Event Type: Fireworks Display. • Sponsor: Boston 4 Celebrations. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:30 p.m. to 11:00 p.m. • Location: All waters of the Charles River within a 350-yard radius of the fireworks barges located in the vicinity of position 42°21.47′ N, 071°05.03′ W (NAD 83).
7.8 City of Salem Fireworks	• Event Type: Fireworks Display. • Sponsor: City of Salem. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 10:00 p.m. • Location: All waters of Salem Harbor, within a 350-yard radius of the fireworks launch site located on Derby Wharf at position 42°31.15′ N, 070°53.13′ W (NAD 83).
7.9 Marblehead 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Marblehead. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:30 p.m. to 9:30 p.m. • Location: All waters of Marblehead Harbor within a 350-yard radius of the fireworks launch site located at position 42°30.34′ N, 070°50.13′ W (NAD 83).

TABLE 1—Continued

7.10	Plymouth 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: July 4 Plymouth, Inc. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 10:00 p.m. • Location: All waters of Plymouth Harbor within a 350-yard radius of the fireworks launch site located at position 42°57.3′ N, 070°38.3′ W (NAD 83).
7.11	Town of Nahant Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Nahant. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of Nahant Harbor within a 350-yard radius of the fireworks launch site on Bailey's Hill Park located at position 42°25.1′ N, 070°55.8′ W (NAD 83).
7.12	Town of Revere Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Revere. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of Broad Sound, within a 350-yard radius of the fireworks launch site located at Revere Beach at position 42°24.5′ N, 070°59.47′ W (NAD 83).
7.13	Yankee Homecoming Fireworks	• Event Type: Fireworks Display. • Sponsor: Yankee Homecoming. • Date: A one-day event on Saturday during the last weekend of July or first weekend of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 10:00 p.m. • Location: All waters of the Merrimack River, within a 350-yard radius of the fireworks launch site located at position 42°48.97′ N, 070°52.68′ W (NAD 83).
7.14	Hingham 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Hingham Lions Club. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:00 p.m. to 10:00 p.m. • Location: All waters within a 350-yard radius of the beach on Button Island located at position 42°15.07′ N, 070°53.03′ W (NAD 83).
7.15	Ipswich Independence Day Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: Trustees of the Foundation. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 10:00 p.m. • Location: All waters of Ipswich Bay within a 350-yard radius of the beach located at position 42°41.43′ N, 070°46.49′ W (NAD 83).
7.16	Salisbury Maritime Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Salisbury Beach Partnership, Inc. • Date: A one-day event on Saturday during the third weekend of July, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:00 p.m. to 10:30 p.m. • Location: All waters of the Atlantic Ocean near Salisbury Beach within a 350-yard radius of the fireworks launch site located at position 42°50.6′ N, 070°48.4′ W (NAD 83).
7.17	Salisbury 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Salisbury Chamber of Commerce. • Date: July 4th, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:30 p.m. to 11:00 p.m. • Location: All waters of the Atlantic Ocean near Salisbury Beach within a 350-yard radius of the fireworks launch site located at position 42°50.6′ N, 070°48.4′ W (NAD 83).
7.18	Charles River 1-Mile Swim	• Event Type: Swim. • Sponsor: Charles River Swimming Club, Inc. • Date: A one-day event held on the second Sunday in July, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:00 a.m. to 9:00 a.m. Location: All waters of Charles River between the Longfellow Bridge and the Harvard Bridge within the following points (NAD 83): 42°21.7′ N, 071°04.8′ W. 42°21.7′ N, 071°04.3′ W. 42°22.2′ N, 071°07.3′ W. 42°22.1′ N, 070°07.4′ W.

TABLE 1—Continued

7.19 Swim Across America Boston	• Event Type: Swim. • Sponsor: Swim Across America. • Date: A one-day event on Friday during the third week of July, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 a.m. to 3:00 p.m. • Location: All waters of Boston Harbor between Rowes Warf and Little Brewster Island within the following points (NAD 83): 42°21.4′ N, 071°03.0′ W. 42°21.5′ N, 071°02.9′ W. 42°19.8′ N, 070°53.6′ W. 42°19.6′ N, 070°53.4′ W.
7.20 Joppa Flats Open Water Mile	• Event Type: Swim. • Sponsor: Newburyport YMCA. • Date: A one-day event on Saturday during the last week of July, as specified in the USCG District 1 Local Notice to Mariners. • Time: 3:00 p.m. to 5:00 p.m. • Location: All waters of the Merrimack River located in the Joppa Flats within the following points (NAD 83): 42°48.6′ N, 070°50.9′ W. 42°48.6′ N, 070°49.4′ W. 42°48.0′ N, 070°49.4′ W. 42°48.0′ N, 070°57.0′ W.
7.21 Swim Across America Nantasket Beach	• Event Type: Swim. • Sponsor: Swim Across America. • Date: A one-day event on Sunday during the third week of July, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 a.m. to 9:30 a.m. • Location: All waters of Massachusetts Bay near Nantasket Beach within the following points (NAD 83): 42°16.7′ N, 070°51.9′ W. 42°16.9′ N, 070°51.3′ W. 42°16.3′ N, 070°50.5′ W. 42°16.1′ N, 070°51.0′ W.
8.0	August
8.1 Beverly Homecoming Fireworks	• Event Type: Fireworks Display. • Sponsor: Beverly Harbormaster. • Date: A one-day event on Sunday during the first weekend of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of Beverly Harbor within a 350-yard radius of the fireworks barge located at position 42°32.62′ N, 070°52.15′ W (NAD 83).
8.2 Celebrate Revere Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Revere. • Date: A one-day event on Saturday during the first weekend of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters within a 350-yard radius of the fireworks launch site located at Revere Beach at position 42°24.5′ N, 070°59.47′ W (NAD 83).
8.3 Gloucester Fisherman Triathlon	• Event Type: Swim. • Sponsor: Gloucester Fisherman Athletic Association. • Date: A one-day event on Sunday during the Second week of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:30 a.m. to 8:30 a.m. • Location: All waters of Western Harbor, within the following points (NAD 83): 42°36.6′ N, 070°40.3′ W. 42°36.5′ N, 070°40.2′ W. 42°36.4′ N, 070°40.7′ W. 42°36.5′ N, 070°40.7′ W.
8.4 Urban Epic Triathlon	• Event Type: Swim. • Sponsor: Tri-Maine/Urban Epic Events. • Date: A one-day event on Sunday during the second week of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 a.m. to 10:00 a.m. • Location: All waters of Dorchester Bay within the following points (NAD 83): 42°18.9′ N, 071°02.0′ W. 42°18.9′ N, 071°01.8′ W. 42°19.5′ N, 071°01.8′ W. 42°19.8′ N, 071°02.2′ W.

TABLE 1—Continued

8.5 Celebrate the Clean Harbor Swim	• Event Type: Swim. • Sponsor: New England Marathon Swimming Association. • Date: A one-day event on Saturday during the third week of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 a.m. to 12:00 p.m. • Location: All waters of Gloucester Harbor within the following points (NAD 83): 42°35.3′ N, 070°39.8′ W. 42°35.9′ N, 070°39.2′ W. 42°35.9′ N, 070°39.8′ W. 42°35.3′ N, 070°40.2′ W.
8.6 Boston Light Swim	• Event Type: Swim. • Sponsor: Boston Light Swim. • Date: A one-day event on Sunday during the second week of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:00 a.m. to 1:00 p.m. • Location: All waters of Boston Harbor between the L Street Bath House and Little Brewster Island within the following points (NAD 83): 42°19.7′ N, 071°02.2′ W. 42°19.9′ N, 071°10.7′ W. 42°19.8′ N, 070°53.6′ W. 42°19.6′ N, 070°53.4′ W.
8.7 Sharkfest Swim	• Event Type: Swim. • Sponsor: Enviro-Sports Productions, Inc. • Date: A one-day event on Sunday during the last week of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:00 a.m. to 12:00 p.m. • Location: All waters of Old Harbor from near Columbia Point to Carson Beach within the following points (NAD 83): 42°19.1′ N, 071°02.2′ W. 42°19.2′ N, 071°01.9′ W. 42°19.7′ N, 071°02.8′ W. 42°19.4′ N, 071°02.9′ W.
8.8 The Boston Triathlon	• Event Type: Swim. • Sponsor: Wilkinson Enterprises, Inc. • Date: A one-day event on the second or third weekend of August, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 a.m. to 10:00 a.m. • Location: All waters of Boston Inner Harbor, Piers Park East Boston to Columbus Park, Boston, Ma within the following points (NAD 83): 42°21.7′ N, 071°02.1′ W. 42°21.6′ N, 071°02.8′ W. 42°21.7′ N, 071°02.8′ W. 42°21.8′ N, 071°02.4′ W.
9.0	September
9.1 Gloucester Schooner Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Stage Fort Park Gloucester. • Date: A one-day event on Saturday during the first weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 p.m. to 11:00 p.m. • Location: All waters of Gloucester Harbor within a 350-yard radius of the launch site on the beach located at position 42°36.3′ N, 070°40.5′ W (NAD 83).
9.2 Plymouth Yacht Club Celebration Fireworks	• Event Type: Fireworks Display. • Sponsor: Plymouth Yacht Club. • Date: A one-day event on Saturday during the first weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of Plymouth Harbor within a 350-yard radius of the fireworks barge located at position 41°22.3′ N, 070°39.4′ W (NAD 83).
9.3 Somerville Riverfest Fireworks	• Event Type: Fireworks Display. • Sponsor: Federal Realty Investment Trust. • Date: A one-day event on Saturday during the last weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:30 p.m. to 10:00 p.m. • Location: All waters of the Mystic River within a 350-yard radius of the fireworks barge located at position 42°23.9′ N, 071°04.8′ W (NAD 83).
9.4 Mayflower Triathlon	• Event Type: Swim. • Sponsor: Fast Forward Race Management.

TABLE 1—Continued

	• Date: A one-day event on Saturday during the first weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:00 a.m. to 11:00 a.m. • Location: All waters of Plymouth Inner Harbor within the following points (NAD 83): 41°58.3′ N, 070°40.6′ W. 41°58.7′ N, 070°39.1′ W. 41°56.8′ N, 070°37.8′ W. 41°57.1′ N, 070°39.2′ W.
9.5 Plymouth Rock Triathlon	• Event Type: Swim. • Sponsor: Fast Forward Race Management. • Date: A one-day event on Sunday during the first weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 7:00 a.m. to 9:30 a.m. • Location: All waters of Plymouth Inner Harbor within the following points (NAD 83): 41°58.3′ N, 070°40.6′ W. 41°58.7′ N, 070°39.1′ W. 41°56.8′ N, 070°37.8′ W. 41°57.1′ N, 070°39.2′ W.
9.6 Duxbury Beach Triathlon	• Event Type: Swim. • Sponsor: Duxbury Beach Triathlon. • Date: A one-day event on Saturday during the third weekend of September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 08:30 a.m. to 09:30 a.m. • Location: All waters of Duxbury Bay on the south side of the Powder Point Bridge within the following points (NAD 83): 42°02.8′ N, 070°39.1′ W. 42°03.0′ N, 070°38.7′ W. 42°02.8′ N, 070°38.6′ W. 42°02.7′ N, 070°39.0′ W.
9.7 Boston Harbor Sharkfest Swim	• Event Type: Swim. • Sponsor: Enviro-Sports Productions, Inc. • Date: A one-day event on a Saturday during the second or third weekend in September, as specified in the USCG District 1 Local Notice to Mariners. • Time: 10:00 a.m. to 1:00 p.m. • Location: All waters of Boston Inner Harbor, Piers Park East Boston to Fan Pier, South Boston, Ma within the following points (NAD 83): 42°21.7′ N, 071°02.1′ W. 42°21.8′ N, 071°02.4′ W. 42°21.3′ N, 071°02.9′ W. 42°21.3′ N, 071°02.3′ W.
10.0	October
10.1 Intercontinental Fireworks	• Event Type: Fireworks Display. • Sponsor: Intercontinental Hotel. • Date: A one-day event on Sunday during the last weekend of October, as specified in the USCG District 1 Local Notice to Mariners. • Time: 8:30 p.m. to 10:30 p.m. Location: All waters of Boston Inner Harbor within a 350-yard radius of the fireworks barge located at position 42°21.2′ N, 071°03′ W (NAD 83).
12.0	December
12.1 First Night Boston Fireworks	• Event Type: Fireworks Display. • Sponsor: First Night, Inc. • Date: A one-day event on New Year's Eve, as specified in the USCG District 1 Local Notice to Mariners. • Time: 11:30 p.m. to 12:30 a.m. • Location: All waters of Boston Inner Harbor within a 350-yard radius of the fireworks barge located at position 42°21.7′ N, 071°02.6′ W (NAD 83).

Dated: October 15, 2013.

J.C. O'Connor, III,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2013–26826 Filed 11–7–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2013–0671; FRL–9902–55–OAR]

Extension of Deadline for Action on the Section 126 Petition From Eliot, Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the EPA is determining that 60 days is insufficient time to complete the technical and other analyses and public notice-and-comment process required for our review of a petition submitted by the Town of Eliot, Maine pursuant to section 126 of the Clean Air Act (CAA). The petition requests that the EPA make a finding that Schiller Station in Portsmouth, New Hampshire is emitting or would emit air pollutants that contribute significantly to nonattainment and interfere with maintenance of the 1-hour sulfur dioxide (SO_2) national ambient air quality standards (NAAQS). Under the section 307(d)(10) of CAA, the EPA is authorized to grant a time extension for responding to the petition if the EPA determines that the extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of section 307(d)'s notice-and-comment rulemaking requirements. By this action, the EPA is making that determination. The EPA is therefore extending the deadline for acting on the petition to no later than May 8, 2014.

DATES: This final rule is effective on November 8, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2013–0671. All documents in the docket are listed on the *www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center (Air Docket), EPA/DC, EPA West, Room 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.

FOR FURTHER INFORMATION CONTACT: Ms. Gobeail McKinley, Office of Air Quality Planning and Standards (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27709, telephone number (919) 541–5246, facsimile number (919) 685–3700, email: *mckinley.gobeail@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Legal Requirements for Interstate Air Pollution

This is a procedural action to extend the deadline for the EPA to respond to a petition from the Town of Eliot, Maine filed under CAA section 126(b). The EPA received the petition on September 3, 2013. The petition requests that the EPA make a finding under section 126(b) of the CAA that two 50 MW coal-fired electricity generating units at Schiller Station in Portsmouth, New Hampshire are emitting air pollutants in violation of the provisions of section 110(a)(2)(D)(i)(I) of the CAA with respect to the 1-hour SO_2 NAAQS.

Section 110(a)(2)(D)(i)(I) of the CAA prohibits emissions of any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any NAAQS. The petition asserts that emissions from Schiller Station impact Eliot's ability to attain and maintain the 1-hour SO_2 NAAQS and that this impact would be mitigated by regulation of SO_2 emissions from the plant. Section 126(b) of the CAA authorizes states or political subdivisions to petition the EPA to find that a major source or group of stationary sources in upwind states emits or would emit any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i) [1] by contributing significantly to nonattainment or maintenance problems in downwind states.

Under section 126(b), the EPA must make the finding requested in the petition, or must deny the petition within 60 days of its receipt. Under section 126(c), any existing sources for which the EPA makes the requested finding must cease operations within 3 months of the finding, except that the source may continue to operate if it complies with emission limitations and compliance schedules (containing increments of progress) that the EPA may provide to bring about compliance with the applicable requirements as expeditiously as practical but no later than 3 years from the date of the finding.

Section 126(b) further provides that the EPA must hold a public hearing on the petition. The EPA's action under section 126 is also subject to the procedural requirements of CAA section 307(d). *See* section 307(d)(1)(N). One of these requirements is notice-and-comment rulemaking, under section 307(d)(3)–(6).

In addition, section 307(d)(10) provides for a time extension, under certain circumstances, for rulemaking subject to section 307(d). Specifically, section 307(d)(10) provides:

> Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of the subsection.

Section 307(d)(10) may be applied to section 126 rulemakings because the 60-day time limit under section 126(b) necessarily limits the period for promulgation of a final rule after proposal to less than 6 months.

II. Final Rule

A. Rule

In accordance with section 307(d)(10), the EPA is determining that the 60-day period afforded by section 126(b) for responding to the petition from the Town of Eliot is not adequate to allow the public and the agency the opportunity to carry out the purposes of section 307(d). Specifically, the 60-day period is insufficient for the EPA to complete the necessary technical review, develop an adequate proposal and allow time for notice and comment, including an opportunity for public hearing, on a proposed finding regarding whether Schiller Station identified in the section 126 petition contributes significantly to nonattainment or maintenance problems in Eliot, Maine. Moreover, the 60-day period is insufficient for the EPA to review and develop response to any public comments on a proposed finding, or testimony supplied at a public hearing and to develop and promulgate a final finding in response to the petition. The EPA has not yet established a proposal date for this action. The schedule must afford the EPA adequate time to prepare a proposal that clearly elucidates the

[1] The text of section 126 codified in the United States Code cross references section 110(a)(2)(D)(ii) instead of section 110(a)(2)(D)(i). The courts have confirmed that this is a scrivener's error and the correct cross reference is to section 110(a)(2)(D)(i). *See Appalachian Power Co.* v. *EPA, 249 F.3d 1032, 1040–44 (D.C. Cir. 2001).*

issues to facilitate public comment and must provide adequate time for the public to comment and for the EPA to review and develop responses to those comments prior to issuing the final rule. As a result of this extension, the deadline for the EPA to act on the petition is May 8, 2014.

B. Notice and Comment Under the Administrative Procedures Act (APA)

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). The EPA believes that, because of the limited time provided to make a determination that the deadline for action on the section 126 petition should be extended, Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination otherwise would require notice and opportunity for public comment, there is good cause within the meaning of 5 U.S.C. 553(b)(3)(B) not to apply those requirements here. Providing for notice and comment would be impracticable because of the limited time provided for making this determination and would be contrary to the public interest because it would divert agency resources from the substantive review of the section 126 petition.

C. Effective Date Under the APA

This action is effective on November 8, 2013. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date. This action—a deadline extension—must take effect immediately because its purpose is to extend by 6 months the deadline for action on the petition. It is important for this deadline extension action to be effective before the original 60-day period for action elapses. As discussed above, the EPA intends to use the 6-month extension period to develop a proposal on the petition and provide time for public comment before issuing the final rule. It would not be possible for the EPA to complete the required notice and comment and public hearing process within the original 60-day period noted in the statute. These reasons support an immediate effective date.

III. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory

This action is not a significant regulatory action under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This good cause final action simply extends the date for the EPA to take action on a petition and does not impose any new obligations or enforceable duties on any state, local or tribal governments or the private sector. It does not contain any recordkeeping or reporting requirements.

C. Regulatory Flexibility Act

This good cause final action is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice-and-comment requirements under the APA or any other statute because although the rule is subject to the APA, the agency has invoked the ''good cause'' exemption under 5 USC 553(b); therefore it is not subject to the notice and comment requirement.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This good cause final action simply extends the date for the EPA to take action on a petition.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This good cause final action simply extends the date for the EPA to take action on a petition. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. This good cause final action simply extends the date for the EPA to take action on a petition. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d), (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory

activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through the Office of Management and Budget, with explanations when the agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This good cause final action simply extends the date for the EPA to take action on a petition.

K. Congressional Review Act

The Congressional Review Act (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of November 8, 2013.The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Statutory Authority

The statutory authority for this action is provided by sections 110, 126 and 307 of the Act as amended (42 U.S.C. 7410, 7426 and 7607).

V. Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by the filing of a petition for review in the U.S. Court of Appeals for the for the appropriate circuit by January 7, 2014. Under section 307(b)(2) of the CAA, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practices and procedures, Air pollution control, Electric utilities, Incorporation by reference, Intergovernmental relations, Sulfur dioxide.

Dated: October 30, 2013.

Gina McCarthy,

Administrator.

[FR Doc. 2013–26642 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0003; FRL–9402–7]

FD&C Green No. 3; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of FD&C Green No. 3 (CAS Reg. No. 2353–45–9) when used as an inert ingredient (dye) in antimicrobial formulations, for use on food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils. The firm Exponent, on behalf of Ecolab submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of FD&C Green No. 3. FD&C Green No. 3 is also known as Fast Green FCF.

DATES: This regulation is effective November 8, 2013. Objections and requests for hearings must be received on or before January 7, 2014, and must be filed in accordance with the instructions provided in 40 CFR Part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0003, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/*.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR Part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR Part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0003 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 7, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR Part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR Part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0003, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of February 15, 2013 (78 FR 11126) (FRL–9378–4), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10527) by Exponent (1150 Connecticut Ave. NW., Suite 1100; Washington, DC 20036), on behalf of Ecolab, Inc., 370 N. Wabasha St., St. Paul, MN 55102. The petition requested that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance for residues of FD&C Green No. 3 (CAS Reg. No. 2353–45–9) when used as an inert ingredient (dye) in antimicrobial formulations, for use on food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils. That document referenced a summary of the petition prepared by Exponent, on behalf of Ecolab, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for FD&C Green No. 3 including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with FD&C Green No. 3 follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by FD&C Green No. 3 as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-

level (LOAEL) from the toxicity studies are discussed in this unit.

FD&C Green No. 3 is not acutely toxic via the oral route in rats and dogs. In a long-term study in mice, there were no treatment-related effects on mortality. Histological examination of all animals did not reveal any treatment-related lesions. There was also no difference between control and treated animals in terms of the incidence of benign and malignant neoplasms. The NOAEL was 5% in the diet (equivalent of 7,500 milligrams/kilogram bodyweight/day (mg/kg bw/day), the highest dose tested (HDT).

Multiple long-term studies in mice, dogs and rats fed diets containing FD&C Green No. 3 were conducted. Microscopic examination revealed no treatment-related lesions attributable to feeding of the color in any of the studies. There were also no treatment-related effects on growth or mortality.

A carcinogenicity study with an *in utero* phase was conducted with Charles-River albino rats. Rats were fed diets containing 0, 1.25, 2.5 or 5.0% (equivalent to 0, 625, 1,250 and 2,500 mg/kg bw/day) FD&C No. 3 for 2 months prior to mating and throughout gestation and lactation. The NOAEL for carcinogenicity was 5% in the diet (equivalent to 2,500 mg/kg bw/day; the HDT). No reproductive toxicity was observed at doses up to 5% in the diet (equivalent to 2,500 mg/kg bw/day). The NOAEL for systemic toxicity in parental animals was 2.5% in the diet (equivalent to 1,250 mg/kg bw/day). The NOAEL is based on decreases in food consumption and increases in thyroid and kidney weights seen at the LOAEL of 5% in the diet. The NOAEL for offspring toxicity was 2.5% in the diet (equivalent to 1,250 mg/kg bw/day) based on decreases in pup body weight and pup mortality seen at the LOAEL of 5% in the diet (equivalent to 2,500 mg/kg bw/day), the HDT.

A 3-generation reproduction study was completed on FD&C Green No. 3 in Long-Evans rats at dose levels of 0, 10, 100, 300 or 1,000 mg/kg bw/day. No treatment-related effects on food consumption, body weight, adult mortality, mating performance, pregnancy and fertility rates, gestation length, offspring survival, weights and sex, litter survival, resorption rates, or necropsy findings were observed in the study. There were also no macroscopic or microscopic tissue abnormalities attributable to treatment. The NOAEL was 1,000 mg/kg bw/day.

FD&C Green No. 3 was determined to be non-mutagenic. The metabolism potential of FD&C Green No. 3 was tested in rats and dogs. Almost all of the color was excreted unchanged in the feces of the rats and no color was found in the urine. A smaller portion of the color, not exceeding 5% of the given dose, was found in the bile of the dogs.

B. Toxicological Points of Departure/ Levels of Concern

The available toxicity study indicates that FD&C Green No. 3 has a very low overall toxicity. The lowest NOAEL in the database is 1,000 mg/kg bw/day. In the carcinogenicity study with an *in utero* phase, the effects on the pups (decreased body weights and pup mortality) and kidney and thyroid toxicity in adults were observed at 5% in diet (equivalent to 2,500 mg/kg/day). Since these effects were observed at 2.5 times the limit dose of 1,000 mg/kg/day, there are low concerns for the hazard. Since no endpoint of concern was identified for the acute and chronic dietary exposure assessments and short- and intermediate-term dermal and inhalation exposure assessments, a quantitative risk assessment for FD&C Green No. 3 is not necessary.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to FD&C Green No. 3, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from FD&C Green No. 3 in food as follows: Dietary exposure to FD&C Green No. 3 can occur from eating food that has come in contact with surfaces treated with pesticide formulations containing this inert ingredient. Dietary exposure to FD&C Green No. 3 can also occur from eating foods which contain FD&C Green No. 3 as an ingredient. However, since an endpoint of concern for risk assessment was not identified, a quantitative dietary exposure assessment for FD&C Green No. 3 was not conducted.

2. *Dietary exposure from drinking water.* Dietary exposure from drinking water to FD&C Green No. 3 can occur by drinking water that has been contaminated by contact with run-off from pesticide treated areas, such as countertops. Since an endpoint for risk assessment was not identified, a quantitative dietary exposure assessment from drinking water for FD&C Green No. 3 was not conducted.

3. *From non-dietary exposure.* From non-dietary exposure. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). The proposed use of FD&C Green No. 3 as a dye under 40 CFR 180.940(a) is expected to result in residential exposure to this chemical.

However, since there are no toxicological effects of concern identified in the available database, it is not necessary to conduct assessments of residential (non-occupational) exposures and risks. There are no dermal or inhalation toxicological endpoints of concern to the Agency; therefore, quantitative assessments have not been conducted.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found FD&C Green No. 3 to share a common mechanism of toxicity with any other substances, and FD&C Green No. 3 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that FD&C Green No. 3 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

Section 408(b)(2)(c) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

In the carcinogenicity study with an *in utero* phase, the effects on the pups (decreased body weights and pup mortality) and kidney and thyroid toxicity in adults were observed at 5% in diet (equivalent to 2,500 mg/kg/day).

Since these effects were observed at 2.5 times the limit dose of 1,000 mg/kg/day, there are low concerns for the hazard. Therefore, it is concluded that there is no evidence of qualitative or quantitative susceptibility of infants and children in the available database.

The available toxicity studies suggest low toxicity of FD&C Green No. 3. The toxicity database for FD&C Green No. 3 contains an acute oral toxicity study and chronic toxicity studies, including carcinogenicity, and reproductive toxicity studies. No reproductive or developmental toxicity was observed in the 3-generation reproduction study at the limit dose. The database also contains mutagenicity studies, and metabolism data. There is no indication, based upon the available data, that FD&C Green No. 3 is a neurotoxic or immunotoxic chemical. Due to the lack of toxicity of FD&C Green No. 3, the Agency determined that a quantitative risk assessment using safety factors was not necessary for assessing risk. For the same reason, no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on FD&C Green No. 3, EPA has determined that there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to FD&C Green No. 3 under reasonable foreseeable circumstances. Therefore, the establishment of an exemption from the requirement of a tolerance under 40 CFR 180.940(a) for residues of FD&C Green No. 3 when used as an inert ingredient (dye) in antimicrobial formulations, for use on food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils, is safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nation Food and Agriculture Organization/World Health Organization (FAO/WHO) food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for FD&C Green No. 3.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180. 940(a) for FD&C Green No. 3 (CAS Reg. No. 2353–45–9) when used as an inert ingredient (dye) in antimicrobial formulations, for use on food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 30, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.940, in paragraph (a) alphabetically add the following inert ingredient to the table to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * *	* * *	*
FD&C Green No. 3	CAS Reg. No. 2353–45–9	None.
* * *	* * *	*

[FR Doc. 2013–26760 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0710; FRL–9401–5]

Boscalid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of boscalid in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 8, 2013. Objections and requests for hearings must be received on or before January 7, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0710, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

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A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0710, in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 7, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0710, by one of the following methods:

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- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of January 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8068) by BASF

Corporation, 26 Davis Dr, P.O. Box 13528, Research Triangle Park, NC 27709–3528. However, BASF was listed in error. It was the IR–4, 500 College Rd. East, Suite 201W, Princeton, NJ 08540 that petitioned EPA for these tolerances. The petition requested that 40 CFR 180.589 be amended by establishing tolerances for residues of the fungicide boscalid (BAS 510F), 3-pyridinecarboxamide, 2-chloro-*N*-(4′-chloro(1,1′-biphenyl)-2-yl)-, in or on artichoke, globe at 6.0 parts per million (ppm); berry, low growing, subgroup 13–07G at 4.5 ppm; bushberry, subgroup 13–07B at 13 ppm; caneberry, subgroup 13–07A at 6.0 ppm; endive, Belgium at 5.0 ppm; fruit, citrus, group 10–10 at 1.6 ppm; fruit, pome, group 11–10 at 3.0 ppm; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F, at 3.5 ppm; oilseed, group 20 at 3.5 ppm; persimmon at 7.0 ppm; turnip, greens at 18.0 ppm; vegetable, bulb group 3–07 at 3.0 ppm; vegetable, fruiting, group 8–10 at 1.2 ppm; and vegetable, root subgroup 1B, except sugarbeet, at 1.0 ppm. The petition also requested the removal of the established tolerances, in or on bushberry, subgroup 13B at 13 ppm; caneberry, subgroup 13A at 6.0 ppm; canola, seed at 3.5 ppm; cotton, undelinted seed at 1.0 ppm; fruit, citrus, group 10 at 1.6 ppm; fruit, pome, group 11 at 3.0 ppm; grape at 3.5 ppm; strawberry at 4.5 ppm; sunflower, seed at 0.6 ppm; vegetable, bulb, group 3 at 3.0 ppm; vegetable, fruiting, group 8 at 1.2 ppm; and vegetable, root, subgroup 1A except sugarbeet, garden beet, radish, and turnip at 1.0 ppm upon approval of the tolerances listed in this unit, since the proposed new tolerances will supersede the existing tolerances. That document referenced a summary of the petition prepared by BASF, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the levels at which some of the tolerances are being established. The reason for these changes is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for boscalid including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with boscalid follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

In mammals, the primary targets are the liver and the thyroid (indirectly from liver adaptive response). In subchronic and chronic feeding studies in rats, mice, and dogs, boscalid generally caused decreased body weights and body weight gains (primarily in mice) and effects on the liver (increase in weights, changes in enzyme levels and histopathological changes) as well as on the thyroid (increase in weights and histopathological changes). Mode of action studies conducted in rats indicated that boscalid has a direct effect upon the liver and that the thyroid effects are secondary. A reversibility study in rats indicated that both liver and thyroid parameters returned to control values after the animals were placed on control diet. Absolute and/or relative thyroid weights were elevated in rats and dogs, but there were no histopathological changes observed in the thyroid in either mice or dogs.

In a developmental toxicity study in rats, no developmental toxicity was observed in the fetuses at the highest dose tested (limit dose). No effects were noted in the dams in this study. In a developmental toxicity study in rabbits, an increased incidence of abortions or early delivery was observed at the limit dose. There was quantitative evidence of increased susceptibility in the 2-generation reproduction study in rats, where decreases in body weights and body weight gains in male offspring were seen at a dose that was lower than the dose that induced parental/systemic toxicity. There was quantitative evidence of increased susceptibility in the developmental neurotoxicity study in rats, where decreases in pup body weights (PND 4) and body weight gains (PND 1–4) were seen in the absence of any maternal toxicity.

Although there is some evidence indicating increased incidence of thyroid follicular cell adenomas in rats, EPA classified boscalid as ''suggestive evidence of carcinogenicity'' and has concluded that the endpoint for chronic assessment would be protective of these effects. This is based on the following: The adenomas occurred at dose levels above the level used to establish the chronic population adjusted dose (cPAD), statistically significant increases were only seen for benign tumors (adenomas) and not for malignant ones (carcinomas), the increase in adenomas in females was slight, and there was no concern for mutagenicity.

There was no evidence of neurotoxicity in rats in the acute, subchronic, or developmental studies up to the limit dose. No neurotoxic observations were noted in any of the other studies in any species.

Specific information on the studies received and the nature of the adverse effects caused by boscalid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled ''Boscalid Human Health Risk Assessment for a Section 3 Registration of New Uses on Globe Artichoke, Belgium Endive, Persimmon, Greenhouse Grown Tomato Transplants for the Home Consumer Market, and Residential Ornamentals, Landscape Gardens, Fruit Trees and Nut Trees; Plus Crop Group Expansions/Revisions for Bulb Vegetable Group 3–07, Fruiting Vegetable Group 8–10, Citrus Fruit Group 10–10, Pome Fruit Group 11–10, Berry Subgroups 13–07A, B, F, and G, Vegetable Root Subgroup 1B Except Sugar beet, and Oilseed Group 20'' on pp. 42–46 in docket ID number EPA–HQ–OPP–2012–0710.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for boscalid used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR BOSCALID FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations including infants and children and females 13–49 years of age).	No appropriate endpoint attributable to a single dose was identified.		
Chronic dietary (All populations)	NOAEL= 21.8 mg/kg/day. UF_A = 10x ..... UF_H = 10x ..... FQPA SF = 1x	Chronic RfD = 0.218 mg/kg/day. cPAD = 0.218 mg/kg/day.	Co-critical chronic rat, carcinogenicity rat, and 1-year dog studies. LOAEL = 57–58 mg/kg/day based on liver and thyroid effects.
Dermal Short-Term (1–30 days)	Oral study NOAEL = 21.8 mg/kg/day (dermal absorption rate = 15%). UF_A = 10x ..... UF_H = 10x ..... FQPA SF = 1x	LOC for MOE = 100	Co-critical chronic rat, carcinogenicity rat, and 1-year dog studies. LOAEL = 57–58 mg/kg/day based on liver and thyroid effects.
Inhalation Short-Term (1–30 days).	Oral study NOAEL= 21.8 mg/kg/day. UF_A = 10x ..... UF_H = 10x ..... FQPA SF UF_{DB} = 10x.	LOC for MOE = 1,000.	Co-critical chronic rat, carcinogenicity rat, and 1-year dog studies. LOAEL = 57–58 mg/kg/day based on liver and thyroid effects.
Cancer (oral, dermal, inhalation).	Classification: "Suggestive evidence of carcinogenicity." The cPAD is considered to be protective of any cancer effects; therefore, a separate cancer assessment is not required.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_{DB} = to account for the absence of data or other data deficiency. UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to boscalid, EPA considered exposure under the petitioned-for tolerances as well as all existing boscalid tolerances in 40 CFR 180.589. EPA assessed dietary exposures from boscalid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for boscalid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used food consumption information from the 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed tolerance-level residues and used some percent crop treated (PCT) information as described in Unit III.C.1.iv.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that the chronic endpoint will be protective of potential cancer effects. EPA's estimate of chronic exposure as described in this unit is relied upon to evaluate whether any exposure could exceed the cPAD and thus pose a cancer risk.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.

• Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.

• Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the PCT for existing uses as follows: Almonds 40%; apples 15%; apricots 25%; blueberries 35%; broccoli 2.5%; cabbage 5%; caneberries 45%; cantaloupes 5%; carrots 15%; cauliflower 5%; celery 2.5%; cherries 45%; cucumbers 5%; dry beans/dry peas 2.5%; garlic 5%; grapes 30%; green beans 5%; green peas 1%; hazelnuts 5%; lettuce 25%; nectarines 15%; onions 20%; peaches 20%; peanuts 1%; pears 15%; peppers 2.5%; pistachios 30%; plums/prunes 5%; potatoes 20%; pumpkins 10%; squash 5%; strawberries 55%; tomatoes 5%; walnuts 1%; and watermelons 25%.

In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 1. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which boscalid may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for boscalid in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of boscalid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the First Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZMGW), the estimated drinking water concentrations (EDWCs) of boscalid for chronic exposure assessments are estimated to be 26.4 parts per billion (ppb) for surface water and 697 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 697 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Boscalid is currently registered for the following uses that could result in residential exposures: Golf course turf. Additionally, new residential uses proposed by the registrants Bonide (use on residential fruit and nut trees) and BASF (new uses on residential ornamentals and landscape gardens) were evaluated as part of this action. EPA assessed residential exposure using the following assumptions: All residential exposures are considered short-term in duration. The residential handler assessment included short-term exposures via the dermal and inhalation routes from treating residential ornamentals, landscape gardens, and trees.

In terms of post-application exposure, there is the potential for dermal post-application exposure for individuals as result of being in an environment that has been previously treated with boscalid. Short-term dermal exposures were assessed for adults, youth 11 to 16 years old, and children 6 to 11 years old. Incidental oral exposure to children 1 to <2 years old is not expected from treated turf because boscalid is registered for use only on golf course turf and proposed for use on residential gardens and trees.

The scenarios used in the aggregate assessment were those that resulted in the highest exposures. The highest exposures for all age groups were associated with only residential post-application dermal exposures, not inhalation exposures, and consist of the following:

• The residential dermal exposure for use in the adult aggregate assessment reflects dermal exposure from post-application activities on treated gardens.

• The residential dermal exposure for use in the youth (11–16 years old) aggregate assessment reflects dermal exposure from post-application golfing on treated turf.

• The residential dermal exposure for use in the child (6–11 years old) aggregate assessment reflects dermal exposure from post-application activities in treated gardens.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found boscalid to share a common mechanism of toxicity with any other substances, and boscalid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that boscalid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the

cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility in the rat developmental study as no developmental toxicity was seen at the highest dose tested (limit dose).

There was evidence of increased qualitative susceptibility in the rabbit developmental study as characterized by an increased incidence of abortions or early delivery at the limit dose. It could not be ascertained if the abortions were the result of a treatment-related effect on the dams, the fetuses or both. It was concluded that the degree of concern is low because the increased abortions or early delivery was seen only at the limit dose and the abortions may have been due to maternal stress.

There was evidence of increased quantitative susceptibility seen in the rat 2-generation reproduction study and the developmental neurotoxicity study, in that reduced body weights were seen in the offspring at dose levels where no parental toxicity was observed. However, the degree of concern is low because the dose selected for chronic dietary and non-dietary exposure risk assessments would address the concern for the body weight effects, and the effect was shown to be reversible in the developmental neurotoxicity study.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for all scenarios, except residential handler inhalation exposure. That decision is based on the following findings:

i. The toxicity database is complete, with the exception of a subchronic inhalation study. EPA is retaining the 10X FQPA SF for assessing residential inhalation risk to adult applicators.

ii. For the reasons listed in Unit III.D.2., the Agency has concluded that there are no residual uncertainties concerning the potential for prenatal and postnatal toxicity.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessment assumed tolerances-level residues and was moderately refined using some PCT data. The use of the PCT data for some crops is based on reliable data and will not underestimate the exposure and risk. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to boscalid in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by boscalid.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single–oral exposure was identified and no acute dietary endpoint was selected. Therefore, boscalid is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to boscalid from food and water will utilize 56% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of boscalid is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Boscalid is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to boscalid. EPA used the dermal exposure scenarios mentioned in Unit III.C.3., in the aggregate assessment because those scenarios resulted in the highest exposures and corresponding lowest MOEs.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined short-term food, water, and residential exposures result in aggregate MOEs of 290 for adults, 310 for children 6–11 years old, and 690 for youth 11–16 years old. Because EPA's LOC for boscalid is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, boscalid is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for boscalid.

5. *Aggregate cancer risk for U.S. population.* Based on the data summarized in Unit III.A., EPA has concluded that the cPAD is protective of possible cancer effects. Given the results of the chronic risk assessment, cancer risk resulting from exposure to boscalid is not of concern.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to boscalid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography/mass spectrometry (GC/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch,

Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established an MRL for boscalid in/on globe artichoke, Belgian endive, or persimmon.

The tolerances being established by this document for the bulb vegetable group 3–07; the caneberry subgroup 13–07A; the citrus fruit group 10–10; the fruiting vegetable group 8–10; the small, vine climbing fruit, except fuzzy kiwifruit, subgroup 13–07F; and turnip greens align with existing Codex MRLs.

The tolerances being established for the bushberry subgroup 13–07B; the low growing berry subgroup 13–07G, except cranberry and the pome fruit group 11–10; do not align with established MRLs. Harmonization with Codex is not possible because the corresponding commodity group/subgroup tolerance in the United States is higher than the Codex MRL. The higher U.S. tolerance level reflects the likely residues resulting from use in accordance with the approved application rates on the domestic boscalid pesticide label. Reducing the tolerance value to harmonize with Codex levels could result in violations of the tolerance when boscalid is used according to the label.

C. Revisions to Petitioned-for Tolerances

Based on evaluation of the field trial data with the Organization of Economic Cooperation and Development (OECD) tolerance calculation procedure, EPA has modified the proposed tolerance for Belgium endive from 5.0 ppm to 6.0 ppm and the proposed tolerance for persimmon from 7.0 ppm to 8.0 ppm.

The tolerances for the bulb vegetable group 3–07; the caneberry subgroup 13–07A; the citrus fruit group 10–10; the fruiting vegetable group 8–10; the small, vine climbing fruit, except fuzzy kiwifruit, subgroup 13–07F; and turnip greens to align with existing Codex MRLs.

With the establishment of the tolerance for oilseed group 20 the flax, seed; cotton, gin byproducts; and cotton, undelinted seed will be deleted from 40 CFR 180.589(d) since the oilseed group 20 tolerance will supersede these existing tolerances.

In regards to the request for a tolerance for ''vegetable, root subgroup 1B, except sugarbeet,'' at 1.0 ppm, the petitioner did not submit the data necessary to support establishment of a tolerance for this crop subgroup; therefore, this tolerance is not being established at this time.

V. Conclusion

Therefore, tolerances are established for residues of boscalid in or on artichoke, globe at 6.0 ppm; berry, low growing, subgroup 13–07G, except cranberry at 4.5 ppm; bushberry subgroup 13–07B at 13.0 ppm; caneberry subgroup 13–07A at 10.0 ppm; endive, Belgium at 6.0 ppm; fruit, citrus, group 10–10 at 2.0 ppm; fruit, pome, group 11.10 at 3.0 ppm; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 5.0 ppm; oilseed group 20 at 3.5 ppm; persimmon at 8.0 ppm; turnip, greens at 40.0 ppm; vegetable, bulb, group 3–07 at 5.0 ppm; and vegetable, fruiting, group 8–10 at 3.0 ppm.

In addition, due to the establishment of the new tolerances, the following tolerances are removed as unnecessary from 40 CFR 180.589(a), bushberry subgroup 13B; caneberry subgroup 13A; canola, seed; cotton, undelinted seed; fruit, citrus, group 10; fruit, pome, group 11; grape; strawberry; sunflower, seed; vegetable, bulb, group 3; and vegetable, fruiting, group 8; from 40 CFR 180.589 (d), cotton, gin byproducts; cotton, undelinted seed and flax, seed.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 29, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.589:

■ a. Remove from the table in paragraph (a)(1) the commodities bushberry subgroup 13B; caneberry subgroup 13A; canola, seed; cotton, undelinted seed; fruit, citrus, group 10; fruit, pome, group 11; grape; strawberry; sunflower, seed; vegetable, bulb, group 3; and vegetable, fruiting, group 8.

■ b. Remove from the table in paragraph (d) the commodities cotton, gin byproducts; cotton, undelinted seed, and flax, seed.

■ c. Add alphabetically the following commodities to the table in paragraph (a)(1). The additions read as follows:

§ 180.589 Boscalid; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	6.0
* * * * *	
Berry, low growing, subgroup 13–07G, except cranberry	4.5
* * * * *	
Bushberry subgroup 13–07B	13.0
Caneberry subgroup 13–07A	10.0
* * * * *	
Endive, Belgium	6.0
Fruit, citrus, group 10–10	2.0
Fruit, pome, group 11–10	3.0
Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F	5.0
* * * * *	
Oilseed group 20	3.5
* * * * *	
Persimmon	8.0
* * * * *	
Turnip, greens	40.0
* * * * *	
Vegetable, bulb, group 3–07	5.0
* * * * *	
Vegetable, fruiting, group 8–10	3.0
* * * * *	

* * * * *

[FR Doc. 2013–26765 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0876; FRL–9400–4]

Prothioconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of prothioconozole in or on bushberries (crop subgroup 13–07B); low growing berries, except strawberry (crop subgroup 13–07H); and cucurbit vegetables (crop group 9). Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 8, 2013. Objections and requests for hearings must be received on or before January 7, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0876, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions, and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (RD), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0876, in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or

before January 7, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0876, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 19, 2012 (77 FR 75082) (FRL–9372–6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition 2F8044 by Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.626 be amended by establishing tolerances for residues of the fungicide prothioconazole, (2-(2-(1-chlorocyclpropyl)-3-(2-chlorophenyl)2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione), in or on bushberry, subgroup 13–07B at 2.0 ppm; berry, low growing, except strawberry subgroup 13–07H at 0.15 ppm; and vegetables, cucurbit, crop group 9 at 0.30 parts per million (ppm). That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has increased the 13–07H berry requested tolerance from 0.15 to 0.20 ppm. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for prothioconazole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with prothioconazole follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Prothioconazole has low acute toxicity by oral, dermal, and inhalation routes. It is not a dermal sensitizer, or a skin or eye irritant. Prothioconazole's metabolite, prothioconazole-desthio, also has low acute toxicity by oral, dermal, and inhalation routes. This metabolite is not a dermal sensitizer, or skin irritant, but it is a slight eye irritant. The subchronic and chronic studies show that the target organs at the lowest observable adverse effects level (LOAEL) include the liver, kidney, urinary bladder, thyroid, and blood. In addition, the chronic studies showed body weight and food consumption changes, and toxicity to the lymphatic and gastrointestinal systems.

Prothioconazole and its metabolites may be developmental toxicants producing effects including malformations in the conceptus at levels equal to or below maternally toxic levels in some studies, particularly those studies conducted using prothioconazole-desthio. Reproduction studies in the rat with prothioconazole and prothioconazole-desthio suggest that these chemicals may not be reproductive toxicants.

The available data show that the prothioconazole-desthio metabolite produces toxicity at lower dose levels in subchronic developmental, reproductive, and neurotoxicity studies as compared with prothioconazole and the two additional metabolites that were tested.

The available carcinogenicity and/or chronic studies in the mouse and rat, using both prothioconazole and prothioconazole-desthio, show no increase in tumor incidence. Therefore, EPA has concluded that prothioconazole and its metabolites are not carcinogenic, and are classified as ''Not likely to be carcinogenic to humans'' according to the 2005 Cancer Guidelines.

Specific information on the studies received and the nature of the adverse effects caused by prothioconazole as well as the no-observed-adverse-effect-level (NOAEL) and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Prothioconazole: Human Health Risk Assessment for Proposed Used on Low Growing Berry Subgroup (except Strawberry), Bushberry, Subgroup, and Cucurbit Vegetables'' dated June 15, 2013 in docket ID number EPA–HQ–OPP–2012–0876.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each

toxicological study to determine the dose at which the NOAEL and the lowest dose at which adverse effects of concern are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for prothioconazole used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of October 5, 2011 (76 FR 61587) (FRL–8884–2).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to prothioconazole, EPA considered exposure under the petitioned-for tolerances as well as all existing prothioconazole tolerances in 40 CFR 180.626. EPA assessed dietary exposures from prothioconazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified prothioconazole

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008, Nationwide Health and Nutrition Examination Survey. As to residue levels in food, EPA conducted a moderately refined acute dietary exposure assessment. The acute assessment utilized EPA-recommended tolerance values for all of the proposed uses, average field trial residue levels for the existing uses, empirical processing factors, and livestock commodity residues derived from feeding studies and a balanced dietary burden. The assessment assumed 100 percent crop treated (PCT).

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008, National Health and Nutrition Survey. As to residue levels in food, EPA conducted a moderately refined chronic dietary exposure assessment. Empirical processing factors, average field trial residues for existing uses, EPA-recommended tolerance values for all of the proposed uses, and livestock commodity residues derived from feeding studies and a reasonably balanced dietary burden were incorporated into the chronic assessment which assumed 100 PCT.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that prothioconazole is ''Not Likely to be Carcinogenic to Humans.'' Therefore a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for prothioconazole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of prothioconazole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Tier 1 Rice Model and the Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of prothioconazole for acute exposures are estimated to be 99.0 parts per billion (ppb) for surface water and 0.83 ppb for ground water.

Chronic exposures for non-cancer assessments are estimated to be 0.83 ppb for surface water and 91.9 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

For acute dietary risk assessment, the water concentration value of 99.0 ppb was used to assess the contribution to drinking water.

For chronic dietary risk assessment, the water concentration of value 91.9 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Prothioconazole is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Prothioconazole is a member of the conazole (triazole) class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same sequence of major biochemical events (EPA, 2002). In conazoles, however, a variable pattern of toxicological responses are found; some are heptotoxic and hepatocarconogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanism of toxicity. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's Web site at *http//www.epa.gov/pesticides/cumulative.*

Prothioconazole is a triazole-derived pesticide. Triazole-derived pesticides can form the common metabolite, 2,3,4-triazole and three triazole conjugates (triazole alanine, triazole acetic acid, and triazolylpyruvic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including prothioconazole, EPA conducted a health risk assessment for the exposure to 1,2,4-triazole, triazole alanine and triazole acetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures). In addition, the Agency retained the additional 10X Food Quality Protection Act (FQPA) safety factor (SF) for the protection of infants and children. The Agency's prior risk assessment can be found in the propiconazole registration docket at *http://www.regulations.gov.* Updates to assess the addition of the commodities included in this rule may be found in docket ID number EPA–HQ–OPP–2012–0876 in the document titled ''Common Triazole Metabolites: Updated Dietary (Food + Water) Exposure and Risk Assessment to Address The New Section 3 Registrations For Use of Prothioconazole on Bushberry crop Subgroup 13–07B, Low Growing Berry, Except Strawberry, Crop Subgroup 13–07H, and Cucurbit Vegetables Crop Group 9; Use of Flutriafol on Coffee; and Ipconazole on Crop Group 6'' dated May 12, 2013.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is evidence of increased susceptibility following prenatal/or postnatal exposure in:

i. Rat developmental toxicity studies with prothioconazole as well as its prothioconozole-desthio and sulfonic acid K salt metabolites.

ii. Rabbit developmental toxicity studies with prothioconazole-desthio.

iii. A rat developmental neurotoxicity study with prothioconazole-desthio.

iv. Multi-generation reproduction studies in the rat with prothioconazole-destio effects, include skeletal structural abnormalities, such as cleft palate, deviated snout, malocclusion, extra ribs, and developmental delays. Available data also show that the skeletal effects such as extra ribs are not completely reversible after birth in the rat, but persist as development continues.

Although increased susceptibility was seen in these studies, the Agency concluded there is a low concern and no residual uncertainties for prenatal and/or postnatal toxicity effects of prothioconazole because: Developmental toxicity NOAELs and LOAELs from prenatal exposure are well characterized after oral and dermal exposure; the off-spring toxicity NOAELs and LOAELs from postnatal exposures are well characterized; and the lowest NOAEL from the developmental studies, the NOAEL for the fetal effect malformed vertebral body and ribs in the rat dermal developmental study, is used for assessing acute risk of females 13 years and older.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for prothioconazole is considered complete.

ii. Evidence of quantitative and qualitative susceptibility of offspring were observed in the developmental studies. However, basing the POD on the offspring in the most sensitive of these studies provides the needed protection of offspring.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and EPA-recommended tolerance values for all of the proposed uses, average field trial residue levels for the existing uses, empirical processing factors, and livestock commodity residues derived from feeding studies and a balanced dietary burden. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to prothioconazole in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by prothioconazole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

Based on the proposed and existing crop uses for prothioconazole, dietary aggregate exposures (i.e., food plus drinking water) are anticipated. There are no residential uses for prothioconazole and, therefore, no residential exposures are anticipated. Consequently, only dietary (food plus drinking water) exposures were aggregated for this assessment.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to prothioconazole will occupy 30% of the aPAD for females, 13–49 years of age, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to prothioconazole from food and water will utilize 57% of the cPAD for all infants (<1 year of age) the population group receiving the greatest exposure. There are no residential uses for prothioconazole.

3. *Aggregate cancer risk for U.S. population.* Based on lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, prothioconazole is not expected to pose a cancer risk to humans.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to prothioconazole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies, liquid chromatography methods with tandem mass spectrometry detection

(LC/MS/MS), are available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are no Canadian, Codex, or Mexican maximum residue limits (MRLs) in/on the proposed commodities. Canada will be establishing the same tolerances for members of the subject groups or subgroups. Therefore, harmonization is not an issue for this petition.

C. Revisions to Petitioned-For Tolerances

The petitioned-for tolerance for the low growing berry, except strawberry, crop subgroup 13–07H was requested at 0.15 ppm. The Agency modified the requested 0.15 ppm tolerance to 0.20 ppm which is appropriate based on an evaluation of the crop field trial data with the Organization of Economic Cooperation and Development (OECD) Maximum Residue Level (MRL) Calculation Procedures.

V. Conclusion

Therefore, tolerances are established for residues of prothioconazole, (2-(2-(1-chlorocyclpropyl)-3-(2-chlorophenyl)-2-hydroxypropyl]-1,2-dihydro-3*H*-1,2,4-triazole-3-thione), in or on bushberry, subgroup 13–07B at 2.0 ppm; berry, low growing, except strawberry, subgroup 13–07H at 0.20 ppm; and vegetables, cucurbit, crop group 9 at 0.30 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 22, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.626, add alphabetically the following new entries to the table in paragraph (a)(1) to read as follows:

§ 180.626 Prothioconazole; tolerances for residues.

(a)(1) * * *

Commodity	Parts per million
* * * * *	
Berry, low growing, except strawberry, subgroup 13–07H	0.20
Bushberry, subgroup 13–07B	2.0
* * * * *	
Vegetable, cucurbit, crop group 9	0.30

* * * * *

[FR Doc. 2013–26772 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[WC Docket No. 05–25; RM–10593; DA 13–1909]

Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking To Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and modification.

SUMMARY: In this Report and Order, pursuant to authority delegated by the Commission in the *Special Access Data Collection Order* the Bureau clarifies the scope of the collection to reduce burden where doing so is consistent with our delegated authority and will not impact the Commission's ability to analyze the data; provides instructions and record format specifications for submitting information; and modifies and amends questions and definitions contained in the collection.

DATES: Effective December 9, 2013. The information collection and recordkeeping requirements contained in the *Special Access Data Collection Order,* 78 FR 2571, January 11, 2013, as implemented by this Report and Order, are not effective until the Office of Management and Budget approves them and the Commission has published a notice in the **Federal Register** announcing the effective date of the information collection.

FOR FURTHER INFORMATION CONTACT: William Layton, Wireline Competition Bureau, Pricing Policy Division, at (202) 418–1520 or (202) 418–0484 (TTY), or via email at *William.Layton@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in WC Docket No. 05–25, RM–10593, FCC 13–1909, released on September 18, 2013. This summary is based on the public redacted version of the document, the full text of which is available electronically via the Electronic Comment Filing System at *http://fjallfoss.fcc.gov/ecfs/* or may be downloaded at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0918/DA-13-1909A1.pdf*. The full text of this document is also available for public inspection during regular business hours in the Commission's Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request alternate formats for persons with disabilities (e.g. Braille, large print, electronic files, audio format, etc.) or reasonable accommodations for filing comments (e.g. accessible format documents, sign language interpreters, CARTS, etc.), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Introduction

On December 11, 2012, the Commission adopted the *Special Access Data Collection Order,* requiring providers and purchasers of special access and certain entities providing ''best efforts'' service to submit data, information and documents for a comprehensive evaluation of competition in the special access market. In this Report and Order, we move forward in our efforts to review and ensure that our special access rules work to promote access, competition and investment by finalizing the comprehensive data collection. Specifically, pursuant to authority delegated by the Commission, we (1) clarify the scope of the collection to reduce burden where doing so is consistent with our delegated authority and will not impact the Commission's ability to analyze the data; (2) provide instructions and record format specifications for submitting information; and (3) modify and amend questions and definitions contained in the collection. We will subsequently issue a public notice announcing the deadline for submissions once approval for the collection is obtained as required by the Paperwork Reduction Act of 1995 (PRA) from the Office of Management and Budget (OMB).

Background

On August 15, 2012, the Commission suspended, on an interim basis, its rules allowing the grant of pricing flexibility for special access services in areas subject to price cap regulation. The Commission took this step based on ''significant evidence that these rules, adopted in 1999, are not working as predicted, and widespread agreement across industry sectors that these rules fail to accurately reflect competition in today's special access markets.'' To identify a replacement framework, the Commission detailed a plan to collect data and information for a robust market analysis to gauge actual and potential competition for special access services. There was ample support in the record for ''collecting additional data to inform our future actions.''

On December 18, 2012, the Commission released the *Special Access Data Collection Order,* outlining the data collection. Services covered by the collection include traditional special access service (including DS1s and DS3s), *Packet-Based Dedicated Service* (*PBDS*) such as Ethernet, and *Best Efforts Business Broadband Internet Access Service* to ensure a ''clear picture of all competition in the marketplace.'' Those required to respond to the data collection include *Providers* and *Purchasers* of special access services and certain entities providing *Best Efforts Business Broadband Internet Access Service.* The geographic and temporal scope includes data on a nationwide basis for areas where the *Incumbent Local Exchange Carrier* (*ILEC*) is subject to price cap regulation (*i.e.,* price cap areas) with the majority of the data from calendar years 2010 and 2012.

The general categories of data and information identified by the Commission for collection are: Market structure, pricing, demand, terms and conditions, and competition and pricing decisions. Under each category, most of which would be collected from *Providers,* the Commission highlighted the types of data and information covered. For example, market structure included, among other things, data exclusively from *Providers* on facilities used to provide *Dedicated Service,* non-price factors affecting deployment, collocations, and network maps. The pricing information included data exclusively from *Providers* on the ''quantities sold and prices charged for special access services, by circuit element'' and required *ILECs* to ''list the form of price regulation that applies . . . on a wire-center-by-wire-center basis.'' The demand data included not only information on the bandwidth of special access sold and revenues earned by *Providers* but also on the expenditures made by *Purchasers.* The terms and conditions section called for information and data from both *Providers* and *Purchasers,* seeking details on topics such as the discounts and benefits associated with *Tariff* plans and the business rationale for those plans. The Commission also sought information on Requests for Proposals and advertised and marketed services to help evaluate competition and pricing decisions for special access services. Lastly, the Commission described the coverage area and price information it sought to collect from entities providing *Best Efforts Business Broadband Internet Access Service.* The

Commission provided an ''initial version'' of the questions and definitions for the collection as an appendix to the order.

The Commission plans to use the data collected for a one-time, multi-faceted market analysis. The analysis will evaluate ''how the intensity of competition (or lack thereof), whether actual or potential, affects prices, controlling for all other factors that affect prices.'' The analysis will include ''econometrically sound panel regressions . . . of the prices for special access on characteristics such as (1) the number of facilities-based competitors (both actual and potential); (2) the availability of, pricing of, and demand for best efforts business broadband Internet access services; (3) the characteristics of the purchased service; and (4) other factors that influence the pricing decisions of special access providers, including cost determinants (*e.g.,* density of sales) and factors that deliver economies of scale and scope (*e.g.,* level of sales).'' The Commission also plans to assess the reasonableness of terms and conditions offered by *ILECs* for special access service. Once the data are obtained and analyzed, the Commission will evaluate whether it is appropriate to make changes to its existing pricing flexibility rules to better target regulatory relief in competitive areas and evaluate whether remedies are appropriate to address any potentially unreasonable terms and conditions.

The Commission delegated authority to the Wireline Competition Bureau (Bureau) to implement the data collection. The Commission's delegation gives the Bureau authority to: ''(a) Draft instructions to the data collection and modify the data collection based on public feedback; (b) amend the data collection based on feedback received through the PRA process; (c) make corrections to the data collection to ensure it reflects the Commission's needs as expressed in [the *Special Access Data Collection Order*]; . . . (d) issue Bureau-level orders and Public Notices specifying the production of specific types of data, specifying a collection mechanism (including necessary forms or formats), and set[] deadlines for response to ensure that data collections are complied with in a timely manner; and (e) take other such actions as are necessary to implement [the *Special Access Data Collection Order*] . . . consistent with the terms of [the *Special Access Data Collection Order*].''

After the release of the *Special Access Data Collection Order,* we received several requests for clarifications and changes to the initial version of the data collection definitions and questions; received comments through the PRA process; and met with several potential respondents to discuss the data collection. We also reviewed the collection for improvements to achieve the robust analysis proposed in the *Special Access Data Collection FNPRM.* In this Report and Order, consistent with our delegated authority, we clarify the scope of the collection; provide instructions on how to respond to the data collection questions; and provide a list of all modifications and amendments to the data collection questions and definitions based on the feedback received and our further internal review.

Discussion

Clarifying the Scope of the Data Collection

As established by the *Special Access Data Collection Order, Providers* and *Purchasers* of special access services are required to respond to the data collection if they are subject to the Commission's jurisdiction under the Communications Act of 1934, as amended. In addition, the Commission required entities providing *Best Efforts Business Broadband Internet Access Services* to respond unless they have fewer than 15,000 customers and fewer than 1,500 business broadband customers. The Commission limited the geographic scope of the collection to services provided and purchased in price cap territories.

We have received several questions about the scope of the data collection. Parties have asked: (1) Who is required to file; (2) whether entities in rate-of-return areas must respond; and (3) how the reference to FCC Form 477 (Form 477) filers reporting broadband connections in Section II.G of the data collection affects the pool of respondents. We address these questions below.

Purchasers Subject to the Commission's Jurisdiction

The *Special Access Data Collection Order* stated that *Purchasers* of *Dedicated Service* must supply certain information as part of the data collection. A *Purchaser* is a *Competitive Provider* or an *End User,* which is defined as a ''business, institutional, or government entity that purchases a communications service for its own purposes and does not resell such service.'' In the collection, *Purchasers* are generally required to report their expenditures for *Dedicated Service* under *Tariff* and non-*Tariff* plans and provide details on the terms and conditions associated with those plans. This information is useful in evaluating allegations of harmful, anticompetitive conduct and cross-checking the information reported by *Providers.*

The term *Purchasers* is broadly defined in the *Special Access Data Collection Order* to include ''any entity subject to the Commission's jurisdiction . . . that purchases special access services.'' Read literally, that term encompasses a very broad range of entities that are consumers of *Dedicated Services* and, in that regard, are no different from consumers of *Dedicated Services* that are not subject to our jurisdiction. For example, a package delivery service that purchases a DS–1 to operate its business would be required to comply with the collection if it holds a private radio license for communications with its drivers (and is therefore ''subject to the Commission's jurisdiction''). But if instead of holding its own wireless license the same company purchases a commercial mobile radio service (CMRS) for those communications, and does not otherwise engage in an activity that would cause it to fall within the Commission's jurisdiction, it would not be required to comply with the data collection. There are potentially hundreds of thousands of license and authorization holders, information service providers, or others that are ''subject to the Commission's jurisdiction'' but otherwise are simply consumers of *Dedicated Services* and are unfamiliar with, and perhaps completely unaware of, the Commission's requirements and proceedings involving the regulation of *ILECs* in price cap areas.

For several reasons, we do not believe the Commission intended to capture these consumers. First, including literally all entities subject to the Commission's jurisdiction would result in the non-uniform treatment of certain consumer categories; responses from manufacturers, banks, or package delivery service providers that purchase *Dedicated Service* would turn on whether an entity in that category just happened to engage in an unrelated activity that subjects it to the Commission's jurisdiction. Second, in describing the entities required to submit data in its Final Regulatory Flexibility Analysis (FRFA), the Commission noted that *Providers* and *Purchasers* required to respond may include ''price cap regulated incumbent LECs, competitive LECs, interexchange carriers, cable operators, and companies that provide fixed wireless communications services'' in addition to some entities providing ''best efforts''

services. We believe this statement largely describes the categories of entities from which responses were anticipated by the Commission; this is also consistent with the Commission's estimated respondent pool of about 6,500—far fewer than the potentially hundreds of thousands of entities if the definition of *Purchasers* were interpreted more broadly. Third, defining *Purchasers* more broadly will not contribute substantially to the economic analysis. As proposed in the *Special Access Data Collection FNPRM,* the analysis of the collected data will rely more heavily on the data obtained from *Providers, e.g., Locations* served and prices charged at the circuit-level, than the limited information on terms and conditions obtained from *Purchasers.* Although the data obtained from *Purchasers* will help to identify harmful, anticompetitive conduct in the sale of *Dedicated Service,* it need not, and indeed cannot, be comprehensive to serve this purpose. Finally, these consumers of *Dedicated Service* are unlikely to respond with any additional information on terms and conditions that we would not otherwise obtain from a smaller respondent pool and so the benefit of having a broader array of *Purchasers* respond is outweighed by the burden. Clarifying the scope of *Purchaser* respondents is therefore appropriate.

Consistent with the Commission's overall intent, we clarify that the definition of *Purchasers excludes* from the collection entities that are subject to the Commission's jurisdiction only because they fall within one or more of the categories listed below. These exclusions do not apply to entities that hold licenses, authorizations or registrations under any other Part of the Commission's rules not listed below, or that provide a *Dedicated Service* or a *Best Efforts Business Broadband Internet Access Service* in a price cap area.

- *End Users* that provide an information service;
- Equipment authorization holders regulated under Parts 2 and 15 of the Commission's rules;
- Accounting authorization holders in the maritime and maritime mobile-satellite radio services regulated under Part 3 of the Commission's rules;
- Experimental radio authorization holders regulated under Part 5 of the Commission's rules;
- Commercial radio operators regulated under Part 13 of the Commission's rules;
- Antenna structure registration holders regulated under Part 17 of the Commission's rules;
- Television and radio broadcasters regulated under Part 73 of the Commission's rules;
- Holders of authorizations issued pursuant to Part 74 of the Commission's rules such as experimental radio, auxiliary, special broadcast and other program distribution service authorizations;
- Maritime service authorization holders regulated under Part 80 of the Commission's rules;
- Aviation service authorization holders regulated under Part 87 of the Commission's rules;
- Private land mobile radio service authorization holders regulated under Part 90 of the Commission's rules except for holders of authorizations under Part 90 for the provision of point-to-point fixed microwave services and authorizations in the Wireless Broadband Services frequency band, 3650–3700 MHz;
- Personal radio service authorization holders regulated under Part 95 of the Commission's rules; and
- Amateur radio service authorization holders regulated under Part 97 of the Commission's rules.

These exclusions only apply to the categorically excluded entity and do not extend to other entities within the same corporate structure or entities that are otherwise affiliated with the excluded entity. For example, if an entity holding a television broadcast authorization is affiliated with a cable company that provides *Dedicated Service,* the affiliated cable company must still respond to the data collection even though the television broadcasting entity is not required to respond. In addition, for clarity, we point out that these categorical exclusions do not include common carriers (wired or wireless), mobile wireless service providers, cable system operators even if they only provide video program services, international service providers, satellite service providers, or entities that hold authorizations issued by the Federal Communications Commission (FCC) for the provision of fixed point-to-point microwave services.

Price Cap Areas

The Commission is seeking data and information on the provision and purchase of services in price cap areas ''[b]ecause the focus of this proceeding is on the regulation of special access services in price-cap territories.'' While certain language in the *Special Access Data Collection Order* has led to confusion on whether carriers in rate-of-return areas must respond, we clarify that entities providing or purchasing *Dedicated Service* only in areas where the *ILEC* is subject to interstate rate-of-return regulation are not required to provide data and information in response to the data collection. Likewise, we clarify that an entity providing *Best Efforts Business Broadband Internet Access Service* only in areas where the ILEC is subject to interstate rate-of-return regulation is not required to submit data in response. A map depicting the study areas where the *ILECs* are subject to price cap and rate-of-return regulation is available on the Commission's Web site; the map will assist entities in determining whether or not they are providing or purchasing services in price cap areas. In addition, we recognize that over the years some ILECs have converted to price cap regulation and further clarify that the data collection covers *Dedicated Service* provided or purchased and *Best Efforts Business Broadband Internet Access Service* provided if the *ILEC* was subject to price cap regulation in the area at any point during the relevant reporting periods, 2010 or 2012.

FCC Form 477 Filers Reporting Broadband Connections

In delegating authority to the Bureau, the Commission noted that ''[t]he delegation includes the authority to require entities subject to the Commission's jurisdiction to certify whether or not they are special access providers, entities that provide best efforts business services, or purchasers for the purposes of this data collection.'' In Section II.G of the initial version of the data collection attached to the *Special Access Data Collection Order,* the Commission stated that ''[i]f you must respond to this data collection because you filed the FCC Form 477 in 2012 to report the provision of 'broadband connections to end user locations' but are not covered by the scope of the collection ''then indicate as such . . . and complete the certification accompanying this data collection.''

Smith Bagley *et al.* in their joint comments to the Commission as part of the PRA process highlighted the reference to the Form 477 in Section II.G and requested a clarification as to which entities must submit data and which entities must only certify that they are not required to submit data and information in response to the collection. We therefore clarify that all entities required to submit the Form 477 because they provide broadband connections to end user locations in price cap areas must—at a minimum—submit a certification in this special access data collection. Specifically, entities required to report broadband connections to end user locations on the

Form 477 must certify whether they are a *Provider, Purchaser,* a covered entity providing *Best Efforts Business Broadband Internet Access Service,* or none of the above as part of this data collection. If the Form 477 filer is also a *Provider, Purchaser,* or a covered entity providing *Best Efforts Business Broadband Internet Access Service* as defined in this collection, then it must also respond to all the relevant questions for that category of entity. If the Form 477 filer does not fall within any of those categories, *e.g.,* an entity only providing *Best Efforts Business Broadband Internet Access Service* in interstate rate-of-return areas and not purchasing *Dedicated Service,* then the Form 477 filer need not submit any information or data beyond its certification.

The intent of this certification is to ensure the subsequent market analysis of the collected data comprehensively includes all *Providers* with *Connections* to *Locations* that are owned, leased under an *Indefeasible Right of Use* (*IRU*) agreement, or in the case of *Competitive Providers,* obtained as an *Unbundled Network Element* (*UNE*) to provide a *Dedicated Service,* and covered entities providing *Best Efforts Business Broadband Internet Access Service.* We estimate that most, if not all, of these *Providers* and covered entities providing ''best efforts'' services are required to file the Form 477 based on that form's reporting criteria. Therefore, we can use the list of Form 477 filers as a point of reference to ensure that appropriate *Providers* respond to the collection. For example, if an entity filed the Form 477 but did not respond to the collection, there is a strong likelihood it has data and information relevant to the collection. Moreover, to the extent Form 477 filers not covered by the scope of the collection have to certify as such, this burden is minimal. Thus, the Form 477 certification requirement furthers the Commission's goal of conducting a comprehensive data collection in a minimally burdensome way.

Instructions—Data Specifications

Attached to this Report and Order is a comprehensive set of instructions with format specifications for responding to the data collection. These instructions address many requests for clarification received from parties since the release of the *Special Access Data Collection Order.* The more significant clarifications contained in the instructions are discussed below.

1. Locations With Connections

Providers are required to report *Locations* with *Connections* to help the Commission identify: (1) Facilities that can, or could, be used to provide a *Dedicated Service;* and (2) the demand for *Dedicated Service.* Regardless of what market analysis we adopt, this information is critical in determining how and where competition for special access services exists or is likely to develop.

A *Connection* is defined as a communication path between a *Location* and a *Provider*'s network that provides a *Dedicated Service* or is ''capable'' of providing a *Dedicated Service.* By design, only *Connections* to non-residential *Locations* are reported. Special access services are used by businesses, schools, libraries, and other institutions of state and local government. Including facilities and services provided to residences will not help, and may distort, our analysis of the special access market. Therefore, *Providers* do not report *Connections* to residential locations.

We have received several questions about the meaning of ''capable'' within the definition of *Connection* for purposes of the data collection. In response, we provide the following guidance on what *Locations* with *Connections* to report, which varies depending on the *Provider* type.

Guidance on Capable Connections for Competitive Providers

Non-Cable Competitive Providers. Competitive Providers other than cable system operators must report all *Locations* with idle and in-service *Connections* that they own or lease as an *IRU,* regardless of the type of service provided over the *Connection.* This subcategory of *Competitive Providers* must report all of their *Connections* because these entities typically target their service offerings to businesses and other higher-capacity users where sufficient demand exists to justify the investment. They do not typically deploy their facilities (or lease *IRUs*) to blanket an entire area and instead deploy (or lease *IRUs*) to particular *Locations* within a local geographic area. That is, they are likely to only have built such *Connections* to a particular *Location* based on strong expectations of sufficient demand. Both the information about the facilities and the demand leading to the deployment of those facilities are relevant to our analysis.

In addition, *Competitive Providers* must report *Locations* with *Connections* obtained as a *UNE* to provide a *Dedicated Service.* This includes those *UNEs* obtained to provide a service that incorporates a *Dedicated Service* within the offering as part of a managed solution or bundle of services sold to the customer. Examples of services incorporating a *Dedicated Service* could include: The Converged Business Network solution offered by Level 3 Communications, Inc. (Level 3); the High-Speed Dedicated Internet Access service from XO Communications, LLC (XO); or the business Ethernet solution offered by TW Telecom. This information will further help us identify the demand for special access service.

Competitive Providers Who Are Cable System Operators. Outside their Franchise Areas (FAs), cable operators must follow the same reporting guidance on all *Locations* with *Connections,* for the same reasons, as the non-cable *Competitive Providers* described above. However, we require cable system operators to report *Locations* in their FAs with *Connections* they own or lease as an *IRU* differently.

Cable system operators within their FAs report *Locations* based on the type of *Connection.* They must report those *Locations* with *Connections* owned or leased as an *IRU* that are connected to a *Node* (*i.e.,* headend) that has been upgraded or was built to provide Metro Ethernet (or its equivalent) service. They must report *Locations* with these *Connections* regardless of the service provided over the *Connection* or whether the *Connection* is idle or in-service. Historically, cable companies deployed facilities widely in their FAs to serve primarily residential customers and other community needs, and have more recently expanded their service offerings to customers that are likely to buy *Dedicated Service.* We are therefore particularly interested in *Connections* that have been upgraded to business class Metro Ethernet (or its equivalent)—whether or not those *Connections* are in service and regardless of the type of service provided—because it is reasonable to assume that such upgrades were made based on strong expectations as to the likelihood of sufficient demand for *Dedicated Service* and are sources of potential competition.

For *Locations* with facilities that are *not* linked to a *Node* capable of providing Metro Ethernet (or its equivalent), cable system operators must report in-service *Connections* that were used during the relevant reporting period to provide a *Dedicated Service* or a service that incorporates a *Dedicated Service* within the offering as part of a managed solution or bundle of services sold to the customer. Cable system operators do not report *Locations* with facilities used to provide a service that is substantially similar to the services provided to residential customers, *e.g.,* one or two line telephone service or

best-efforts Internet access and subscription television services. We exclude these facilities because they were most likely built to provide residential-type services instead of high-capacity services to non-residential customers based on the historical deployment of cable systems; their inclusion could thus skew our assessment of demand for special access service. We can still account for the potential competition from these facilities by referencing data provided elsewhere in the collection, *e.g.,* we can refer to the fiber maps filed by cable system operators, the location of *Nodes* upgraded to provide Metro Ethernet (or its equivalent), and the information provided showing those census blocks within the FAs where the cable system operator reports making broadband service available with a bandwidth rate of at least 1.5 Mbps in both directions (upstream/downstream). Accordingly, this clarification will aid the Commission by focusing the collection on *Locations* with *Connections* relevant to our inquiry, thus aiding the analysis, and has the benefit of reducing the reporting burden for cable system operators.

Guidance on Capable Connections for ILECs

In addition to the guidance provided to *Competitive Providers* on the meaning of ''capable'' for the reporting of *Locations* with *Connections,* we provide *ILECs* with this additional clarification. *ILECs* are not required to report copper loops that were unable to provide a bandwidth connection of at least 1.5 Mbps in both directions (upstream/downstream) ''as provisioned'' during the relevant reporting periods, *e.g.,* bare copper loops not upgraded with the necessary equipment. These copper loops are not considered *Connections* capable of providing a *Dedicated Service* for the purposes of this data collection. This clarification addresses a concern raised by Verizon on their inability ''to distinguish between UNEs that CLECs use to serve mass-market locations and those that they use to serve business locations.''

We are collecting data to analyze the special access market to help inform our analysis of the appropriate regulatory treatment of special access services. Special access services subject to dominant carrier regulation largely consist of *DS1s* and *DS3s,* which have a symmetrical bandwidth of about 1.5 Mbps and 44 Mbps, respectively. Therefore, for the collection, we do not intend to collect data from *ILECs* on copper loops that ''as provisioned'' are unable to provide a bandwidth of at least 1.5 Mbps in both directions.

This exclusion will significantly decrease the reporting burden for *ILECs* while not adversely affecting our analysis. Information on each and every copper loop an *ILEC* has with a bandwidth of less than 1.5 Mbps in both directions is unnecessary for the Commission to assess potential competition. We can instead assume that the *ILEC* has deployed facilities of some kind throughout its study area and has at least one transmission link, albeit a bare copper loop, to every *Location* within its study area even when the *ILEC* does not report having a *Location* with a *Connection.* We do recognize, however, that copper loops can be modified to provide higher capacity services and will continue to collect information from *Competitive Providers* on the loops they obtain as *UNEs* and later modify to provide a bandwidth connection of at least 1.5 Mbps in both directions.

In addition to excluding certain copper loops, *ILECs* are prohibited from reporting facilities to *Locations* used to provide services substantially similar to the services provided to residential customers, *e.g.,* one or two line telephone service or best-efforts Internet access and subscription television services such as AT&T's U-verse or Verizon's FiOS service (even if the facility is technically capable of providing a *Dedicated Service*). This exclusion is again aimed at limiting the data reported to only *Locations* where the *End Users* are demanding services relevant to our inquiry (*i.e.,* buying *Dedicated Services*). In these areas, as with the exclusion for certain copper loops, we can assume that the *ILEC* has a capable facility connecting every *Location* in its study area even when it did not provide a *Dedicated Service* to the *Location* during the relevant reporting period.

Location Data

Several parties are concerned about the *Location* information sought in the data collection, namely the requirement that the *Provider* (1) indicate whether the connected *Location* is a building, cell site, or other man-made structure, *i.e.,* reporting the location type and (2) report the geocode (latitude and longitude) for each *Location.* On location type, Comcast and Cox said ''that they do not necessarily know or record the type of structure . . . and that recreating such data (*e.g.,* through site visits or requests to the customer) could be quite a burdensome exercise.'' In addition, Alaska Communications Systems (ACS), Cincinnati Bell Inc. (Cincinnati Bell), and members of the American Cable Association (ACA) reported difficulty with determining not only the location type but also the geocode.

In response, we clarify in the instructions that if the filer does not know the location type, it can report the type as ''unknown.'' While we intend to use the location type to further understand the demand segments for *Dedicated Services,* we can utilize information reported elsewhere in the collection for this purpose. Therefore, while this clarification will significantly reduce the reporting burden on *Providers,* it will not adversely affect the Commission's analysis. As for the location geocode, we understand that *Providers* are more likely to have coordinate information for connected cell sites than for connected buildings. *Providers* do typically have, however, at least the street address for a connected building. We therefore clarify in the instructions that *Providers* can report a location geocode derived from a postal address through use of a geocoding platform. This clarification will significantly reduce the reporting burden by eliminating the need for site visits to obtain coordinate information.

Mapping Requirements

The *Special Access Data Collection Order* required *Competitive Providers* to file maps showing: (1) The fiber routes constituting their network and connecting their networks to *Locations;* and (2) the *Nodes* used to interconnect with other providers and the year each *Node* went live. The maps showing fiber routes help the Commission identify where *Competitive Providers* can or potentially could provide *Dedicated Service.* The location of the interconnection *Nodes* helps the Commission understand the ''non-price factors that may impact where special access providers build facilities or expand their network via UNEs.''

Several parties raised concerns about the burden of producing maps and verifying interconnection *Nodes.* Cable companies, for example, stated they do not keep maps at this level of detail in the normal course of business and would have to conduct site visits and create them at considerable expense. NTCA also expressed concern explaining that while its members generally have maps showing ''middle-mile'' facilities, they do not keep maps with ''last mile'' facilities.

NCTA and ACA alternatively propose that the Commission: (1) Allow companies to simply submit whatever network maps they have or ''a list or 'airline' map showing the network

footprint (headend locations and customer locations served by those headends)'' and (2) eliminate the *Node* identification requirements. USTelecom opposes this proposal, arguing this alternative will not provide the Commission with the necessary detail ''to determine how both actual and potential competition provide competitive discipline in the high-capacity marketplace.'' As discussed below, although we do not eliminate the obligations as proposed by NCTA and ACA, we do make certain clarifications to reduce the burdens while ensuring the Commission has sufficient data for its analysis.

Fiber Maps. The Commission required *Competitive Providers* to submit maps showing their fiber routes, including fiber *Connections* to *Locations,* for an analysis of potential competition. While we understand the burdens of providing these comprehensive maps, the Commission has found that competition for *Dedicated Service* ''appears to occur at a very granular level—perhaps as low as the building/tower.'' The Commission therefore needs to collect information at an equally granular level, *i.e.,* the level of the connected *Location.*

The mapping obligation is already limited by focusing solely on fiber routes and not requiring the mapping of other transmission mediums. Relative to copper or coaxial cable, a *Competitive Provider* can easily add additional *Dedicated Services* or other managed services to a fiber line. The presence of fiber down a street is thus a good indicator of a *Competitive Provider's* ability to serve nearby *Locations.* To further reduce the burdens, we clarify in the instructions that the scale used for shapefile mapping data is 1:24,000, which is the standard used by the U.S. Geological Survey National Map and the same scale used by the Bureau for the study area boundary (SAB) map collection. This standard will give the Commission sufficient data on the streets and paths traversed by fiber while eliminating the need to report the exact location of fiber on the street. We expect that *Competitive Providers* would know the streets and routes where their fiber runs without having to conduct site surveys so this clarification should significantly reduce the reporting burden for *Competitive Providers* while still giving the Commission data on fiber routes to a sufficient level of accuracy for its analysis.

We reject the alternative proposed by NCTA and ACA of requiring ''whatever network maps'' a *Competitive Provider* has or ''a list or 'airline' map showing a network footprint'' for two reasons. First, this approach will produce non-uniform and less granular data and will thus affect the Commission's analysis. Maps would vary by respondent with some simply showing the boundaries of their network coverage and others providing details on some fiber routes but unlikely to the level of the connected *Location.* Even a ''list or 'airline' map showing the network footprint'' would not necessarily give the Commission the fiber routes to *Locations,* at least not to a sufficient level of accuracy. Second, the variability of the maps would substantially increase the burden on Commission staff. For example, the Commission would have to create a base map from the non-uniform data and offset gaps with information collected elsewhere or through third-party data sets. Even if the Commission could somehow fill any data gaps, the result would not be as detailed, uniform, or accurate as with having *Competitive Providers* submit maps showing their fiber facilities to each *Location.* It would also divert Commission resources from analyzing the data to create data necessary to begin the analysis.

Nodes. NCTA and ACA have also asked the Commission to eliminate the requirement to include *Nodes* used for interconnecting. One NCTA member said it ''cannot reasonably identify every node on the network used to interconnect . . . and the year that each node 'went live,'" asserting that it ''would have to walk portions of the route to check for all splice points and/or interview local personnel'' to determine the location of interconnecting *Nodes.* An ACA member stated it would have to review many end user agreements to determine this information, while another member stated that reporting the ''live'' date for each interconnecting *Node* is ''the most difficult and time-consuming aspect of creating the maps.''

Although we retain the requirement to provide fiber maps, we clarify the obligations for identifying interconnection *Nodes* in the instructions to reduce burdens. First, we clarify that *Competitive Providers* can provide information reported to the Central Location Online Entry System (CLONES) database on their interconnection points in lieu of reporting information from their own internal records. *Competitive Providers* electing this option must certify that their CLONES data are current and accurately identify their points of interconnection and the associated ''live'' dates to the best of their knowledge. Second, we clarify in the instructions that *Node* locations need only be accurate to the nearest ±0.0005 decimal degrees. Third, respondents do not have to report the year the *Node* went ''live'' if it occurred before 1995 and is unknown.

These clarifications will not adversely affect the data needed for the Commission's analysis but will reduce burdens. The Commission intends to gather data on interconnection points to understand whether the decision to deploy in an area is in response to the demand for *Dedicated Service.* Based on the responses received from non-cable *Competitive Providers* to an earlier voluntary data request, we believe the deployment and interconnecting decisions of non-cable *Competitive Providers* are largely driven by the demand for high-capacity, business services. The reporting of interconnection points by these entities is thus valuable to the Commission.

The CLONES database is widely used by industry to create, update, and maintain codes to uniquely identify the location of geographic places and certain equipment. It also contains historical data on interconnection points as reported by the service providers. *Competitive Providers* can therefore provide the information reported to CLONES without affecting the analysis provided they certify to the best of their knowledge that the data accurately reflect their interconnecting points and ''live'' dates.

As for the location accuracy level for those *Nodes* identified, the Commission needs to know the neighborhood of the interconnection point. Clarifying the accuracy level for *Nodes* to the nearest ±0.0005 decimal degrees accomplishes this. In addition, reporting the year a *Node* went ''live'' going as far back as 1995 will help the Commission understand decisions to deploy facilities to meet the demand for *Dedicated Service.* After 1995, significant competitive entry and merger activity occurred following the enactment of the Telecommunications Act of 1996. This timeframe will capture that activity along with those headends recently upgraded by cable operators to provide Metro Ethernet (or its equivalent) service. Accordingly, we will not adversely affect the Commission's analysis by allowing respondents to only report ''live'' dates prior to 1995 if available.

These clarifications will ease the reporting burden for *Competitive Providers* while ensuring that the Commission has sufficient data for its analysis. Entities do not always retain historical data on interconnection points, so allowing for the submission of CLONES data and for the reporting of

''live'' dates prior to 1995 only if available will ease the burden on these respondents. These clarifications will also reduce, or completely eliminate, the need to conduct walkouts or surveys at the street or manhole level.

Billing Information

The collection contains a section of questions asking for data on the *Dedicated Services* billed to customers by *Competitive Providers* and *ILECs.* The billing section consists of three interrelated questions: (1) Reporting monthly billing information, billed at the level of the rate element, but tied to the circuit; (2) identifying adjustment codes; and (3) identifying billing codes. In addition to making minor revisions to the billing questions—discussed in Section III.C below, the instructions contain a detailed breakdown of how to interpret and respond to each required data field for these questions. The instructions address many of the requests for clarification on what is required. For example, some parties interpreted the ILEC-centric diagram of billed circuit elements contained in Question II.A.14 as a mandatory method of assigning billing codes. As clarified in the instructions, there are two options for describing billing codes for circuit elements. A filer can either use the diagram and descriptions provided to describe the billed circuit element or create its own descriptions for the billed elements, *e.g.,* a party could assign a billing code to a circuit element described as ''private line end-to-end service.'' Parties also questioned whether they can use Uniform Service Order Codes (USOCs) for their unique billing code IDs. The instructions clarify that providers can use any unique billing code, including USOCs. These and other clarifications are provided in the instructions.

Headquarters Information

Question II.A.9 asks *Competitive Providers* to report the locations of their U.S. headquarters and the headquarters of certain affiliates, going as far back as 1995. NCTA questions the need for this information and asks the Commission to eliminate this requirement or limit the years covered to 2010 and 2012.

Like the data sought on interconnection points, the purpose of this question is to assess certain non-price factors that may be relevant to where *Competitive Providers* build or expand their network. The question asks for the locations of a *Competitive Provider's* current and prior U.S. headquarters, going as far back as 1995. In addition, *Competitive Providers* must identify the headquarters of affiliated entities and entities acquired through merger that no longer exist if the affiliated or acquired entity owned (or leased under an *IRU* agreement) *Connections* to five or more *Locations* in a given *MSA* at the time of affiliation/acquisition, going as far back as 1995. We use 1995 as the cutoff because significant competitive entry and merger activity occurred after 1995. The longer period thus helps us understand why a competitor chose to expand its facilities in certain areas over time.

For certain *Competitive Providers,* namely cable system operators, the decision of where to deploy *Dedicated Service* facilities is significantly influenced by the FAs awarded to the cable operator, which are often unrelated to the location of its headquarters. For example, the headquarters for Cox, the third largest cable provider in the United States, is located in Atlanta but Cox has no cable network in that metropolitan area. In addition, cable operators have only recently upgraded systems in their FAs to provide *Dedicated Service.* With this in mind, we question the benefits of obtaining information on headquarters going as far back as 1995 from cable companies because while this question is not particularly burdensome, it is unlikely to help us understand why a cable company deployed facilities in an area to provide *Dedicated Service.* We will therefore allow cable operators to respond to this question by indicating ''Not Applicable.''

The rationale for treating cable system operators differently does not apply, however, to other *Competitive Providers* who do not deploy facilities according to designated FAs. We therefore continue to find value and intend to collect headquarters information from non-cable *Competitive Providers* for the analysis.

Certain Questions Requiring Narrative Responses From Purchasers

The data collection requires *Purchasers* to provide a narrative response to certain questions. For example, Questions II.F.8–10 and 12 ask for information about any problems experienced with terms and conditions, switching of *Providers,* or having to pay *One Month Term Only Rates.* Smith Bagley *et al.* objects to the mandatory submission of this ''qualitative'' information because it is not quantitative or verifiable and asks for the voluntary submission of responses to these types of questions.

Questions II.F.8–10 and 12 give *Purchasers* an opportunity to provide factual details to highlight any problems experienced in their dealings with *Providers* of *Dedicated Service.* The Commission plans to use the information to help identify and document problems previously alleged by *Competitive Providers* in this proceeding. While these questions are not particularly burdensome, and are instead an opportunity, we have clarified in the instructions that if a *Purchaser* does not need, or want, to provide a response, *i.e.,* the *Purchaser* is not experiencing or does not want to highlight any alleged problems, then the *Purchaser* can simply respond stating as much.

Modifications and Amendments to the Data Collection

The following is a list of the modifications and amendments to the data collection definitions and questions based on the received feedback and our further internal review. These changes are consistent with the terms of the *Special Access Data Collection Order.*

- *Affiliated Company.* Definition revised to include not only affiliations with *Providers* but also *Purchasers.* This revision will assist the Commission with internally linking information on sales and purchases reported by filers to entities that have common ownership. In addition, we have changed the ownership interest for determining an affiliation from 25 to 10 percent. Use of the lower percentage is consistent with the definition of affiliate used for the Form 499–A ''Telecommunications Reporting Worksheet,'' which is based on the statutory definition of ''affiliate'' in Section 153(2) of the Communications Act of 1934, as amended.
- *Best Efforts Business Broadband Internet Access Service.* Term modified to clarify that only best efforts services with a minimum advertised bandwidth connection of at least 1.5 Mbps in both directions (upstream/downstream) must be reported. The addition of ''advertised bandwidth'' also provides a clearer standard for respondents than the prior language that suggested an actual capacity, which could vary depending on case-specific variables such as time of day, traffic congestion, etc.
- *Circuit-Based Dedicated Service (CBDS).* Term modified to clarify the Commission's intent of only capturing those categories of time-division multiplexing-based services, such as DS1s and DS3s, which largely remain subject to dominant carrier regulation.
- *Collocation.* Definition deleted because the term is not used in the data collection.
- *Connection.* We modified the definition to eliminate potential

confusion over the reference to ''end user's location,'' which was a combination of two defined terms, *End User* and *Location.* As modified, the term now drops the modifier ''*End User's*'' and just references *Location,* which is already defined as a point where the *End User* is connected. We have also changed subsequent references to end user location in the collection to *Location.* In addition, consistent with our clarification of ''capable'' *Connections* in the instructions, we have modified the definition to clarify that an *Unbundled Copper Loop* is only considered a *Connection* once modified to provide a *Dedicated Service.''*

• *Dedicated Service.* Changed reference in definition from megabytes to megabits. In addition, we clarified that the minimum bandwidth rate of 1.5 Mbps applies in both directions, upstream and downstream.

• *End User.* Revised this term to include not just entities that purchase *Dedicated Service* for their own use and not for resale but also entities that more broadly purchase communications services for their own use and not for resale.

• *Indefeasible Right of Use (IRU).* The definition for this term previously included a list of elements typically found in IRU agreements, including a substantial upfront fee, a minimum term of ten years and no unreasonable limit on the grantee's right to use the asset. The definition gave respondents considerable discretion to determine whether a lease is an *IRU* agreement. Sprint is concerned the definition will result in the over inclusion of contracts that are effectively service level agreements but called IRUs by the parties. Conversely, AT&T said the term could be read to exclude IRUs with shorter terms and with upfront payments of less than 25 percent.

The definition is intended to capture facilities where the grantee effectively has an ownership interest in the *Connection* and has the right to use the asset for an extended period of time to provide a competitive service of its choosing. While IRUs of less than ten years in total duration and with minimal upfront payments may indeed exist, for purposes of our analysis of facilities-based competition, we will focus on *IRUs* with a total term of at least ten years where the grantee has a right to access and exclusively use the *Connection* absent unreasonable limits. We have modified the definition as suggested by AT&T to clarify that the duration period of the *IRU* agreement need not equal the remaining economic life of the asset.

• *Packet-Based Dedicated Service (PBDS).* Modified this definition to capture those types of services for which the Commission has largely granted relief from dominant carrier regulation.

• *Prior Purchase-Based Commitment.* Term revised to include commitments based on a dollar amount of revenues in addition to a percentage of revenues.

• *Revenues.* Deleted second sentence in definition to eliminate confusion over the billed revenue amounts to report.

• *Tariff.* Revised definition to clarify that term broadly includes both *Tariff Plans* and *Contract-Based Tariffs.*

• *Transport Service.* Definition revised to clarify intent of including dedicated transport and special access services other than *End User Channel Terminations.*

• *Question II.A.1: Affiliated Company.* Expanded the types of affiliated entities reported to *Providers* and *Purchasers,* not just *Providers,* to internally track commonly-owned entities and rephrased question to simplify electronic filing, *i.e.,* deleted yes/no response.

• *Questions II.A.3–4: Locations Data for Competitive Providers.* Consistent with our guidance on capable *Connections* in Section III.B.1.a of this Report and Order, we revised these questions to include not only facilities in-use, *i.e.,* provisioned *Connections* to *Locations,* but also idle *Connections* to capture data on potential competition. In addition, to match the reported month-to-month billing information, filers will report connected *Locations* during 2010 and 2012 instead of *Locations* as of year-end. The wording of Question II.A.3 is also changed to clarify that *Competitive Providers* need only report *Locations* with *Connections* in total and not separately by the enumerated categories. We also added Question II.A.4.k to obtain the total bandwidth provided over the *Connection* for the respondents' own internal use or the internal use of an *Affiliated Company.* This last piece of information will help us evaluate whether *Competitive Providers* are self-providing service as an alternative to buying *Dedicated Service.*

• *Question II.A.5: Fiber Network Map(s).* We received inquiries from parties requesting clarification of the mapping question requirements and have revised the question to only require a single map showing the fiber routes of a *Competitive Provider's* network that are owned or leased under an *IRU* agreement.

• *Question II.A.8: Business Rules for Deployment.* Clarified question to remove ambiguities and to help develop competition proxy variables for the Commission's econometric analysis.

• *Question II.A.9: Headquarters.* As mentioned in Section III.B.5 above, question revised to facilitate responses for proxy variables for competition, *i.e.,* filers must now also report the headquarters of entities acquired through merger where the filer or its subsidiary was the surviving entity.

• *Questions II.A.12–14: Billing Information from Competitive Providers.* Based on feedback, we revised these questions so they now refer to circuit element instead of rate element. Question II.A.12 is also amended to require the reporting of the customer's name in addition to the Form 499–A Filer ID, where applicable, or other unique identifier (ID), and Question II.A.13 is amended to require the reporting of a unique ID to link adjustments to a particular *Tariff* or contract. These changes to Questions II.A.12–13 will help the Commission identify and internally track purchases by commonly-owned customers and link billing adjustments to particular plans. Lastly, we added a new Question II.A.12.l to capture the per unit charge for the circuit element in addition to the total billed amount; modified former Question II.A.12.l to remove redundant language; and deleted the requirement to report whether the circuit element is owned or leased as an *IRU* in former Question II.A.12.o to address concerns over differentiating between owned and leased facilities.

• *Question II.A.19: Justification for Term and Volume Commitments.* Question amended to include *Tariffs* and agreements in effect with a customer, in addition to those offered.

• *Question II.B.1: Affiliated Company.* As with the parallel question for *Competitive Providers,* we expanded the types of affiliated entities reported to *Providers* and *Purchasers,* not just *Providers,* to assist with the internal tracking of commonly owned entities and modified the phrasing of this question to simplify electronic filing, *i.e.,* deleted the yes/no response.

• *Questions II.B.2–3: Locations Data for ILECs.* We revised these questions to eliminate the reporting of *Connections* sold as an *Unbundled Copper Loop* by the *ILEC.* As explained in Section III.B.1.b of this Report and Order, we do not intend to collect data on copper loops with a bandwidth of less than 1.5 Mbps. If a *Competitive Provider* has obtained an *Unbundled Copper Loop* from the *ILEC* as a *UNE* and modified the loop to provide a *Dedicated Service,* we will get that data directly from the *Competitive Provider.* This change will

greatly reduce the reporting burden for *ILECs.*

In addition, like the *Competitive Provider* questions on connected *Locations,* we have revised these questions to require the reporting of *Locations* connected *during* 2010 and 2012 instead of *Locations* as of year-end; this change is necessary to match the reported month-to-month billing information. Question II.B.2, similar to its counterpart question for *Competitive Providers,* is clarified so that *ILECs* report *Locations* in total and not separately by the enumerated categories.

• *Question II.B.4–6: Billing Information from ILECs.* Similar to the questions on billing for *Competitive Providers,* we revised these questions based on feedback to reference circuit element instead of rate element. In addition, we made the following changes: (1) Amended Question II.B.4.b to require the reporting of the customer's name to identify and internally track purchases by commonly-owned customers; (2) removed the reference to *Unbundled Copper Loops* in Question II.B.4 because *Locations* connected with *Unbundled Copper Loops* are no longer reported by *ILECs;* (3) revised Question II.B.5.g–h to refer to ''contract or *Tariff''* and not just contract; (4) deleted references to accuracy levels in Question II.B.4.h–k; (5) added a new Question II.B.4.t to capture the per unit charge for the circuit element in addition to the total billed amount; (6) modified former Question II.B.4.t to remove redundant language; (7) deleted former Question II.B.4.w because a revenue commitment is included in the definition of *Volume Commitment* referenced in a subsequent part of this question; (8) deleted the requirement to report whether the circuit element is owned or leased as an *IRU* in II.B.4.y; and (9) deleted former II.B.4.aa because the burden outweighed the benefit of linking the billing information for a circuit to a particular tariff name and section number.

• *Question II.B.12: All Tariffs.* Deleted ''available'' from the initial sentence to capture not only available tariffs but also tariffs currently in effect for the purchase of *DS1, DS3,* and *PBDS* services; this change enables us to obtain information on all *Tariffs* that are currently used, or could be used, to purchase *Dedicated Service* from *ILECs.* We amended Question II.B.12.g to obtain additional information on the geographic areas covered by the identified plans to help the Commission differentiate between urban and rural areas. Added new Question II.B.12.k–l to indicate whether purchases in areas where pricing flexibility has been granted count towards meeting a *Volume Commitment.* Added new Question II.B.12.n to indicate whether tariffed purchases of *PBDS* count towards meeting a *Volume Commitment.* Revised former Question II.B.12.n (now Question II.B.12.q) to only require the reporting of *Revenues* in total and not separately by additional categories, and deleted former Question II.B.12.o–p because the burden of reporting outweighed the potential benefit of collecting the information. Lastly, we amended former Question II.B.12.r (now Question II.B.12.s) to address concerns raised by Level 3 about plans that effectively contain *Prior Purchase-Based Commitments* without explicitly containing such provisions.

• *Question II.B.13: Non-Tariffed Agreements.* Rephrased language to simplify electronic filing, *i.e.,* eliminated the need for a yes/no response.

• *Question II.C.1–2: Entities Providing Best Efforts Services.* Condensed Questions II.C.1–2 into one question and rephrased so that only covered entities, *i.e.,* those not exempted, must answer. Modified former Question II.C.2.c.ii and d.ii to require reporting for areas where service is offered, instead of where service is provided. This is consistent with how data are reported for the State Broadband Initiative (SBI) program.

• *Question II.D.3: Procedures when Changing Transport Providers.* We are deleting this question and will instead rely on information obtained from similar questions directed at *Purchasers* and follow-up as necessary with *Providers* based on those responses.

• *Sections II.E–F: Questions for Purchasers.* To differentiate information from *Purchasers* that are mobile wireless service providers from other *Purchasers,* we have duplicated Questions II.F.2–14 and added them to Section II.E. *Purchasers* that are mobile wireless service providers will now only answer the questions on purchases in Section II.E. All other *Purchasers* will answer the questions in Section II.F.

• *Question II.E.2: Cell Site Locations.* Revised Question II.E.2.g–h to clarify that the total bandwidth is reported.

• *Questions II.F.3–4 (II.E.4–5):* Added subpart asking *Purchasers* to identify the percentage of expenditures made pursuant to purchases under a *Tariff* in 2012 that were subject to a *Term Commitment* of five or more years. This will help us gauge the scope of expenditures tied to longer-term plans.

• *Question II.F.8 (II.E.9): Terms and Conditions Constraints.* As suggested by parties, we clarified this question to give *Purchasers* an opportunity to highlight alleged problems with terms and conditions not otherwise captured by the collection.

• *Question II.F.9 (II.E.10): Changing Transport Providers.* Revised language to clarify intent of obtaining information in those instances where a *Purchaser* buys both *Transport Service* and *End User Channel Terminations* from one *Provider* and then subsequently switches *Transport Providers* while continuing to purchase the ''last-mile'' facilities from the original *Provider.*

• *Question II.F.10 (II.E.11): Purchases Solely for the Purpose of Meeting a Prior Purchase-Based Commitment.* Modified language to cover purchases that would not have been made but for the commitment instead of purchases not utilized to meet a commitment. We further amended the question to obtain additional details on such purchases where applicable.

• *Question II.F.11 (II.E.12): Switching Providers.* Modified question based on feedback from parties asking about the scope of the question.

• *Question II.F.13 (II.E.14): Tariffs under which you Purchase Service.* Deleted ''available'' from the initial sentence to capture all *Tariffs* used by the *Purchaser* to obtain *DS1, DS3,* and *PBDS* services; made minor improvements to the language in subparts (k.ii), (m.ii), (n.ii), and (o.ii) as to the geographic areas identified and added the reporting of the *Provider's* name; and separated subpart (m) into two questions—one for purchases in areas where the Commission has granted *Phase I Pricing Flexibility* and the other for *Phase II Pricing Flexibility* areas.

• *Question II.F.14 (II.E.15): Non-Tariffed Agreements.* Rephrased language to simplify electronic filing, *i.e.,* eliminated the need for a yes/no response.

• *Question II.G.1:* Revised question so that entities providing *Best Efforts Business Internet Access Services* that are exempt from providing data and information in response to the data collection can certify as such and clarified language to cover entities required to report broadband connections to end user locations on the Form 477 for 2012.

Other Requests for Clarifications and Changes

We have reviewed all of the requests for changes and clarifications to the data collection and have addressed many of the requests in the revised questions described in Section III.C or in the attached instructions. Clarifications or changes not made as requested were

because the benefit of collecting the information outweighed the burden or because the requested clarification or change is inconsistent with the terms of the *Special Access Data Collection Order,* outside the scope of our delegated authority, or because the Commission previously considered and rejected the requested relief.

Procedural Matters

Deadline for Responding. Once OMB has approved the data collection, we will publish notice of such approval in the **Federal Register** and issue a public notice announcing the deadline for responding.

Responding to the Data Collection. In addition to the attached instructions discussing the data specifications, we will post additional instructions on the submission process on the Commission's Web site. The Commission will create an electronic interface for the submission of information. Submissions will involve the uploading of documents in response to various questions and interrogatories and the electronic delivery of data. We will provide a data container file for submitting data that will include validation scripts to verify that the filer is providing the data in the appropriate format.

Confidential Information. The data collection seeks information on facilities, billing, revenue, and expenditure that is considered confidential by businesses. The Bureau will release separately a Protective Order outlining procedures for designating and accessing information deemed confidential and highly confidential.

Paperwork Reduction Act Analysis. This Report and Order further implements the information collection requirement adopted by the Commission in the *Special Access Data Collection Order.* The Commission is in the process of seeking approval for the collection from OMB pursuant to the PRA, Public Law 104–13. The actions taken in the Report and Order are based on comments received during the initial 60-day PRA comment period, meetings with industry, and our own internal further review to enhance the quality, utility, and clarity of the collection.

Final Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

The *Special Access Data Collection Order* contains a Final Regulatory Flexibility Analysis (FRFA) that can be found at Appendix B of that Order. We incorporate the FRFA contained in the *Special Access Data Collection Order* into this Report and Order. The actions taken in this Report and Order do not create any burdens, benefits, or requirements that were not addressed by the FRFA attached to the *Special Access Data Collection Order.*

Congressional Review Act. As required by the Congressional Review Act (CRA), the Commission previously sent a copy of the *Special Access Data Collection Order* to Congress and the Government Accountability Office. The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the CRA.

Ex Parte *Presentations.* This is a permit-but-disclose proceeding and subject to the requirements of Section 1.1206(b) of the rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.

Mandatory Data Collection

I. Definitions

The following definitions apply for purposes of this collection only. They are not intended to set or modify precedent outside the context of this collection.

Affiliated Company means a company, partnership, corporation, limited liability company, or other business entity that is affiliated with an entity that provides and/or purchases *Dedicated Service.* Two entities are affiliated if one of them, or an entity that controls one of them, directly or indirectly holds a greater than 10 percent ownership interest in, or controls, the other one.

Best Efforts Business Broadband Internet Access Service means a best efforts Internet access data service with a minimum advertised bandwidth connection of at least 1.5 megabits per second (Mbps) in both directions (upstream/downstream) that is marketed to enterprise customers (including small, medium, and large businesses). For purposes of this data collection, *Best Efforts Business Broadband Internet Access Services* do not include mobile wireless services, as that term is used in the *16th Annual Mobile Wireless Competition Report.*

Circuit-Based Dedicated Service (CBDS) means a *Dedicated Service* that is circuit-based. Examples of *CBDS* include time-division multiplexing-based, *DS1* and *DS3* services.

Competitive Provider means a competitive local exchange carrier (CLEC), interexchange carrier, cable operator, wireless provider or any other entity that is subject to the Commission's jurisdiction under the Communications Act of 1934, as amended, and either provides a *Dedicated Service* or provides a *Connection* over which a *Dedicated Service* could be provided. A *Competitive Provider* does not include an *ILEC* operating within its incumbent service territory.

Connection means a wired ''line'' or wireless ''channel'' that provides a dedicated communication path between a *Location* and the first *Node* on a *Provider's* network. Multiple dedicated communication paths serving one or more *End Users* at the same *Location* should be counted as a single *Connection.* A *Connection* may be a *UNE,* including an *Unbundled Copper Loop* if modified to provide a *Dedicated Service.* A *Connection* must have the capability of being used to provide one or more *Dedicated Services;* however, a *Connection* can be used to provide other services as well. For example, a dedicated communication path that is currently being used to provide a mass market broadband service but has the capability to provide a *Dedicated Service* is considered a *Connection* for the purpose of this data collection.

Contract-Based Tariff means a *Tariff,* other than a *Tariff Plan,* that is based on a service contract entered into between a customer and an *ILEC* which has obtained permission to offer contract-based tariff services pursuant to 47 CFR 69.701 *et seq.* of the Commission's pricing flexibility rules or a comparable tariffed intrastate service contract between a customer and an *ILEC.*

Dedicated Service transports data between two or more designated points, *e.g.,* between an *End User's* premises and a point-of-presence, between the central office of a local exchange carrier

(LEC) and a point-of-presence, or between two *End User* premises, at a rate of at least 1.5 Mbps in both directions (upstream/downstream) with prescribed performance requirements that include bandwidth-, latency-, or error-rate guarantees or other parameters that define delivery under a *Tariff* or in a service-level agreement. *Dedicated Service* includes, but is not limited to, *CBDS* and *PBDS.* For the purpose of this data collection, *Dedicated Service* does not include ''best effort'' services, *e.g.,* mass market broadband services such as DSL and cable modem broadband access.

Disconnection means the process by which a *Provider,* per a customer request, terminates billing on one or more of a customer's *Dedicated Service* circuits.

DS1 and *DS3,* except where specified, refer to DS1s and DS3s that are not *UNEs. DS1s* and *DS3s* are *Dedicated Services.*

End User means a business, institutional, or government entity that purchases a communications service for its own purposes and does not resell such service. A mobile wireless service provider is considered an *End User* when it purchases communications services to make connections within its own network, *e.g.,* backhaul to a cell site.

End User Channel Termination means, as defined in 47 CFR 69.703(a)(2), a dedicated channel connecting a LEC end office and a customer premises, offered for purposes of carrying special access traffic.

Incumbent Local Exchange Carrier (ILEC) means, for the purpose of this data collection, a LEC that provides a *Dedicated Service* in study areas where it is subject to price cap regulation under Sections 61.41–61.49 of the Commission's rules, 47 CFR 64.41–61.49.

Indefeasible Right of Use (IRU) means an indefeasible long-term leasehold interest for a minimum total duration of ten years that gives the grantee the right to access and exclusively use specified strands of fiber or allocated bandwidth to provide a service as determined by the grantee. An *IRU* confers on the grantee substantially all of the risks and rewards of ownership. *IRUs* typically include the following elements: (i) Payment of a substantial fee up front to enter into the *IRU* contract; (ii) conveyance of tax obligations commensurate with the risks and rewards of ownership to the grantee (*e.g.* as opposed to the lesser tax burdens associated with other forms of leases); (iii) terms for payment to the grantor for ancillary services, such as maintenance fees; (iv) all additional rights and interests necessary to enable the *IRU* to be used by the grantee in the manner agreed to; and (v) no unreasonable limit on the right of the grantee to use the asset as it wishes (*e.g.,* the grantee shall be permitted to splice into the *IRU* fiber, though such splice points must be mutually agreed upon by grantor and the grantee of the *IRU*).

Location means a building, other man-made structure, a cell site on a building, a free-standing cell site, or a cell site on some other man-made structure where the *End User* is connected. A *Node* is not a *Location.* For the purposes of this data collection, cell sites are to be treated as *Locations* and not as *Nodes.*

Metropolitan Statistical Area (MSA) is a geographic area as defined by 47 CFR 22.909(a), 69.703(b).

Node is an aggregation point, a branch point, or a point of interconnection on a *Provider's* network, including a point of interconnection to other *Provider* networks. Examples include LEC central offices, remote terminal locations, splice points (including, for example, at manholes), controlled environmental vaults, cable system headends, cable modem termination system (CMTS) locations, and facility hubs.

Non-MSA is the portion of an *ILEC's* study area that falls outside the boundaries of an *MSA.*

Non-Rate Benefit means a benefit to the customer other than a discount on the *One Month Term Only Rate, e.g.,* a credit towards penalties or non-recurring charges or the ability to move circuits without incurring a penalty.

One Month Term Only Rate means, for purposes of this data collection, the non-discounted monthly recurring tariffed rate for *DS1, DS3* and/or *PBDS* services.

Packet-Based Dedicated Service (PBDS) means a *Dedicated Service* that is packet-based. Examples of *PBDS* include Multi-Protocol Label Switched (MPLS) services; permanent virtual circuits, virtual private lines and similar services; ATM and Frame Relay service; (Gigabit) Ethernet Services and Metro Ethernet Virtual Connections; and Virtual Private Networks (VPN). *PBDS* includes those categories of packet-based and optical transmission services for which the Commission has granted forbearance relief from dominant carrier regulation.

Phase I Pricing Flexibility means regulatory relief for the pricing of *End User Channel Terminations* pursuant to 47 CFR 69.711(b), 69.727(a) of the Commission's rules.

Phase II Pricing Flexibility means regulatory relief for the pricing of *End User Channel Terminations* pursuant to 47 CFR 69.711(c), 69.727(b) of the Commission's rules.

Prior Purchase-Based Commitment means a type of *Volume Commitment* where the commitment is based on either:

(i) A certain percentage or number of the customer's purchased in-service circuits or lines as measured at the time of making the *Volume Commitment* or measured during a period of time prior to making the *Volume Commitment, e.g.,* based on the customer's billing records for the current month or prior month(s); or

(ii) a certain percentage or dollar amount of *Revenues* generated by the customer's purchases as measured at the time of making the *Volume Commitment* or during a period of time prior to making the *Volume Commitment.*

Providers collectively refers to both *ILECs* and *Competitive Providers.*

Purchasers means *Competitive Providers* and *End Users* that are subject to the Commission's jurisdiction under the Communications Act of 1934, as amended, and purchase *Dedicated Service.*

Revenues means intrastate and interstate billed amounts without any allowance for uncollectibles, commissions or settlements.

Tariff means an intrastate or interstate schedule of rates and regulations filed by common carriers. This term includes both *Tariff Plans* and *Contract-Based Tariffs.*

Tariff Plan means a *Tariff,* other than a *Contract-Based Tariff,* that provides a customer with either a discount from any *One Month Term Only Rate* for the purchase of *DS1* and/or *DS3* services or a *Non-Rate Benefit* that could be applied to these services.

Term Commitment means a commitment to purchase a *Dedicated Service* for a period of time, greater than a month, in exchange for a circuit-specific discount and/or a *Non-Rate Benefit.*

Transport Service means a dedicated circuit that connects a designated *Competitive Provider's* premises to the wire center that serves the *Competitive Provider's* customer. Such an arrangement may or may not include channel mileage. *See* 47 CFR 69.709(a).

Transport Provider means a *Provider* that supplies *Transport Service.*

Unbundled Copper Loop means a copper wire local loop provided by *ILECs* to requesting telecommunications carriers on a non-discriminatory basis pursuant to 47 CFR 51.319(a)(1) that can be used by a *Competitive Provider* to provide a *Dedicated Service, e.g.,*

Ethernet over Copper. An *Unbundled Copper Loop* is typically a 2- or 4- wire loop that the *ILEC* has conditioned to remove intervening equipment such as bridge taps, load coils, repeaters, low pass filters, range extenders, etc. between a *Location* and the serving wire center to allow for the provision of advanced digital services by a *Competitive Provider.* These loops are commonly referred to as dry copper, bare copper, or xDSL-compatible loops. An *Unbundled Copper Loop* is a type of *UNE.*

Unbundled Network Element (*UNE*) means a local loop provided by an *ILEC* to a requesting telecommunications carrier on a non-discriminatory basis pursuant to 47 CFR 51.319(a).

Upgrade means that a customer transitions one or more circuits to a higher capacity circuit.

Volume Commitment means a commitment to purchase a specified volume, *e.g.,* a certain number of circuits or *Revenues,* to receive a discount on *Dedicated Services* and/or a *Non-Rate Benefit.*

II. Mandatory Data Collection Questions

A. Competitive Providers must respond to the following:

II.A.1. Indicate whether you are an *Affiliated Company.* If you are an *Affiliated Company,* you must identify the entities that provide and/or purchase *Dedicated Service* with which you have an affiliation (name/FRN).

II.A.2. Do you (i) own a *Connection;* (ii) lease a *Connection* from another entity under an *IRU* agreement; or (iii) obtain a *Connection* as a *UNE* from an *ILEC* to provide a *Dedicated Service*?

☐ Yes ☐ No

a. If yes, are any of these *Connections* to a *Location* within an area where the *ILEC* is subject to price cap regulation or within an area where the Commission has granted *Phase I* or *Phase II Pricing Flexibility*?

☐ Yes ☐ No

If you answered ''no'' to question II.A.2 or II.A.2.a, then you are not required to respond to the remaining questions in II.A or the questions in II.D.

Facilities Information

II.A.3. Provide the total number of *Locations* to which you had a *Connection* during 2010 and during 2012 where your company: (i) owned the *Connection;* (ii) leased the *Connection* from another entity under an *IRU* agreement; or (iii) obtained the *Connection* as a *UNE* from an *ILEC* in the form of *DS1s, DS3s,* or *Unbundled Copper Loops* to provide a *Dedicated Service.*

II.A.4. Provide the information requested below for each *Location* to which your company had a *Connection* during 2010 and during 2012 that you: (i) owned; (ii) leased from another entity under an *IRU* agreement; or (iii) obtained as a *UNE* from an *ILEC* to provide a *Dedicated Service.*

a. A unique ID for the *Location;*

b. The actual situs address for the *Location* (*i.e.,* land where the building or cell site is located);

c. The geocode for the *Location* (*i.e.,* latitude and longitude);

d. The *Location* type (*e.g.,* building, other man-made structure, cell site in or on a building, free-standing cell site, or a cell site on some other man-made structure like a water tower, billboard, etc.);

e. Whether the *Connection* provided to the location uses facilities leased from another entity under an *IRU* or obtained as a *DS1/DS3 UNE* or *Unbundled Copper Loop,* and in each case, the name of the lessor of the majority of the fiber strands and/or copper loop;

f. Whether any of the *Connection* to the *Location* was provided using fiber;

g. The total sold bandwidth of the *Connection* provided by you to the *Location* in Mbps;

h. The total bandwidth to the *Location* sold directly by you to an *End User;*

i. The total sold fixed wireless bandwidth provided by you to the *Location;* and

j. The total bandwidth sold by you to any cell sites at the *Location.*

k. The total bandwidth provided to you or an *Affiliated Company* for internal use.

II.A.5. Provide a map showing the fiber routes that you (a) own or (b) lease pursuant to an *IRU* agreement that constitute your network, including the fiber *Connections* to *Locations.* In addition, include the locations of all *Nodes* used to interconnect with third party networks, and the year that each *Node* went live.

II.A.6. We will provide you with a selected list of the *Locations* you reported in response to question II.A.4. For each identified *Location,* state the month and year that you first provided a *Connection* to that *Location,* whether you originally supplied the *Location* over a *UNE,* and if so, when (if at all) you switched to using a *Connection* that you own or lease as an *IRU.* If the *Location* was first served by your *Connection* on or before January 2008, and the date the *Location* was first served is unknown, then enter 00/0000.

II.A.7. For each *ILEC* wire center where your company is collocated, provide the actual situs address, the geocode, and the CLLI code.

II.A.8. Explain your business rule(s) used to determine whether to build a *Connection* to a particular *Location.* Provide underlying assumptions.

a. Describe the business rules and other factors that determine where you build your *Connections.* Examples of such rules/factors are minimum *Term Commitments* or minimum capacity commitments by the buyer; maximum build distances from the building to your core network; and/or number of competitors in the area. Include, also, any factors that would prevent you from building a *Connection* to an otherwise suitable *Location.* These could be factors that are under your control or those that are not.

b. Explain how, if at all, business density is incorporated into your business rule, and if so, how you measure business density.

c. In areas where your business rule has been most successful, explain why. Provide examples of geographic regions (if any) where you generally were or are able to successfully deploy *Connections,* and where you generally have experienced or currently experience serious difficulties in deploying *Connections,* and, if you are able to provide examples of both kind of regions, indicate what distinguishes these different regions.

II.A.9. Provide the following information:

a. The current situs address of your U.S. headquarters (*i.e.,* the address of the land where the headquarters is located);

b. The year that this site became your headquarters;

c. Year established and situs address for any prior U.S. headquarters' location for your company, going as far back as 1995, if different from the headquarters' location listed in response to question II.A.9.a;

d. Going as far back as 1995, the date of acquisition and the situs address for the U.S. headquarters location of any entity that owned, or leased under an *IRU* agreement, *Connections* to five or more *Locations* in any *MSA* at the time you acquired the entity in a merger where you or your subsidiary was the surviving entity.

e. The name of any *Affiliated Company* that owned, or leased under an *IRU* agreement, *Connections* to five or more *Locations* in any *MSA* at the time you became affiliated with the *Affiliated Company,* going as far back as 1995.

f. For each *Affiliated Company* listed in response to question II.A.9.e, provide:

i. The year of affiliation;

ii. The situs address for each *Affiliated Company's* U.S. headquarters at the time of affiliation;

iii. The year that the *Affiliated Company* established the situs address listed in response to question II.A.9.f.i for its U.S. headquarters; and

iv. The year established and situs address for any prior U.S. headquarters' location designated by the *Affiliated Company,* going as far back as 1995 or the year of affiliation, whichever is most recent, if different from the headquarters' location listed in response to question II.A.9.f.i.

II.A.10. Provide data, maps, information, marketing materials, and/or documents identifying those geographic areas where you, or an *Affiliated Company,* advertised or marketed *Dedicated Service* over existing facilities, via leased facilities, or by building out new facilities as of December 31, 2010 and as of December 31, 2012, or planned to advertise or market such services within twenty-four months of those dates.

II.A.11. Identify the five most recent Requests for Proposals (RFPs) for which you were selected as the winning bidder to provide each of the following: (a) *Dedicated Services;* (b) *Best Efforts Business Broadband Internet Access Services;* and, to the extent different from (a) or (b), (c) some other form of high-capacity data services to business customers. In addition, identify the five largest RFPs (by number of connections) for which you submitted an unsuccessful competitive bid between 2010 and 2012 for each of (a) *Dedicated Services;* (b) *Best Efforts Business Broadband Internet Access Services;* and, to the extent different from (a) or (b), (c) some other form of high-capacity data services to business customers. For each RFP identified, provide a description of the RFP, the area covered, the price offered, and other competitively relevant information. Lastly, identify the business rules you rely upon to determine whether to submit a bid in response to an RFP.

Billing Information

II.A.12. For all *Dedicated Services* provided using transmission paths that you (i) own; (ii) lease from another entity under an *IRU* agreement; or (iii) obtain as a *UNE* from an *ILEC* to provide a *Dedicated Service,* submit the following information by circuit element by circuit billed for each month from January 1 to December 31 for the years 2010 and 2012.

a. The closing date of the monthly billing cycle in mm/dd/yyyy format;

b. The name and six-digit 499–A Filer ID of the customer, where applicable, or other unique ID if customer does not have a 499–A Filer ID;

c. The *Location* ID from question II.A.4.a that is used to link the circuit elements to the terminating *Location* of the circuit (where applicable);

d. The circuit ID common to all elements purchased in common for a particular circuit;

e. The type of circuit (*PBDS,* or *DS1* or *DS3,* etc.) and its bandwidth;

f. A unique billing code for the circuit element (*see* question II.A.14);

g. The number of units billed for this circuit element (note that the bandwidth of the circuit must not be entered here);

h. The dollar amount of non-recurring charges billed for the first unit of this circuit element;

i. The dollar amount of non-recurring charges billed for additional units of this circuit element (if different from the amount billed for the initial unit);

j. The monthly recurring dollar charge for the first unit of the circuit element billed;

k. The monthly recurring dollar charge for additional units (if different from the amount billed for the initial unit);

l. Per unit charge for the circuit element;

m. The total monthly dollar amount billed for the circuit element;

n. The *Term Commitment* associated with this circuit in months;

o. Indicate whether this circuit element is associated with a circuit that contributes to a *Volume Commitment;* and

p. The adjustment ID (or multiple adjustment IDs) linking this circuit element to the unique out-of-cycle billing adjustments in question II.A.13.a (below) if applicable.

II.A.13. For each adjustment, rebate, or true-up for billed *Dedicated Services,* provide the information requested below.

a. A unique ID number for the billing adjustment, rebate, or true-up (*see* question II.A.12.p above) and a unique ID number for the *Tariff* or contract from which the adjustment originates;

b. The beginning date of the time period covered by the adjustment or true-up;

c. The ending date of the time period covered by the adjustment or true-up;

d. The scope of the billing adjustment, *i.e.,* whether the adjustment applies to a single circuit element on a single circuit, more than one circuit element on a single circuit, more than one circuit element across multiple circuits, or an overall adjustment that applies to every circuit element on every circuit purchased by the customer;

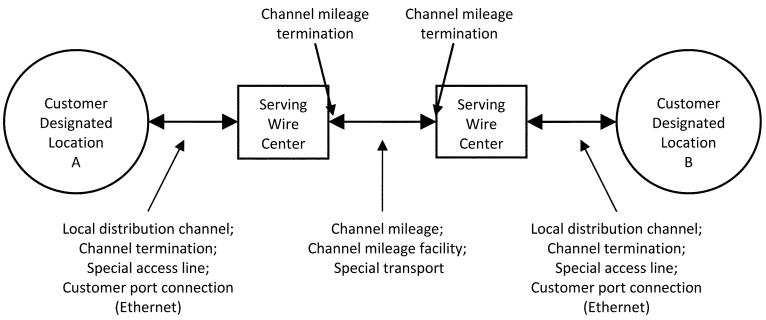
e. The dollar amount of the adjustment or true-up; and

f. A brief description of the billing adjustment, rebate or true-up, *e.g.,* term discount, revenue target rebate, etc.

II.A.14. For each unique billing code, please provide the following information below.

a. The billing code for the circuit element;

b. Select the phrase that best describes the circuit element from the list. Names of some common rate elements are shown on the generalized circuit diagram below:



i. Channel mileage facility, channel mileage, interoffice channel mileage, special transport (a transmission path between two serving wire centers associated with customer designated locations; a serving wire center and an

international or service area boundary point; a serving wire center and a hub, or similar type of connection);

ii. Channel mileage termination, special transport termination (the termination of channel mileage facility or similar transmission path);

iii. Channel termination, local distribution channel, special access line, customer port connection (Ethernet) (a transmission path between a customer designated location and the associated wire center);

iv. Clear channel capability (not shown) (an arrangement which allows a customer to transport, for example, 1.536 Mbps of information on a 1.544 Mbps line rate with no constraint on the quantity or sequence of one and zero bits);

v. Cross-connection (not shown) (semi-permanent switching between facilities, sometimes combined with multiplexing/demultiplexing);

vi. Multiplexing (not shown) (channelizing a facility into individual services requiring a lower capacity or bandwidth); and

vii. Class of service and/or committed information rate (not shown) (for Ethernet, the performance characteristics of the network and bandwidth available for a customer port connection).

c. If none of the possible entries describes the circuit element, enter a short description.

Revenues, Terms and Conditions Information

II.A.15. What were your *Revenues* from the sale of *CBDS* in 2010 and 2012? For each year, report *Revenues* in total, separately by *DS1, DS3,* and other *CBDS* sales, and separately by customer category, *i.e.,* sales to *Providers* and *End Users.*

II.A.16. What were your *Revenues* from the sale of *PBDS* in 2010 and 2012? For each year, report *Revenues* in total, separately by customer category, *i.e.,* sales to *Providers* and *End Users,* and separately by bandwidth for the following categories:

a. Less than or equal to 1.5 Mbps;

b. greater than 1.5, but less than or equal to 50 Mbps;

c. greater than 50, but less than or equal to 100 Mbps;

d. greater than 100, but less than or equal to 1 Gbps; and

e. greater than 1 Gbps.

II.A.17. What percentage of your *Revenues* from the sale of *DS1, DS3,* and *PBDS* services in 2012 were generated from an agreement or *Tariff* that contains a *Prior Purchase-Based Commitment*?

II.A.18. If you offer *Dedicated Services* pursuant to an agreement or *Tariff* that contains either a *Prior Purchase-Based Commitment* or a *Non-Rate Benefit,* then explain how, if at all, those sales are distinguishable from similarly structured *ILEC* sales of *DS1s, DS3s,* and/or *PBDS.*

II.A.19. Provide the business justification for the *Term* or *Volume Commitments* associated with any *Tariff* or agreement you offer or have in effect with a customer for the sale of *Dedicated Services.*

B. *ILECs must respond to the following:*

II.B.1. Indicate whether you are an *Affiliated Company.* If you are an *Affiliated Company,* you must identify the entities that provide and/or purchase *Dedicated Service* with which you have an affiliation (name/FRN).

Facilities Information

II.B.2. Provide the total number of *Locations* to which you provided a *Connection* in your company's study areas during 2010 and during 2012 where your company: (i) owned the *Connection;* or (ii) leased the *Connection* from another entity under an *IRU* agreement.

II.B.3. Provide the information requested below for each *Location* to which your company had a *Connection* during 2010 and during 2012 that you (i) owned or (ii) leased from another entity under an *IRU* agreement:

a. A unique ID for the *Location;*

b. The actual situs address for the *Location* (*i.e.,* land where the building or cell site is located);

c. The geocode for the *Location* (*i.e.,* latitude and longitude);

d. The *Location* type (*e.g.,* building, other man-made structure, cell site in or on a building, free-standing cell site, or a cell site on some other man-made structure like a water tower, billboard, etc.);

e. Whether any of the *Connection* to the *Location* was provided using fiber;

f. The total sold bandwidth of the *Connection* provided by you to the *Location* in Mbps;

g. The total bandwidth to the *Location* sold by you as *UNEs* in the form of *DS1*s and/or *DS3*s;

h. The total bandwidth to the *Location* sold directly by you to an *End User;*

i. The total sold fixed wireless bandwidth provided by you to the *Location;* and

j. The total bandwidth sold by you to any cell sites at the *Location.*

Billing Information

II.B.4. For all *Dedicated Services* provided using transmission paths that you (i) own or (ii) lease from another entity under an *IRU* agreement, submit the following information by circuit element by circuit billed for each month from January 1 to December 31 for the years 2010 and 2012.

a. The closing date of the monthly billing cycle in mm/dd/yyyy format;

b. The name and six-digit 499A Filer ID of the customer, where applicable, or other unique ID if customer does not have a 499A Filer ID;

c. The *Location* ID from question II.B.3.a that is used to link the circuit elements to the terminating *Location* of the circuit (where applicable);

d. The circuit ID common to all elements purchased in common for a particular circuit;

e. The type of circuit, (*DS1* sold as a *UNE, DS3* sold as a *UNE, PBDS,* non-*UNE DS1s* or *DS3s,* etc.) and the bandwidth of the circuit;

f. The serving wire center/mileage rating point Common Language Location Identification (CLLI) of one end of the circuit (MRP1);

g. The serving wire center/mileage rating point CLLI of the other end of the circuit (MRP2);

h. The latitude of MRP1;

i. The longitude of MRP1;

j. The latitude of MRP2;

k. The longitude of MRP2;

l. End of the circuit (1 = MRP1 or 2 = MRP2) associated with this circuit element;

m. The billing code for the circuit element (*see* question II.B.6);

n. The density pricing zone for the circuit element;

o. The number of units billed for this circuit element (note that the bandwidth of the circuit must not be entered here);

p. The dollar amount of non-recurring charges billed for the first unit of this circuit element;

q. The dollar amount of non-recurring charges billed for additional units of this circuit element (if different from the amount billed for the initial unit);

r. The monthly recurring dollar charge for the first unit of the circuit element billed;

s. The monthly recurring dollar charge for additional units (if different from the amount billed for the initial unit);

t. Per unit charge for the circuit element;

u. The total monthly dollar amount billed for the circuit element;

v. The *Term Commitment* associated with this circuit in months;

w. Indicate whether this circuit element is associated with a circuit that contributes to a *Volume Commitment;*

x. Indicate whether this circuit element was purchased pursuant to a *Contract-Based Tariff;* and

y. The adjustment ID (or multiple adjustment IDs) linking this circuit element to the unique out-of-cycle billing adjustments in question II.B.5.a (below) if applicable.

II.B.5. For each adjustment, rebate, or true-up for billed *Dedicated Services,* provide the information requested below.

a. A unique ID for the billing adjustment or true-up (*see* question II.B.4.y above);

b. A unique ID number for the contract or *Tariff* from which the adjustment originates;

c. The beginning date of the time period covered by the adjustment or true-up;

d. The ending date of the time period covered by the adjustment or true-up;

e. The scope of the billing adjustment, *i.e.,* whether the adjustment applies to a single circuit element on a single circuit, more than one circuit element on a single circuit, more than one circuit element across multiple circuits, or an overall adjustment that applies to every circuit element on every circuit purchased by the customer;

f. The dollar amount of the adjustment or true-up;

g. Whether the adjustment is associated with a *Term Commitment,* and if so, the length of the term specified in the contract or *Tariff* necessary to achieve the rebate;

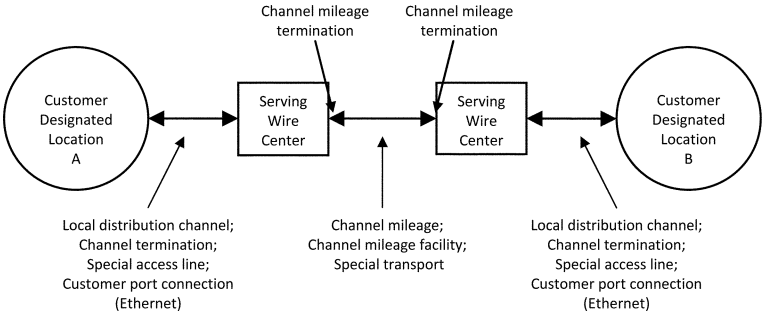
h. Whether the adjustment is associated with a *Volume Commitment,* and if so, the number of circuits and/or dollar amount specified in the contract or *Tariff* necessary to achieve the rebate; and

i. If the adjustment is for some other reason, a brief description of the reason for the adjustment.

II.B.6. For each unique billing code, please provide the following information below.

a. The billing code for the circuit element;

b. The phrase that best describes the circuit element from the list. Names of some common rate elements are shown on the generalized circuit diagram below:



i. Channel mileage facility, channel mileage, interoffice channel mileage, special transport (a transmission path between two serving wire centers associated with customer designated locations; a serving wire center and an international or service area boundary point; a serving wire center and a hub, or similar type of connection);

ii. Channel mileage termination, special transport termination (the termination of channel mileage facility or similar transmission path);

iii. Channel termination, local distribution channel, special access line, customer port connection (Ethernet) (a transmission path between a customer designated location and the associated wire center);

iv. Clear channel capability (not shown) (an arrangement which allows a customer to transport, for example, 1.536 Mbps of information on a 1.544 Mbps line rate with no constraint on the quantity or sequence of one and zero bits);

v. Cross-connection (not shown) (semi-permanent switching between facilities, sometimes combined with multiplexing/demultiplexing);

vi. Multiplexing (not shown) (channelizing a facility into individual services requiring a lower capacity or bandwidth); and

vii. Class of service and/or committed information rate (not shown) (for Ethernet, the performance characteristics of the network and bandwidth available for a customer port connection).

c. If none of the possible entries describes the rate element, enter a short description.

II.B.7. List the CLLI code for each one of your wire centers that was subject to price cap regulation as of December 31, 2010 and as of December 31, 2012, *i.e.,* those wire centers in your incumbent territory where the Commission had not granted you pricing flexibility. For those *MSAs* and *Non-MSAs* where the Commission granted you *Phase I* or *Phase II Pricing Flexibility* as of December 31, 2010 and as of December 31, 2012, list the CLLI codes for the wire centers associated with each *MSA* and *Non-MSA* for each year, the name of the relevant *MSA* and *Non-MSA* for each year, and the level of pricing flexibility granted for the *MSA* and *Non-MSA, i.e., Phase I* and/or *Phase II Pricing Flexibility.*

Revenues, Terms and Conditions Information

II.B.8. What were your *Revenues* from the sale of *CBDS* services in 2010 and 2012? For each year, report *Revenues* in total, separately by *DS1, DS3,* and other *CBDS* sales, and separately by customer category, *i.e.,* sales to *Competitive Providers* and *End Users.*

II.B.9. What were your *Revenues* from the sale of *PBDS* services in 2010 and 2012? For each year, report *Revenues* in total, separately by customer category, *i.e.,* sales to *Competitive Providers* and *End Users,* and separately by bandwidth for the following categories:

a. Less than or equal to 1.5 Mbps;

b. greater than 1.5, but less than or equal to 50 Mbps;

c. greater than 50, but less than or equal to 100 Mbps;

d. greater than 100, but less than or equal to 1 gigabyte per second (Gbps); and

e. greater than 1 Gbps.

II.B.10. What were your *Revenues* from the *One Month Term Only Rat*e charged for *DS1, DS3,* and/or *PBDS* services in 2010 and 2012? For each year, report *Revenues* in total, separately by *DS1, DS3,* and *PBDS* sales as applicable, and separately by customer category, *i.e.,* sales to *Competitive Providers* and *End Users.*

II.B.11. How many customers were purchasing *DS1, DS3,* and/or *PBDS* services pursuant to your *One Month Term Only Rates* as of December 31, 2012? Report customer numbers in total, separately for *DS1, DS3,* and *PBDS*

services as applicable, and separately by customer category, *i.e.,* the number of *DS1, DS3,* and *PBDS* service customers that were *Competitive Providers* and *End Users.*

II.B.12. Separately list all *Tariff Plans* and *Contract-Based Tariffs* that can be applied to the purchase of *DS1, DS3* and/or *PBDS* services and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff* (select one)

b. Plan name:

c. *Tariff* and Section Number(s):

d. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

e. If the plan contains options for *Non-Rate Benefits,* explain the available *Non-Rate Benefits.*

f. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services ☐ *PBDS* ☐ Other (select all that apply)

g. In what geographic areas is this plan available, *e.g.,* nationwide or certain *MSAs*?

i. Is plan available in ☐ *MSAs,* ☐ *Non-MSAs,* or ☐ both types of areas?

ii. If plan is available in *Non-MSAs,* indicate the states where the *Non-MSA* areas are located?

h. To receive a discount or *Non-Rate Benefit* under this plan, must the customer make a *Prior Purchase-Based Commitment?*

☐ Yes ☐ No

i. Do purchases of *DS1* or *DS3* services in areas outside of the study area(s) where you are subject to price cap regulation (*e.g.,* purchases from an *Affiliated Company* that is a CLEC) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

j. Do *DS1* or *DS3* purchases in areas where you are subject to price cap regulation and where pricing flexibility has not been granted count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

k. Do *DS1* or *DS3* purchases in areas where you have been granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

l. Do *DS1* or *DS3* purchases in areas where you have been granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

m. Do non-tariffed *PBDS* purchases by the customer count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

n. Do tariffed *PBDS* purchases by the customer count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

o. Do purchases by the customer for services other than *DS1s, DS3s,* and *PBDS* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

p. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs, e.g.,* customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend?

☐ Yes ☐ No

q. What were your *Revenues* from the provision of *Dedicated Service* under this plan in 2010 and in 2012?

r. What is the business justification for any *Term* or *Volume Commitments* associated with this plan?

s. How many customers were subscribed to this plan as of December 31, 2012? Report customer numbers in total, separately for *DS1, DS3,* and *PBDS* services as applicable, and separately by customer category, *i.e.,* the number of *DS1, DS3,* and/or *PBDS* customers that were *Competitive Providers* and *End Users.*

i. If there were five or fewer customers subscribed to this plan as of December 31, 2012, indicate the number of subscribers to this plan that were new customers (as opposed to an existing or prior customer) at the time they subscribed to this plan.

ii. For those subscribers to this plan that were existing or prior customers at the time they committed to purchasing services under this plan, explain how the purchase commitment made under this plan compares to the customer's previous purchase commitment. For example, indicate what percentage of the previous purchase commitment, the new purchase commitment equals.

t. Of those customers subscribed as of December 31, 2012, how many in 2012 failed to meet any *Volume Commitment* or *Term Commitment* required to retain a discount or *Non-Rate Benefit* they originally agreed to when entering into this plan?

II.B.13. Indicate whether you have any non-tariffed agreement with an *End User* or *Competitive Provider* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1s, DS3s,* and/or *PBDS,* restricts the ability of the *End User* or *Competitive Provider* to obtain *UNEs,* or negatively affects the ability of the *End User* or *Competitive Provider* to purchase *Dedicated Services.* If so, identify each agreement, including the parties to the agreements, the effective date, end date, and a summary of the relevant provisions.

C. *Certain Entities that provide Best Efforts Business Broadband Internet Access Services must respond to the following:*

II.C.1. If you provide *Best Efforts Business Broadband Internet Access Services* to 15,000 or more customers or 1,500 or more business broadband customers in areas where the *ILEC* is subject to price cap regulation, then answer the following questions:

a. Did you submit data in connection with the State Broadband Initiative (SBI) Grant Program for 2010?

☐ Yes ☐ No

b. Did you submit data in connection with the SBI Grant Program for 2012?

☐ Yes ☐ No

If you answered ''no'' to questions II.C.1.a and II.C.1.b, then you do not need to answer any further questions in this section.

c. Did the data you submitted in connection with the SBI Grant Program in 2010 accurately and completely identify the areas in which you offered *Best Efforts Business Broadband Internet Access Services* and exclude those areas where you did not offer such services as of December 31, 2010?

☐ Yes ☐ No

i. If yes, then provide the list of prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census

block submitted in connection with the SBI Grant Program as of December 31, 2010. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

ii. If no, then provide a list of all the census blocks in which you offered *Best Efforts Business Broadband Internet Access Services* as of December 31, 2010, and a list of the prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block as of December 31, 2010. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

d. Did the data you submitted in connection with the SBI Grant Program in 2012 accurately and completely identify the areas in which you offered *Best Efforts Business Broadband Internet Access Services* and exclude those areas where you did not offer such services as of December 31, 2012?

☐ Yes ☐ No

i. If yes, then provide the list of prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block submitted in connection with the SBI Grant Program as of December 31, 2012. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

ii. If no, then provide a list of all the census blocks in which you offered *Best Efforts Business Broadband Internet Access Services* as of December 31, 2012, and a list of the prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block as of December 31, 2012. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

D. *All Providers must respond to the following:*

II.D.1. Describe your company's short term and long-range promotional and advertising strategies and objectives for winning new—or retaining current—customers for *Dedicated Services.* In your description, please describe the size (*e.g.,* companies with 500 employees or less, etc.), geographic scope (*e.g.,* national, southeast, Chicago, etc.), and type of customers your company targets or plans to target through these strategies.

II.D.2. Identify where your company's policies are recorded on the following *Dedicated Service*-related processes: (a) Initiation of service; (b) service *Upgrades;* and (c) service *Disconnections.* For instance, identify where your company records recurring and non-recurring charges associated with the processes listed above. If recorded in a *Tariff,* provide the specific *Tariff* section(s). If these policies are recorded in documents other than *Tariffs,* list those documents and state whether they are publicly available. If they are publicly available, explain how to find them. For documents that are not publicly available, state whether they are conveyed to customers orally or in writing.

E. *Purchasers that are mobile wireless service providers must respond to the following:*

II.E.1. How many cell sites do you have on your network?

II.E.2. Provide the information requested below for each cell site on your network as of December 31, 2010 and as of December 31, 2012.

a. A unique ID for the cell site;

b. The actual situs address of the cell site (*i.e.,* land where the cell site is located) if the cell site is located in or on a building;

c. The geocode for the cell site (*i.e.,* latitude and longitude);

d. The CLLI code of the incumbent LEC wire center that serves the cell site, where applicable;

e. Whether the cell site is in or on a building, is a free-standing cell site, or is on some other type of man-made structure, *e.g.,* a water tower, billboard, etc.*;*

f. If the cell site is served by a *CBDS,* indicate the equivalent number of *DS1s* used;

g. If the cell site is served by a *PBDS,* indicate the total bandwidth of the circuit or circuits in Mbps;

h. If the cell site is served by a wireless *Connection,* indicate the total bandwidth of the circuit or circuits in Mbps;

i. The name of the *Provider(s)* that supplies your *Connection* to the cell site; and

j. If you self-provide a *Connection* to the cell site, the provisioned bandwidth of that self-provided *Connection.*

Expenditures Information

II.E.3. What were your expenditures, *i.e.,* dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers.*

II.E.4. Provide your company's expenditures, *i.e.,* dollar volume of purchases, for *DS1s, DS3s,* and/or *PBDS* purchased from *ILECs* pursuant to a *Tariff* in 2010 and in 2012. For each of the following categories, report expenditures for each year in total and separately for *DS1s, DS3s* and *PBDS:*

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at *One Month Term Only Rates;*

c. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans;*

d. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs;*

e. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans* that contained a *Term Commitment* but not a *Volume Commitment;*

f. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

For purposes of calculating the percentages described above, an example would be a *Tariff Plan* that requires a purchase of 20 *DS1*s and 10 *DS3*s and generates expenditures of $2,000 for calendar-year 2012. If those same circuits were purchased at *One Month Term Only Rates* of $100 per *DS1* and $200 per *DS3,* then total expenditures would instead be $4,000. Since the *Tariff Plan* under this scenario generated 50% of the expenditures that would be generated from *One Month Term Only Rates,* the discount would be 50%.

g. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Term Commitment* but not a *Volume Commitment;* and

h. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1* and *DS3* totals if available), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i.

i. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.5. What were your expenditures, *i.e.,* dollar volume of purchases, on *DS1s, DS3s,* and/or *PBDS* purchased from *Competitive Providers* pursuant to a *Tariff* in 2010 and in 2012? Report expenditures in total and separately for *DS1s, DS3s* and *PBDS,* as applicable, for the following categories for each year:

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at *One Month Term Only Rates;*

c. *DS1s, DS3s,* and *PBDS* purchased under *Tariffs* that contained a *Term*

Commitment but not a *Volume Commitment;*

d. *DS1s, DS3s,* and *PBDS* purchased under *Tariffs* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

e. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.6. What were your expenditures, *i.e.,* dollar volume of purchases, on *DS1s, DS3s,* and/or *PBDS* purchased from *ILECs* and *Competitive Providers* pursuant to an agreement (not a *Tariff*) in 2010 and in 2012? Report expenditures in total, separately for purchases from *ILECs* and *Competitive Providers,* and separately for *DS1s, DS3s* and *PBDS,* as applicable, for the following categories for each year:

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at a non-discounted rate;

c. *DS1s, DS3s,* and *PBDS* purchased under a non-tariffed agreement that contained a *Term Commitment* but not a *Volume Commitment;*

d. *DS1s, DS3s,* and *PBDS* purchased under a non-tariffed agreement that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the non-discounted rate incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

II.E.7. What were your expenditures, *i.e.,* dollar volume of purchases, on *PBDS* purchased under a *Tariff* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;

ii. greater than 1.5, but less than or equal to 50 Mbps;

iii. greater than 50, but less than or equal to 100 Mbps;

iv. greater than 100, but less than or equal to 1 Gbps; or

v. greater than 1 Gbps.

II.E.8. What were your expenditures, *i.e.,* dollar volume of purchases, on non-tariffed *PBDS* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;

ii. greater than 1.5, but less than or equal to 50 Mbps;

iii. greater than 50, but less than or equal to 100 Mbps;

iv. greater than 100, but less than or equal to 1 Gbps; or

v. greater than 1 Gbps.

Terms and Conditions Information

II.E.9. Explain whether the terms and conditions of any *Tariff* or contract to which you are a party for the purchase of *Dedicated Services* or the policies of any of your *Providers* constrain your ability to:

a. Decrease your purchases from your current *Provider(s);*

b. Purchase services from another *Provider* currently operating in the geographic areas in which you purchase services;

c. Purchase non-tariffed services, such as Ethernet services, from your current *Provider* of tariffed *DS1, DS3,* and/or *PBDS* services or from other *Providers* operating in the geographic areas in which you purchase tariffed services;

d. Contract with *Providers* that are considering entering the geographic areas in which you purchase tariffed services;

e. Move circuits, for example, moving your *DS1* and/or *DS3 End-User Channel Terminations* to connect to another *Transport Provider;* or

f. Otherwise obtain *Dedicated Services* or change *Providers.*

Relevant terms and conditions, among others, may include: (a) Early termination penalties; (b) shortfall provisions; (c) overlapping/supplemental discounts plans with different termination dates; (d) requirements to include all services, including new facilities, under a *Tariff Plan* or *Contract-Based Tariff;* or (e) requiring purchases in multiple geographic areas to obtain maximum discounts.

In your answer, highlight contracts where you contend that a term or condition is a particularly onerous constraint by comparison with more typical provisions in other contracts. Also, at a minimum, list: (a) The *Provider* and indicate whether the *Provider* is an *ILEC* or a *Competitive Provider;* (b) a description of the term or condition; (c) the geographic area in which the services are provided; (d) the name of the vendor providing the service; and (e) where relevant, the specific *Tariff* number(s) and section(s), or if the policy at issue is recorded in documents other than *Tariffs,* list those documents and how you obtained them.

If you allege that a term, condition, or *Provider's* policy negatively affects your ability to obtain *Dedicated Services,* state whether you have brought a complaint to the Commission, a state commission or court about this issue and the outcome. If you have not brought a complaint, explain why not.

II.E.10. If you purchase, or purchased, *Transport Service* and *End User Channel Terminations* from the same *Provider,* explain your experience with changing *Transport Service* from one *Provider* to another between January 1, 2010 and December 31, 2012 while keeping your *End User Channel Terminations* with the original *Provider.* Where appropriate, identify the *Provider(s)* in your responses below and indicate whether they are an *ILEC* or a *Competitive Provider.*

a. How many times did you change *Transport Service* while keeping your *End User Channel Terminations* with the original *Provider*? An estimate of the number of circuits moved to a new *Transport Provider,* or the number of such changes requested for each year, is sufficient.

b. What was the length of time, on average, it took for the original *Provider* to complete the process of connecting your last-mile *End-user Channel Terminations* to another *Transport Provider*? An estimate is sufficient.

c. Were you given the opportunity to negotiate the amount of time it would take to complete the process of connecting your *End User Channel Terminations* to another Transport Provider on a case-by-case basis? In answering this question, also describe and provide citations to the *ILEC's* or *Competitive Provider's* policies, rules or, where relevant, *Tariff* provisions, if known, explaining the transition process.

d. How did connecting to a new *Transport Provider* impact the rate you paid for the *End User Channel Terminations* you continued to purchase from the original *Provider*?

e. Did connecting to a new *Transport Provider* typically impact the rate you continued to pay for *Transport Service* from the original *Provider* while the change in *Transport Providers* remained pending? If so, how? What was the average percentage change in rates? For example, did you ever pay a *One Month Term Only Rate* during that time?

II.E.11. Describe any circumstances since January 1, 2010, in which you have purchased circuits pursuant to a *Tariff,* solely for the purpose of meeting a *Prior Purchase-Based Commitment* required for a discount or *Non-Rate Benefit* from your *Provider* (*i.e.,* you would not have purchased the circuit but for the requirement that you meet a *Volume Commitment* required for a

discount or *Non-Rate Benefit* from your *Provider*). In your description, provide at least one example, which at a minimum, lists:

a. The name of the *Provider* providing the circuits at issue;

b. A description of the *Prior Purchase-Based Commitment;*

c. The *Tariff* and section number(s) of the specific terms and conditions described;

d. The number of circuits you would not have purchased but for the *Prior Purchase-Based Commitment* requirement to receive a discount or *Non-Rate Benefit;*

i. Of the circuits reported in II.E.11.d, how many did you not use at all?

e. A comparison of the dollar amount of the unnecessary circuit(s) purchased versus the dollar amount of penalties your company would have had to pay under the *Prior Purchase-Based Commitment* had it not purchased and/or maintained the circuit(s), and a description of how that comparison was calculated.

f. How many circuits were activated under the identified *Tariff* plan and not used when you initially entered into the plan? What were these unused circuits as a percent of the total circuits currently purchased under this *Tariff* plan? Indicate the percent of the total circuits currently purchased under this *Tariff* plan that exceed your *Prior Purchase-Based Commitment.*

g. For the *Prior Purchase-Based Commitment,* indicate whether you are able to buy any *DS1s* or *DS3s* from the *Provider* outside of the identified *Tariff* plan, or are you required to make all purchases from the *Provider* pursuant to the identified *Tariff* plan?

II.E.12. For each year for the past five years, state the number of times and in what geographic area(s) you have switched from purchasing *End-User Channel Terminations* from one *Provider* of *Dedicated Services* to another.

II.E.13. Explain the circumstances since January 1, 2010 under which you have paid *One Month Term Only Rates* for *DS1, DS3,* and/or *PBDS* services and the impact, if any, it had on your business and your customers. In your response, indicate any general rules you follow, if any, concerning the maximum number of circuits and maximum amount of time you will pay *One Month Term Only Rates,* and your business rationale for any such rules.

II.E.14. Separately list all *Tariffs* under which your company purchases *DS1s, DS3s,* and/or *PBDS* and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff* (select one)

b. Plan name:

c. *Provider* name:

d. *Tariff* and Section Number(s):

e. *Tariff* type:

☐ Interstate ☐ Intrastate

f. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

g. If the plan contains *Non-Rate Benefits,* identify the *Non-Rate Benefits* that were relevant to your decision to purchase services under this plan.

h. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services ☐ *PBDS* ☐ Other (select all that apply)

i. In what geographic areas do you purchase *DS1s, DS3s,* and/or *PBDS* under this plan, *e.g.,* nationwide, certain states, or certain *MSAs*?

j. To receive a discount or *Non-Rate Benefit* under this plan, does your company make a *Prior Purchase-Based Commitment*?

☐ Yes ☐ No

k. If this is an *ILEC* plan, do *DS1, DS3,* or tariffed *PBDS* purchases your company makes outside the study area(s) of the *ILEC* (*e.g.,* purchases from an *Affiliated Company* of the *ILEC* that is providing out-of-region service as a CLEC) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas outside the study area(s) of the *ILEC,* do you purchase these *DS1s, DS3s* and/or tariffed *PBDS*?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the discounts or *Non-Rate Benefits* received under this plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

l. If this is an *ILEC* plan, do *DS1, DS3,* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in price cap areas where the Commission has not granted the *ILEC* pricing flexibility count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, then identify the price cap areas where you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

m. If this is an *ILEC* plan, do *DS1, DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

n. If this is an *ILEC* plan, do *DS1, DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

o. If this is an *ILEC* plan, do non-tariffed *PBDS* purchases your company makes from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas do you purchase non-

tariffed *PBDS* that counts towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased non-tariffed *PBDS* from a different *Provider,* if at all, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

p. If this is an *ILEC* plan, do purchases you make for services other than *DS1s, DS3s,* and *PBDS* from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, identify the other services purchased and the geographic areas where you purchase these services that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased those other services from a different *Provider,* had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

q. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs, e.g.,* the customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend? If yes, then provide additional details about the condition.

II.E.15. Indicate whether you have any non-tariffed agreement with an *ILEC* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1, DS3,* and/or *PBDS* services, restricts your ability to obtain *UNEs,* or negatively affects your ability to purchase *Dedicated Services.* If so, identify each agreement, including the parties to the agreement, the effective date, end date, and a summary of the relevant provisions.

F. *Purchasers that are not mobile wireless service providers must respond to the following:*

II.F.1. What is the principal nature of your business, *e.g.,* are you a CLEC, cable system operator, fixed wireless service provider, wireless Internet service provider, interconnected VoIP service provider, etc.?

Expenditures Information

II.F.2. What were your expenditures, *i.e.,* dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers.*

II.F.3. Provide your company's expenditures, *i.e.,* dollar volume of purchases, for *DS1s, DS3s,* and/or *PBDS* purchased from *ILECs* pursuant to a *Tariff* in 2010 and in 2012. For each of the following categories, report expenditures for each year in total and separately for *DS1s, DS3s* and *PBDS:*

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at *One Month Term Only Rates;*

c. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans;*

d. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs;*

e. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans* that contained a *Term Commitment* but not a *Volume Commitment;*

f. *DS1s, DS3s,* and *PBDS* purchased under *Tariff Plans* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

For purposes of calculating the percentages described above, an example would be a *Tariff Plan* that requires a purchase of 20 *DS1*s and 10 *DS3*s and generates expenditures of $2,000 for calendar-year 2012. If those same circuits were purchased at *One Month Term Only Rates* of $100 per *DS1* and $200 per *DS3,* then total expenditures would instead be $4,000. Since the *Tariff Plan* under this scenario generated 50% of the expenditures that would be generated from *One Month Term Only Rates,* the discount would be 50%.

g. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Term Commitment* but not a *Volume Commitment;* and

h. *DS1s, DS3s,* and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1* and *DS3* totals if available), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i.

i. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.F.4. What were your expenditures, *i.e.,* dollar volume of purchases, on *DS1s, DS3s,* and/or *PBDS* purchased from *Competitive Providers* pursuant to a *Tariff* in 2010 and in 2012? Report expenditures in total and separately for *DS1s, DS3s* and *PBDS,* as applicable, for the following categories for each year:

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at *One Month Term Only Rates;*

c. *DS1s, DS3s,* and *PBDS* purchased under *Tariffs* that contained a *Term Commitment* but not a *Volume Commitment;*

d. *DS1s, DS3s,* and *PBDS* purchased under *Tariffs* that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i

e. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.F.5. What were your expenditures, *i.e.,* dollar volume of purchases, on *DS1s, DS3s,* and/or *PBDS* purchased from *ILECs* and *Competitive Providers* pursuant to an agreement (not a *Tariff*) in 2010 and in 2012? Report expenditures in total, separately for purchases from *ILECs* and *Competitive Providers,* and separately for *DS1s, DS3s* and *PBDS,* as applicable, for the following categories for each year:

a. All *DS1s, DS3s,* and *PBDS;*

b. *DS1s, DS3s,* and *PBDS* purchased at a non-discounted rate;

c. *DS1s, DS3s,* and *PBDS* purchased under a non-tariffed agreement that contained a *Term Commitment* but not a *Volume Commitment;*

d. *DS1s, DS3s,* and *PBDS* purchased under a non-tariffed agreement that contained a *Prior Purchase-Based Commitment;*

i. Of the total (and for the separate *DS1, DS3,* and *PBDS* totals where applicable), indicate the average discount from the non-discounted rate incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i

II.F.6. What were your expenditures, *i.e.,* dollar volume of purchases, on *PBDS* purchased under a *Tariff* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;

ii. greater than 1.5, but less than or equal to 50 Mbps;

iii. greater than 50, but less than or equal to 100 Mbps;

iv. greater than 100, but less than or equal to 1 Gbps; or

v. greater than 1 Gbps.

II.F.7. What were your expenditures, *i.e.,* dollar volume of purchases, on non-tariffed *PBDS* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;

ii. greater than 1.5, but less than or equal to 50 Mbps;

iii. greater than 50, but less than or equal to 100 Mbps;

iv. greater than 100, but less than or equal to 1 Gbps; or

v. greater than 1 Gbps.

Terms and Conditions Information

II.F.8. Explain whether the terms and conditions of any *Tariff* or contract to which you are a party for the purchase of *Dedicated Services* or the policies of any of your *Providers* constrain your ability to:

a. Decrease your purchases from your current *Provider(s);*

b. Purchase services from another *Provider* currently operating in the geographic areas in which you purchase services;

c. Purchase non-tariffed services, such as Ethernet services, from your current *Provider* of tariffed *DS1, DS3,* and/or *PBDS* services or from other *Providers* operating in the geographic areas in which you purchase tariffed services;

d. Contract with *Providers* that are considering entering the geographic areas in which you purchase tariffed services;

e. Move circuits, for example, moving your *DS1* and/or *DS3 End-User Channel Terminations* to connect to another *Transport Provider;* or

f. Otherwise obtain *Dedicated Services* or change *Providers.*

Relevant terms and conditions, among others, may include: (a) Early termination penalties; (b) shortfall provisions; (c) overlapping/supplemental discounts plans with different termination dates; (d) requirements to include all services, including new facilities, under a *Tariff Plan* or *Contract-Based Tariff;* or (e) requiring purchases in multiple geographic areas to obtain maximum discounts. In your answer, highlight contracts where you contend that a term or condition is a particularly onerous constraint by comparison with more typical provisions in other contracts. Also, at a minimum, list: (a) The *Provider* and indicate whether the *Provider* is an *ILEC* or a *Competitive Provider;* (b) a description of the term or condition; (c) the geographic area in which the services are provided; (d) the name of the vendor providing the service; and (e) where relevant, the specific *Tariff* number(s) and section(s), or if the policy at issue is recorded in documents other than *Tariffs,* list those documents and how you obtained them.

If you allege that a term, condition, or *Provider's* policy negatively affects your ability to obtain *Dedicated Services,* state whether you have brought a complaint to the Commission, a state commission or court about this issue and the outcome. If you have not brought a complaint, explain why not.

II.F.9. If you purchase, or purchased, *Transport Service* and *End User Channel Terminations* from the same *Provider,* explain your experience with changing *Transport Service* from one *Provider* to another between January 1, 2010 and December 31, 2012 while keeping your *End User Channel Terminations* with the original *Provider.* Where appropriate, identify the *Provider(s)* in your responses below and indicate whether they are an *ILEC* or a *Competitive Provider.*

a. How many times did you change *Transport Service* while keeping your *End User Channel Terminations* with the original *Provider*? An estimate of the number of circuits moved to a new *Transport Provider,* or the number of such changes requested for each year, is sufficient.

b. What was the length of time, on average, it took for the original *Provider* to complete the process of connecting your last-mile *End-user Channel Terminations* to another *Transport Provider*? An estimate is sufficient.

c. Were you given the opportunity to negotiate the amount of time it would take to complete the process of connecting your *End User Channel Terminations* to another Transport Provider on a case-by-case basis? In answering this question, also describe and provide citations to the *ILEC's* or *Competitive Provider's* policies, rules or, where relevant, *Tariff* provisions, if known, explaining the transition process.

d. How did connecting to a new *Transport Provider* impact the rate you paid for the *End User Channel Terminations* you continued to purchase from the original *Provider*?

e. Did connecting to a new *Transport Provider* typically impact the rate you continued to pay for *Transport Service* from the original *Provider* while the change in *Transport Providers* remained pending? If so, how? What was the average percentage change in rates? For example, did you ever pay a *One Month Term Only Rate* during that time?

II.F.10. Describe any circumstances since January 1, 2010, in which you have purchased circuits pursuant to a *Tariff,* solely for the purpose of meeting a *Prior Purchase-Based Commitment* required for a discount or *Non-Rate Benefit* from your *Provider* (*i.e.,* you would not have purchased the circuit but for the requirement that you meet a *Volume Commitment* required for a discount or *Non-Rate Benefit* from your *Provider*). In your description, provide at least one example, which at a minimum, lists:

a. The name of the *Provider* providing the circuits at issue;

b. A description of the *Prior Purchase-Based Commitment;*

c. The *Tariff* and section number(s) of the specific terms and conditions described;

d. The number of circuits you would not have purchased but for the *Prior Purchase-Based Commitment* requirement to receive a discount or *Non-Rate Benefit;*

i. Of the circuits reported in II.F.10.d, how many did you not use at all?

e. A comparison of the dollar amount of the unnecessary circuit(s) purchased versus the dollar amount of penalties your company would have had to pay under the *Prior Purchase-Based Commitment* had it not purchased and/or maintained the circuit(s), and a description of how that comparison was calculated.

f. How many circuits were activated under the identified *Tariff* plan and not used when you initially entered into the plan? What were these unused circuits as a percent of the total circuits currently purchased under this *Tariff* plan? Indicate the percent of the total circuits currently purchased under this *Tariff* plan that exceed your *Prior Purchase-Based Commitment.*

g. For the *Prior Purchase-Based Commitment,* indicate whether you are able to buy any *DS1s* or *DS3s* from the *Provider* outside of the identified *Tariff* plan, or are you required to make all purchases from the *Provider* pursuant to the identified *Tariff* plan?

II.F.11. For each year for the past five years, state the number of times and in what geographic area(s) you have switched from purchasing *End-User Channel Terminations* from one *Provider* of *Dedicated Services* to another.

II.F.12. Explain the circumstances since January 1, 2010 under which you have paid *One Month Term Only Rates* for *DS1, DS3,* and/or *PBDS* services and the impact, if any, it had on your

business and your customers. In your response, indicate any general rules you follow, if any, concerning the maximum number of circuits and maximum amount of time you will pay *One Month Term Only Rates,* and your business rationale for any such rules.

II.F.13. Separately list all *Tariffs* under which your company purchases *DS1s, DS3s,* and/or *PBDS* and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff* (select one)

b. Plan name:

c. *Provider* name:

d. *Tariff* and Section Number(s):

e. *Tariff* type:

☐ Interstate ☐ Intrastate

f. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

g. If the plan contains *Non-Rate Benefits,* identify the *Non-Rate Benefits* that were relevant to your decision to purchase services under this plan.

h. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services ☐ *PBDS* ☐ Other (select all that apply)

i. In what geographic areas do you purchase *DS1s, DS3s,* and/or *PBDS* under this plan, *e.g.,* nationwide, certain states, or certain *MSAs*?

j. To receive a discount or *Non-Rate Benefit* under this plan, does your company make a *Prior Purchase-Based Commitment*?

☐ Yes ☐ No

k. If this is an *ILEC* plan, do *DS1, DS3* or tariffed *PBDS* purchases your company makes outside the study area(s) of the *ILEC* (*e.g.,* purchases from an *Affiliated Company* of the *ILEC* that is providing out-of-region service as a CLEC) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas outside the study area(s) of the *ILEC,* do you purchase these *DS1s, DS3s,* and/or tariffed *PBDS*?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the discounts or *Non-Rate Benefits* received under this plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

l. If this is an *ILEC* plan, do *DS1, DS3,* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in price cap areas where the Commission has not granted the *ILEC* pricing flexibility count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, then identify the price cap areas where you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

m. If this is an *ILEC* plan, do *DS1, DS3,* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

n. If this is an *ILEC* plan, do *DS1, DS3,* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s, DS3s,* and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider,* if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

o. If this is an *ILEC* plan, do non-tariffed *PBDS* purchases your company makes from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, in what geographic areas do you purchase non-tariffed *PBDS* that counts towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased non-tariffed *PBDS* from a different *Provider,* if at all, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

p. If this is an *ILEC* plan, do purchases you make for services other than *DS1s, DS3s,* and *PBDS* from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment,* not an *ILEC* plan)

i. If you answered yes, identify the other services purchased and the geographic areas where you purchase these services that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased those other services from a different *Provider,* had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

q. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs, e.g.,* the customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend? If yes, then provide additional details about the condition.

II.F.14. Indicate whether you have any non-tariffed agreement with an *ILEC* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1, DS3,* and/or *PBDS* services, restricts your ability to obtain *UNEs,* or negatively affects your ability to purchase *Dedicated Services.*

If so, identify each agreement, including the parties to the agreement, the effective date, end date, and a summary of the relevant provisions.

G. *Non-Providers, Non-Purchasers, and other entities not covered by the scope of this inquiry but that were instructed to respond to this data collection must respond to the following:*

II.G.1. If you must respond to this data collection because you were required to file the FCC Form 477 to report the provision of ''broadband connections to end user locations'' for Year 2012 but are not (a) a *Provider* or a *Purchaser* as defined in this data collection or (b) an entity that provides *Best Efforts Business Broadband Internet Access Services* to 15,000 or more customers or 1,500 or more business broadband customers in areas where the *ILEC* is subject to price cap regulation, then indicate as such below and complete the certification accompanying this data collection.

☐ I am not a *Provider.*

☐ I am not a *Purchaser.*

☐ I do not provide *Best Efforts Business Broadband Internet Access Services* to15,000 or more customers or 1,500 or more business broadband customers in areas where the *ILEC* is subject to price cap regulation.

(select all that apply)

CERTIFICATION

I have examined the response and certify that, to the best of my knowledge, all statements of fact, data, and information contained therein are true and correct.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

* Respondents are reminded that failure to comply with these data reporting requirements may subject them to monetary forfeitures of up to $150,000 for each violation or each day of a continuing violation, up to a maximum of $1,500,000 for any single act or failure to act that is a continuing violation. False statements or misrepresentations to the Commission may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

Ordering Clauses

Accordingly, it is ordered pursuant to sections 1, 4(i), 4(j), 5, 201–205, 211, 215, 218, 219, 303(r), 332, 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 155, 201, 202, 203, 204, 205, 211, 215, 218, 219, 303(r), 332, 403, 503, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302, §§ 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, and the authority delegated to the Bureau in the *Special Access Data Collection Order,* that this Report and Order is *adopted.*

It is further ordered that, pursuant to § 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this Report and Order *shall be* effective December 9, 2013. The information collection and recordkeeping requirements contained in the *Special Access Data Collection Order,* 78 FR 2571, January 11, 2013, as implemented by this Report and Order, are not effective until the Office of Management and Budget approves them and the Commission has published a notice in the **Federal Register** announcing the effective date of the information collection.

Federal Communications Commission.

Julie A. Veach,

Chief, Wireline Competition Bureau.

[FR Doc. 2013–26478 Filed 11–7–13; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 78, No. 217
Friday, November 8, 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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Solicitation of Public Comments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) invites public input concerning options the MSPB is considering to revise its regulations governing how jurisdiction is established over Board appeals.

DATES: Written comments are invited on or before December 9, 2013.

ADDRESSES: Submit your comments concerning this document by one of the following methods and in accordance with the relevant instructions:

Email: mspb@mspb.gov. Comments submitted by email can be contained in the body of the email or as an attachment in any common electronic format, including word processing applications, HTML and PDF. If possible, commenters are asked to use a text format and not an image format for attachments. An email should contain a subject line indicating that the submission contains comments to the MSPB's **Federal Register** Notice regarding jurisdiction. The MSPB asks that parties use email to submit comments if possible. Submission of comments by email will assist MSPB to process comments and speed future actions, including publication of a proposed rule.

Fax: (202) 653–7130. Faxes should be addressed to William D. Spencer and contain a subject line indicating that the submission contains comments concerning the MSPB's **Federal Register** Notice regarding jurisdiction.

Mail or other commercial delivery: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419.

Hand delivery or courier: Comments should be addressed to William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419, and delivered to the 5th floor reception window at this street address. Such deliveries are only accepted Monday through Friday, 9 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: As noted above, MSPB requests that commenters use email to submit comments, if possible. All comments received will be made available online at the Board's Web site, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information whose disclosure is restricted by law. Those desiring to submit anonymous comments must submit comments in a manner that does not reveal the commenter's identity, include a statement that the comment is being submitted anonymously, and include no personally-identifiable information. The email address of a commenter who chooses to submit comments using email will not be disclosed unless it appears in comments attached to an email or in the body of a comment.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 7, 2012, the Board published a proposed rule that included a proposed amendment to 5 CFR 1201.56. 77 FR 33663. Now, as then, 5 CFR 1201.56 provides without qualification that the Board's jurisdiction must be proved by preponderant evidence. In the proposed rule, the Board noted that 5 CFR 1201.56 is in conflict with a significant body of Board case law holding that certain jurisdictional elements may be established by making non-frivolous allegations. The Board therefore proposed to amend this regulation to allow the use of non-frivolous allegations to establish certain jurisdictional elements.

The MSPB received numerous thoughtful comments concerning the proposed amendments to this regulation and, because many of the comments addressed matters that went well beyond the scope of the original proposed rule, the Board decided to withdraw the proposed rule and reconsider the existing regulation in light of the comments and internal discussions spurred by the comments.

Ongoing Review

Shortly after the withdrawal of the proposed amendments to 5 CFR 1201.56, the Board directed an internal MSPB working group (regulations working group) to thoroughly review 5 CFR 1201.56 and any related issues concerning the MSPB's jurisdiction. The regulations working group developed several options for the Board to consider, and the Board has determined that it would be appropriate to seek public comment on the various options prior to taking action.

Options Developed by the MSPB Regulations Working Group

The exact text, summaries, and analyses of the options developed by the MSPB regulations working group are available for review at the MSPB's Web site (*www.mspb.gov/regulatoryreview/index.htm*). Included below is a short summary of each of the 4 options developed by the working group. In general, Options A and B are intended to make MSPB regulations consistent with existing Board and Federal Circuit case law. Options C and D would in some instances conflict with and supersede Board and Federal Circuit case law.

Option A

This option would amend section 1201.56(b) to state that: (1) The appellant bears the burden of proof, generally by a preponderance of the evidence, on issues of jurisdiction, and (2) an administrative judge will inform the parties of the proof required in each case. This option would also amend section 1201.56(b) to state that an appellant generally bears the burden of proof by a preponderance of the evidence on issues of jurisdiction, timeliness, and all affirmative defenses, and make clear that the administrative judge will inform the parties of the proof required as to each defense. Finally, this option would amend 5 CFR 1201.4 by transferring definitions of ''substantial evidence,'' ''preponderance of the evidence,'' and ''harmful error'' from 1201.56 and adding a definition of ''non-frivolous allegation.''

Option B

This option amends section 1201.56 to address the burdens and degrees of proof applicable in cases other than: (1) An individual right of action (IRA) appeal under the Whistleblower Protection Act, (2) an appeal under the Veterans Employment Opportunities Act (VEOA), and (3) an appeal under the Uniformed Services Employment and Reemployment Rights Act (USERRA), in which the appellant alleges discrimination or retaliation in violation of 38 U.S.C. § 4311. This option would also add a new regulation, 1201.57, that would address how an appellant can establish jurisdiction in the three types of appeals not covered by revised section 1201.56. Finally, this option would amend 5 CFR 1201.4 by transferring definitions of ''substantial evidence,'' ''preponderance of the evidence,'' and ''harmful error'' from 1201.56 and adding a definition for ''non-frivolous allegation.''

Option C

This option attempts to clarify how jurisdiction should be established in Board proceedings by amending the Board's regulations to state that all Board appeals include ''who'' and ''what'' jurisdictional elements that must be established by preponderant evidence, and identify the 8 appeal types that require allegations as to specific merits issues in order to establish jurisdiction. This option would also include regulatory language stating that the MSPB is not required to hold an evidentiary hearing on matters on which the appellant bears the burden of proof when there is no genuine issue of material fact to be resolved.

Option D

This option is the same as Option C, except that it does not include the proposed regulatory language authorizing an appeal to be decided without an evidentiary hearing when there is no genuine issue of material fact to be resolved. Option D would continue the Board's current practice of affording appellants the opportunity for a hearing, if requested, in all cases within its jurisdiction.

Comments Requested

The Board seeks public input before taking action to amend 5 CFR 1201.56 or otherwise alter its regulations governing how a party can establish jurisdiction over an appeal. Comments are invited concerning the 4 options developed by the regulations working group and/or any alternative approaches to improving the MSPB's regulations governing the establishment of MSPB jurisdiction over an appeal.

The Board intends to consider all public comments prior to taking further action. However, the Board does not plan to respond to the comments it receives, either directly or in a subsequent **Federal Register** notice.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2013–26783 Filed 11–7–13; 8:45 am]

BILLING CODE 7401–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0903; Notice No. 25–13–26–SC]

Special Conditions: Airbus, Model A350–900 Series Airplane; Side Stick Controllers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Airbus Model A350–900 series airplanes. These airplanes will have a novel or unusual design feature(s) associated with side stick controllers for pitch and roll control instead of conventional wheels and columns. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before December 23, 2013.

ADDRESSES: Send comments identified by docket number FAA–2013–0903 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments 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.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the 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.

FOR FURTHER INFORMATION CONTACT: Loran Haworth, FAA, Airplane and Flight Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1133; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these proposed special conditions based on the comments we receive.

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 series airplane. Later, Airbus requested and the FAA approved an extension to the application for FAA type certification to June 28, 2009. The Model A350–900 series has a conventional layout with twin wing-mounted Rolls-Royce Trent XWB engines. It features a twin aisle 9-abreast economy class layout, and

accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Airbus Model A350–900 series configuration will accommodate 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a Maximum Take-Off Weight of 602,000 lbs. Airbus proposes the Model A350–900 series to be certified for extended operations (ETOPS) beyond 180 minutes at entry into service for up to a 420-minute maximum diversion time.

The Airbus Model A350–900 series airplane, like its predecessors the A320, A330, A340 and A380, will use side stick controllers for pitch and roll control. Regulatory requirements pertaining to conventional wheel and column, such as pilot strength and controllability, are not directly applicable for the side stick. In addition, pilot control authority may be uncertain because the side sticks are not mechanically interconnected as with conventional wheel and column controls.

Type Certification Basis

Under Title 14, Code of Federal Regulations (14 CFR) 21.17, Airbus must show that the Model A350–900 series meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–128.

The FAA has determined that Airbus Model A350–900 series airplanes must comply with the following sections: §§ 25.143, 25.145(b), 25.175(b), 25.671, and 25.1329(a).

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Model A350–900 series because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the proposed special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and proposed special conditions, the Airbus Model A350–900 series must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Airbus Model A350–900 series will incorporate the following novel or unusual design features: side stick controllers for pitch and roll control in place of conventional wheels and columns.

Discussion

Current FAA regulations do not specifically address the use of side stick controllers for pitch and roll control. The unique features of the side stick must therefore be demonstrated through flight and simulator tests to have suitable handling and control characteristics when considering the following:

(1) The handling qualities tasks/requirements of the A350 Special Conditions and other 14 CFR part 25 requirements for stability, control, and maneuverability, including the effects of turbulence.

(2) General ergonomics: Arm rest comfort and support, local freedom of movement, displacement angle suitability, and axis harmony.

(3) Inadvertent input in turbulence.

(4) Inadvertent pitch-roll cross talk.

The Handling Qualities Rating Method (HQRM) of Appendix 5 of the Flight Test Guide, AC 25–7C, may be used to show compliance.

Applicability

As discussed above, these proposed special conditions apply to Airbus Model A350–900 series airplanes. Should Airbus apply later for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the proposed special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Airbus Model A350–900 series airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus Model A350–900 series airplanes in the absence of specific requirements for side stick controllers:

1. *Pilot strength:* In lieu of the ''strength of pilots'' limits shown in § 25.143(c) for pitch and roll, and in lieu of specific pitch force requirement of §§ 25.145(b) and 25.175(d), it must be shown that the temporary and maximum prolonged force levels for the side stick controllers are suitable for all expected operating conditions and configurations, whether normal or non-normal.

2. *Pilot control authority:* The electronic side stick controller coupling design must provide for corrective and/or overriding control inputs by either pilot with no unsafe characteristics. Annunciation of the controller status must be provided, and must not be confusing to the flight crew.

3. *Pilot control:* It must be shown by flight tests that the use of side stick controllers does not produce unsuitable pilot-in-the-loop control characteristics when considering precision path control/tasks and turbulence. In addition, pitch and roll control force and displacement sensitivity must be compatible, so that normal inputs on one control axis will not cause significant unintentional inputs on the other.

Issued in Renton, Washington, on October 22, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–26912 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 170

RIN 3038–AE09

Membership in a Registered Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') proposes to amend its regulations to require that all persons registered with the Commission as introducing brokers (''IBs''), commodity pool operators (''CPOs''), and commodity trading advisors (''CTAs'') must become and remain members of at least one registered futures association (''RFA'').

DATES: Comments must be received on or before January 17, 2014.

ADDRESSES: You may submit comments, identified by RIN number 3038–AE09, by any of the following methods:

- The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Melissa D. Jurgens, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Andrew Chapin, Associate Director, Division of Swap Dealer and Intermediary Oversight, 202–418–5465, *achapin@cftc.gov;* Jason Shafer, Attorney Advisor, Division of Swap Dealer and Intermediary Oversight, (202) 418–5097, *jshafer@cftc.gov;* or Hannah Ropp, Economist, 202–418–5228, *hropp@cftc.gov,* Office of the Chief Economist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

[1] 17 CFR 145.9. Commission regulations referred to herein can be found on the Commission's Web site, *www.cftc.gov.*

I. Background

Part 170 of the Commission's regulations pertains to RFAs. RFAs serve a vital self-regulatory role by functioning as frontline regulators of their members subject to Commission oversight. Regulations 170.15 and 170.16 require each registered futures commission merchant (''FCM''), and each registered swap dealer (''SD'') and major swap participant (''MSP''), respectively, to become a member of an RFA, subject to an exception for certain notice registered brokers or dealers.[2] However, there is no such mandatory membership requirement for other registrants. In the absence of a mandatory membership requirement, those registrants not already members of an RFA are nevertheless subject to the rules and regulations of the Commission,[3] and, absent this proposal, the Commission would assume the role performed by the RFA for this class of registrants. Currently, the National Futures Association (''NFA'') is the sole RFA under Section 17(a) of the Commodity Exchange Act (''CEA''),[4] and it is also a self-regulatory organization (''SRO'').[5]

II. Proposed Regulation

Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions, or to accomplish any of the purposes, of the CEA.[6] Section 17(m) of the CEA permits the Commission to require membership in an RFA if the Commission determines that mandatory membership is necessary or appropriate to achieve the purposes and objectives of the CEA.[7] Pursuant to its statutory authority, the Commission hereby proposes to amend Part 170 by adding § 170.17 to require each person registered as an IB, CPO, or CTA to become and remain a member of an RFA based on its preliminary belief that such membership is necessary or appropriate to ensure comprehensive and effective market oversight which is applied consistently to all registered intermediaries.

The Commission previously promulgated § 170.15 to require, subject to an exception for certain notice registered securities brokers or dealers, that all persons registered with the Commission as FCMs must become and remain members of at least one RFA.[8] NFA Bylaw 1101 states that no member of NFA may ''carry an account, accept an order or handle a transaction'' in commodity futures contracts for, or on behalf of, any non-member of NFA that is required to be registered with the Commission as, *inter alia,* an IB, CPO, or CTA.[9] Accordingly, any IB, CPO or CTA required to be registered that desires to conduct business directly with an FCM must become a member of NFA, and derivatively, must ensure that it conducts business only with those IBs, CPOs or CTAs that also are NFA members. Therefore, given the NFA's status as the sole RFA under Section 17(a) of the CEA, at the time it was proposed, the Commission noted that § 170.15 would operate in conjunction with NFA Bylaw 1101 to assure essentially complete NFA membership from the universe of commodity professionals: FCMs, CPOs, CTAs and IBs.[10]

In proposing new Regulation 170.17, the Commission recognizes that due to recent changes to the CEA, § 170.15 and NFA Bylaw 1101 will no longer assure NFA membership for all IBs, CPOs or CTAs. In particular, the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') amended the CEA to establish a comprehensive new regulatory framework for swaps.[11] The new regulatory framework provides that, among other things, entities that engage in regulated activity with respect to swaps will be required to register with the Commission as IBs, CPOs, or CTAs, as appropriate. However, due to the unique nature of swap transactions, it may be possible for these Commission registrants to serve clients without interacting with a firm that ''carries an account,'' *e.g.,* an FCM or an SD who

[2] 17 CFR 170.15 and 170.16. *See also* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613 (Jan. 19, 2012).

[3] *See* 7 U.S.C. 21(e), which specifies that any person registered under the CEA, who is not a member of an RFA, shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.

[4] 7 U.S.C. 21(a).

[5] SROs include designated contract markets (''DCMs'' or ''exchanges''), swap execution facilities (''SEFs''), registered futures associations, and derivatives clearing organizations (''DCOs''). Among other things, SROs maintain and update a standardized audit program and coordinate audit and financial statement surveillance activities over firms that are members of more than one SRO.

[6] 7 U.S.C. 12a(5).

[7] 7 U.S.C. 21(m).

[8] Membership in Registered Futures Association, 72 FR 2614 (Jan. 22, 2007).

[9] NFA Bylaw 1101 is available at: *http://www.nfa.futures.org/nfamanual/NFAManual.aspx?RuleID=BYLAW%201101&Section=3.*

[10] Membership in a Registered Futures Association, 71 FR 64171 at n.7 (proposed Nov. 1, 2006). The Commission notes that proposed § 170.17, like § 170.15 and § 170.16, does not directly require associated persons (''APs'') to join a RFA. This is because APs must be sponsored by one of the aforementioned entities.

[11] Public Law 111–203, 124 Stat. 1376 (2010).

accepts customer funds. For example, a CTA may advise a ''special entity'' on swaps in the capacity of an ''independent advisor,'' pursuant to section 4s(h)(5) of the CEA,[12] or a CPO may operate a pool that trades only swaps that are not cleared through a DCO. As a result, these registrants would not be captured by the intersection of §§ 170.15 or 170.16, and NFA Bylaw 1101, and would not be required to become members of NFA.

Proposed § 170.17 would eliminate existing gaps in the regulatory oversight programs established by the Commission and NFA. The proposed rule would advance the Commission's effort to create an oversight regime that levels the playing field by ensuring consistent treatment of all its registered intermediaries, including FCMs, SDs, MSPs, IBs, CPOs, and CTAs.

In sum, consistent with Sections 8a(5) and 17m of the CEA, the Commission preliminarily believes that the proposed rule is necessary or appropriate to facilitate comprehensive and effective market oversight by NFA in its capacity as an SRO. By mandating membership in an RFA by each person registered as an IB, CPO, or CTA, the proposed rule would enable NFA to ensure compliance with Section 17 of the CEA, and rules and regulations thereunder. As the only RFA, NFA serves as the frontline regulator of its members, subject to Commission oversight. Without mandatory membership in NFA or another RFA, effective implementation of the programs required by Section 17 of the CEA and NFA's self-regulatory programs could be impeded.

III. Request for Comment

To ensure that the proposed rule would, if adopted, achieve its stated purpose, the Commission requests comment generally on all aspects of the proposed rule. Specifically, the Commission requests comment on the following:

(1) Regulation 4.14(a)(9) was adopted on March 10, 2000.[13] Regulation 4.14(a)(9) provides that a person is not required to register as a CTA if it does not: (i) Direct any client accounts; or (ii) provide commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients. This exemption from CTA registration generally pertains to persons only providing advice to the general public, such as in a newsletter, and not to specific clients. When adopted, Regulation 4.14(a)(9) did not require CTAs to de-register who were, at the time, registered with the Commission, but who could avail themselves of 4.14(a)(9). Therefore, many CTAs are currently registered with the Commission even though they qualify for an exemption from Commission registration pursuant to 4.14(a)(9). Should entities who are currently registered with the Commission but otherwise qualify for a Rule 4.14(a)(9) exemption be required to become members of NFA? If not, why?

(2) The Commission has not identified an impact on the risk management decisions of market participants as a result of the proposed regulation, but seeks comment as to any potential impact. Will proposed § 170.17 impact, positively or negatively, the risk management procedures or actions of intermediaries?

The Commission further requests comment on the specific questions included throughout this release.

IV. Administrative Compliance

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[14] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. This proposed rulemaking would result in an amendment to existing collection of information OMB Control Number 3038–0023.[15] The Commission is therefore submitting this proposal to the Office of Management and Budget (''OMB'') for review. If adopted, responses to this collection of information would be mandatory. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Registration with the Commission requires each applicant for registration to, among other things, file a Form 7–R providing basic background and contact information.[16] The proposed regulation would not require affected IBs, CPOs, and CTAs to *register* with the Commission, but only to *become a member* of the NFA.

As of April 11, 2013, NFA has indicated that 53 CPOs, CTAs, and IBs have applied for or have been approved for Commission registration solely because of their activity in the swaps market.[17] Furthermore, NFA indicated to the Commission that, as of April 11, 2013, there are 756 non-FCM registrants that are currently registered with the Commission, but are not NFA members.[18] Therefore, based on current information provided by NFA, the Commission estimates that there may be a total of 809 respondents affected by this proposed rule, and accordingly, the Commission preliminarily believes that OMB Collection 3038–0023 needs to be adjusted to account for an increase in the number of respondents. The proposed regulation would otherwise not impact the burden estimates currently provided for Collection 3038–0023.

The Commission seeks comment about the total number of respondents that it estimates may be impacted by the proposed rule, *i.e.,* the Commission's preliminary estimate of 809 potential respondents. In particular, the Commission seeks comment as to the number of persons who have registered or plan to register as CTAs, CPOs, and IBs in order to serve the swap market exclusively and would be required to register with the Commission as a result of their activity in uncleared swaps (*i.e.,* would not otherwise be captured by the aforementioned interplay of CFTC §§ 170.15 and 170.16 and NFA Bylaw 1101).

Information Collection Comments

The Commission invites the public and other Federal agencies to comment on any aspect of the reporting burdens discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the

[12] *See, e.g.,* Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties, Final Rule, 77 FR 9734, 9825 (Feb. 17, 2012).

[13] Exemption from Registration as a Commodity Trading Advisor, 65 FR 12938 (March 10, 2000).

[14] 44 U.S.C. 3501 *et seq.*

[15] See OMB Control No. 3038–0023, *http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3038-0023.*

[16] The Commission has designated NFA to receive Form 7–R submissions on its behalf. The Commission notes that application for NFA membership is incorporated in Form 7–R.

[17] Data provided by NFA was used in estimating this figure. Specifically, the data shows that, on April 11, 2013, there were 5 IBs, 1 IB/CTA, 30 CPOs, 8 CTAs, and 9 CPO/CTAs who indicated that they transact exclusively in swaps.

[18] Data provided by NFA was used in estimating this figure. Specifically, the 756 figure is calculated by adding the following (as of April 11, 2013, the total number of registered firms without NFA membership): 20 IBs, 1 IB/CPO, 2 IB/CTAs, 59 CPOs, 628 CTAs, and 46 CPO/CTAs.

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 automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by email at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rule preamble. Refer to the **ADDRESSES** section of this notice of proposed rulemaking for comment submission instructions to the Commission. A copy of the supporting statements for the collections of information discussed above may be obtained by visiting *RegInfo.gov.* 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.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act [19] requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.

1. CPOs

The Commission has previously determined that CPOs are not small entities for purposes of the Regulatory Flexibility Act.[20] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules will not have a significant economic impact on a substantial number of small entities with respect to these entities.

2. IBs and CTAs

The Commission has previously determined to evaluate within the context of a particular rule proposal whether all or some IBs or CTAs should be considered to be small entities and, if so, to analyze the economic impact on them of any such rule.[21]

Since there could be some small entities that register as IBs or CTAs, the Commission is considering whether this rulemaking would have a significant economic impact on these registrants. The proposed rules would require all CTAs and IBs who register with the Commission to become members of an RFA. As previously noted, this would require CTAs and IBs to ''check a box'' on Form 7–R and ensure they are prepared for an NFA audit.[22] However, as discussed below, the Commission preliminarily believes that any costs associated with preparing for an audit by the NFA should not be substantially different from, or significantly exceed, the costs associated with preparing for an audit by the Commission, which every registered entity would already be responsible to do.[23] To the extent that this proposed rule only pertains to CFTC registrants, the Commission preliminarily believes that any audit-related costs incident to NFA membership would be minimal, and should not have a significant economic impact on IBs, CPOs, or CTAs that are small entities. Consequently, the Commission finds that there is no significant economic impact on IBs or CTAs resulting from this rulemaking.

Accordingly, for the reasons stated above, the Commission preliminarily believes that the proposal will not have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed regulations being published today by this **Federal Register** release will not have a significant economic impact on a substantial number of small entities.

C. Considerations of Costs and Benefits

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing an order. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

1. Background

As discussed above, prior to the Dodd-Frank Act, the intersection of § 170.15 and NFA Bylaw 1101 effectively required most CFTC-registered intermediaries to be members of NFA. Because NFA Bylaw 1101 provides that NFA members transacting futures business on behalf of customers cannot transact with non-members, and § 170.15 requires all FCMs to be NFA members, any IB, CPO, or CTA that engages with an FCM is required to maintain NFA membership in order to transact in futures.

In assessing the costs and benefits of the proposed rule, the Commission, in consultation with the NFA, has identified the following typical scenarios in which, under the current Commission regulations and NFA rules, a firm is registered with the Commission, but is not an NFA member:

- A firm that is no longer in business, but subject to Commission action, is prohibited from withdrawing its registration with the Commission until after the Commission action is resolved, but, since the firm no longer actively participates in the futures markets, it has withdrawn its NFA membership (in other words, a firm has a ''withdrawal hold'');
- A firm that is not ready to commence business as a CTA and/or CPO first becomes registered in order to complete the more complex process of being properly vetted for registration, and then adds membership later when it is preparing to commence trading and to submit a disclosure document to NFA for review;
- When an NFA member firm no longer has at least one principal who is registered as an AP of the firm, NFA rules provide that the firm's membership can be withdrawn if the situation is not corrected. If the firm does not re-attain NFA membership by adding a new principal who is an AP of the firm, typically the firm's registration is subsequently withdrawn as well;
- CTAs that do not manage accounts consistent with the parameters of

[19] 5 U.S.C. 601 *et seq.*

[20] Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18619 (Apr. 30, 1982).

[21] *See,* with respect to commodity trading advisors, 47 FR at 18620, and *see,* with respect to IBs, Introducing Brokers and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators; Registration and Other Regulatory Requirements, 48 FR 35276 (Aug. 3, 1983).

[22] *See infra* note 28. As stated in the booklet titled ''NFA Regulatory Requirements: For FCMs, IBs, CPOs, and CTAs,'' NFA audits have two major objectives: (1) To determine whether the firm is maintaining records in accordance with NFA rules and applicable CFTC regulations; and (2) To ensure that the firm is being operated in a professional manner and that customers are protected against unscrupulous activities and fraudulent or high-pressure sales practices.

[23] The Commission believes that many of the recordkeeping obligations associated with preparing with a NFA audit are already required for Commission registrants. For example, Sections 4.23 and 4.33 of the Commission's Regulations are recordkeeping requirements associated with registered CPOs and CTAs, respectively. Moreover, given the average periodicity for NFA audits, the magnitude of annual audit-related costs is limited.

§ 4.14(a)(9) register with the Commission, but are not required to become members of NFA and thus do not become members of NFA.

Moreover, the Dodd-Frank Act amended the CEA to establish a comprehensive new regulatory framework for swaps markets. Accordingly, an intermediary that was previously not required to register with the Commission because its activities were limited to swaps may now be required to register with the Commission. However, unlike futures transactions, because some swaps can be entered into bilaterally and not be cleared through a central counterparty (in other words, will not necessarily require the use of an FCM, SD, or MSP), the intersection of §§ 170.15 and 170.16 and NFA Bylaw 1101 may not require an IB, CPO, or CTA who transacts only in uncleared swaps to become a member of an RFA.[24]

Proposed § 170.17 would eliminate these gaps in the regulatory oversight programs established by the Commission and NFA. In conjunction with § 170.15, which requires all FCMs to become members of an RFA, and § 170.16, which requires all SDs and MSPs to become members of an RFA, the Commission is intending to create an oversight regime that levels the playing field by ensuring consistent treatment of all its registered intermediaries. The Commission preliminarily believes that the proposed regulation is necessary to ensure comprehensive regulation and equal oversight of all intermediaries.

2. Costs

There would be certain costs associated with the proposed regulation. First, affected CFTC registrants would be required to become NFA members. The Commission understands that the process for a current CFTC registrant to become an NFA member amounts to checking a box on the CFTC registration form and updating some contact information; thus, the Commission preliminarily believes the cost of filing for membership to be less than one half-hour of labor.[25]

Affected entities would also be subject to certain membership fees. The Commission understands that NFA imposes initial membership dues and annual membership dues for IBs, CPOs, and CTAs. Currently, the initial membership dues to become an NFA member are $750 for the first year, and the annual dues to maintain membership are $750 per year thereafter.[26]

The Commission preliminarily believes that the rule may impose certain compliance costs on affected entities. However, such costs should not be substantially different from or significantly exceed the costs associated with current Commission regulations. NFA members are subject to periodic audits by NFA. The Commission understands that NFA audits CPOs, CTAs and IBs every three to four years, but the frequency may vary depending on NFA's risk analysis.[27] The Commission also understands that while the direct cost of the audit is covered by the annual membership dues, members may incur indirect costs associated with an on-site audit, *e.g.,* preparing for the audit and providing staff to assist NFA staff during the audit. The Commission has authority to ensure all IBs, CTAs, and CPOs, registered with the Commission are in compliance with Commission regulations applicable to IBs, CTAs and CPOs as Commission registrants and to conduct on-site examinations of the operations and activities of IBs, CTAs, and CPOs as Commission registrants. Given the existing costs associated with ongoing compliance and examinations under the Commission regulations currently in effect, the Commission preliminarily believes that the costs associated with preparing for an audit by the NFA should not be substantially different from or significantly exceed the costs associated with preparing for an audit by the Commission, which every registered entity is already responsible to do (*e.g.,* have properly prepared and maintained books and records available for examination at all times).[28] All affected entities should expect to incur costs necessary to work with NFA to facilitate regulatory audits.[29] Therefore, the Commission preliminarily believes that IBs, CPOs, and CTAs covered by the proposed rule may incur few, if any, additional audit-related costs by virtue of their NFA membership.

Likewise, with respect to general, ongoing compliance costs, the Commission preliminarily believes that NFA membership would impose few additional costs on subject IBs, CPOs, and CTAs, because as Commission registrants, these participants would already be subject to the majority of regulations that NFA is responsible to enforce. Specifically, in its capacity as an SRO, NFA would act, in respect of entities subject to the proposed rule, as the frontline regulator for the programs required by Section 17 of the CEA and the regulations thereunder. Section 17 and those regulations, however, are applicable to subject entities, independent of whether they are NFA members. Accordingly, in the main, entities would not incur any additional general, ongoing compliance costs as a result of NFA membership. However, in certain limited situations, there may be costs associated with being an NFA member in excess of those costs incurred for being registered with the Commission. For example, the Commission's capital rules require that registered IBs maintain adjusted net capital equal to or in excess of the greatest of $45,000 [or] the amount of adjusted net capital required by a registered futures association of which it is a member.[30] However, section 5 of the NFA Manual sets forth the following capital requirements for member IBs:

> (a) Each Member IB, except an IB operating pursuant to a guarantee agreement which meets the requirements set forth in CFTC Regulation 1.10(j), must maintain Adjusted Net Capital (as defined in CFTC Regulation 1.17) equal to or in excess of the greatest of:
>
> (i) $45,000;
>
> (ii) For Member IBs with less than $1,000,000 in Adjusted Net Capital, $6,000 per office operated by the IB (including the main office);
>
> (iii) For Member IBs with less than $1,000,000 in Adjusted Net Capital, $3,000 for each AP sponsored by the IB.[31]

Therefore, while the Commission preliminarily believes, as noted above, that comprehensive and effective market oversight conducted by NFA would

[24] Under the current Regulations and NFA bylaws, an IB, CPO, and CTA who transacts only in uncleared swaps with another IB, CPO, or CTA who similarly limits its transactions to uncleared swaps, will not be required to become a member of NFA so long as both parties are (1) not members of NFA and (2) continue to transact only in uncleared swaps with similarly-situated entities.

[25] *See* Form 7–R, *http://www.nfa.futures.org/nfa-registration/templates-and-forms/form7-r.HTML.* Applications forms for NFA membership and Associate membership are incorporated in Forms 7–R and 8–R. *See* NFA Membership and Dues, *http://www.nfa.futures.org/nfa-registration/NFA-membership-and-dues.HTML.*

[26] *See* NFA Membership and Dues, *http://www.nfa.futures.org/nfa-registration/NFA-membership-and-dues.HTML.*

[27] The Commission notes that the NFA states that it seeks to audit all new registrants within the first year of NFA membership, and periodically thereafter. *See http://www.nfa.futures.org/nfa-faqs/compliance-faqs/audits/index.HTML.*

[28] Entities that will become Commission registrants for the first time should expect to incur the costs of ensuring they are adequately prepared for an on-site examination by the Commission. Such costs, however, are not attributable to the present rule proposal.

[29] NFA provides a booklet titled ''NFA Regulatory Requirements: For FCMs, IBs, CPOs, and CTAs,'' the NFA Manual, CFTC Regulations, and the ''Self-Examination Checklist,'' which all NFA must complete on a yearly basis. All are available on NFA's Web site at *www.nfa.futures.org.*

[30] *See* 17 CFR 1.17(a)(1)(iii).

[31] NFA's manual is available at *http://www.nfa.futures.org/nfamanual/NFAManual.aspx?RuleID=SECTION%205&Section=7.*

enhance market oversight and promote effective implementation of the CEA, the Commission recognizes that in certain limited situations, the requirements to be an NFA member may be more stringent, and potentially most costly to comply with, than the requirements associated with being registered with the Commission. The Commission requests comment on whether there are any additional situations similar to the example described above where the costs associated with NFA membership diverge from the costs of Commission registration.

The Commission contacted NFA to determine the number of IBs, CPOs, and CTAs that would be directly impacted by this rule (*i.e.,* currently registered with the Commission, but not currently members of NFA). NFA indicated to the Commission that, as of April 11, 2013, there were 756 non-FCM firms that are registered with the Commission, but are not NFA members.[32] Large percentages of the identified IBs, IB/CPOs, IBs/CTAs, and CPOs —90%, 100%, 100% and 66%, respectively—are firms that are subject to a withdrawal hold. A smaller percentage of CPOs/CTAs (46%) and CTAs (4%) also fit within this category. This category of entities—*i.e.,* those intermediaries that are subject to a withdrawal hold—should not be affected by the proposed regulations because they are, in the majority of cases, no longer in business, and, in any case, are not actively trading.

Relying on the information provided by NFA, the Commission estimates that a combined 652 entities are CFTC registrants because of the activities that qualify them as a CPO, CTA or IB, but are not NFA members, equating to an initial cost to the industry of approximately $489,000.[33] In addition, the Commission anticipates a small cost to each firm to update the firm's registration statement and other paperwork necessary to become an NFA member. The Commission estimates annual ongoing cost to the industry of the same amount ($489,000) [34] plus the indirect costs of the periodic audits, which the Commission cannot estimate at this time due to the entity-specific nature of the indirect costs incurred.

The Commission also asked NFA for estimates regarding the number of future IBs, CPOs, and CTAs who will be required to register for the first-time with the Commission because of their swaps activity. NFA indicated that 53 firms that have applied for or have been approved for Commission registration have indicated they participate exclusively in the swaps markets.[35] However, the Commission estimates that this number may increase after certain regulations affecting the registration status of swaps entities come into effect.[36] Moreover, as described above, this regulation would directly affect the subset of these new entities required to register for the first time because they are active exclusively in the uncleared swaps market and engage with similarly-situated entities. The Commission preliminarily believes that many entities have yet to apply for registration under the Commission's new swaps market regime, and as such the Commission is not yet able to accurately determine the exact number of new registrants that will be affected by the proposed regulation.

The Commission requests comment on all aspects of its preliminary consideration of costs. Has the Commission accurately identified the costs of this proposed regulation? Are there other costs to the Commission, market participants, and/or the American public that may result from the adoption of the proposed regulation that the Commission should consider? The Commission seeks specific comment on the following:

- How many IBs, CPOs, and CTAs will be affected by the proposed regulation?
- How many entities are active only in the uncleared swaps markets and plan to register with the Commission—and so would need to become members of NFA as a result of the proposed regulation?
- What are the costs of an NFA audit? Please identify and, where possible, quantify such costs. Do the types of costs or amount of costs vary depending on whether the audit is online or onsite? Do market participants bear different costs with respect to NFA's periodic audits versus daily audits?
- Would the proposed rule result in ongoing compliance costs beyond those an entity would face as a result of being registered with the Commission? Are there any costs of NFA membership beyond those an entity would face as a result of being registered with the Commission?
- Are there other costs of NFA membership that the Commission should consider?

3. Benefits

The proposed regulation would enable the Commission to carry out its obligations pursuant to Section 17 of the CEA to delegate certain oversight responsibility for intermediaries, including IBs, CPOs, and CTAs, to an RFA. As described above, the NFA cannot enforce its rules over registrants who do not become NFA members, and existing regulations would not require all IBs, CPOs, and CTAs to become NFA members. Thus, the Commission proposed new § 170.17 to require IBs, CPOs, and CTAs to become NFA members analogously to how § 170.15 presently requires FCMs to become NFA members and how § 170.16 requires the same of SDs and MSPs. In so doing, the Commission preliminarily believes it would ensure a level regulatory playing field for all registered intermediaries. The proposed rule would enable the NFA to apply its experience as a SRO to oversee all registered IBs, CPOs, and CTAs.

In addition, the Commission preliminarily believes that by requiring membership in an RFA, the proposed rule would result in a more efficient deployment of agency resources which would otherwise have to be used to oversee these registrants who would, without this rule, not be overseen by NFA.

Moreover, by requiring all registered IBs, CPOs and CTAs to become NFA members, the public would benefit from NFA's developed set of rules and oversight capabilities to ensure the integrity of the swaps market and its participants. This increase in market integrity may lead to a corresponding increase in market participation as the public and market participants grow more confident in the safety of these markets. The Commission preliminarily believes that the proposed regulation would ensure that NFA has the authority necessary to fulfill its delegated responsibilities to provide regulatory oversight and promote market integrity.

The Commission requests comment on all aspects of its preliminary

[32] *See supra* note 18.

[33] *See supra* note 18. Specifically, the 652 figure is calculated by adding the following (as of April 11, 2013): 2 IBs, 20 CPOs, 605 CTAs, and 25 CPO/CTAs. To arrive at the monetary estimate, the 652 figure was multiplied by the $750.00 per-entity initial cost. The Commission notes, however, that some entities currently registered with the Commission may withdraw their registration because they are inactive in derivatives markets or for some other reason. As a result, the total number of affected entities may be reduced, and corresponding total costs associated with the proposed rule may be lower.

[34] *Id.*

[35] *See supra* note 17. NFA indicated that on April 11, 2013, it had approved 52 firms that deal exclusively in swaps for registration as an IB, CPO, or CTA and that the IB, CPO, or CTA registration of 1 additional firm that deals exclusively in swaps is currently pending.

[36] For example, the Commission's final definition of the term ''U.S. Person'' as it relates to cross-border swap transactions could dramatically affect the number of market participants required to register with the Commission.

consideration of benefits. Has the Commission accurately identified the benefits of this proposed regulation? Are there other benefits to the Commission, market participants, and/or the public that may result from the adoption of the proposed regulation that the Commission should consider?

4. Section 15(a)

Section 15(a) of the CEA requires the Commission to consider the effects of its actions in light of the following five factors:

a. Protection of Market Participants and the Public

The proposed regulation would protect the public by ensuring that all registered intermediaries are subject to the same level of comprehensive NFA oversight. Because the entities affected by the proposed regulation act as intermediaries for clients, it is imperative that these entities be subject to proper oversight in order to protect customers from wrongdoing.

The Commission seeks comment as to how market participants and the public may be protected by the proposed regulation.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The proposed regulation would act to create a more level playing field for intermediaries, ensuring that all such registered entities are subject to the same level of oversight and regulatory responsibility. In so doing, the Commission preliminarily believes the integrity of markets would be enhanced.

The Commission seeks comment as to how the proposed regulation may promote the efficiency, competitiveness, and financial integrity of markets.

c. Price Discovery

The Commission has not identified an impact on price discovery as a result of the proposed regulation, but seeks comment as to any potential impact. Will proposed § 170.17 impact, positively or negatively, the price discovery process?

d. Sound Risk Management

The Commission has not identified an impact on the risk management decisions of market participants as a result of the proposed regulation, but seeks comment as to any potential impact. Will proposed § 170.17 impact, positively or negatively, the risk management procedures or actions of intermediaries?

e. Other Public Interest Considerations

The Commission preliminarily believes that proposed § 170.17 may promote public confidence in the integrity of derivatives markets by ensuring consistent and adequate regulation and oversight of all intermediaries. Will proposed § 170.17 impact, positively or negatively, any heretofore unidentified matter of interest to the public?

List of Subjects in 17 CFR Part 170

Authority delegations (Government agencies), Commodity futures, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 170 as follows:

PART 170—REGISTERED FUTURES ASSOCIATIONS

■ 1. The authority citation for part 170 is revised to read as follows:

Authority: 7 U.S.C. 6p, 12a, and 21.

Subpart C—Membership in a Registered Futures Association

■ 2. In subpart C, add § 170.17 to read as follows:

§ 170.17 Introducing Brokers, Commodity Pool Operators, and Commodity Trading Advisors.

Each person registered as an introducing broker, commodity pool operator, or commodity trading advisor must become and remain a member of at least one futures association that is registered under Section 17 of the Act and that provides for the membership therein of such introducing broker, commodity pool operator, or commodity trading advisor, as the case may be, unless no such futures association is so registered.

Issued in Washington, DC, on November 5, 2013, by the Commission.

Melissa D. Jurgens,

Secretary of the Commission.

Appendix to Membership in a Registered Futures Association—Commission Voting Summary

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

Appendix—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Chilton, O'Malia, and Wetjen voted in the affirmative; no Commissioner voted in the negative.

[FR Doc. 2013–26790 Filed 11–7–13; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0778]
RIN 1625–AA09

Drawbridge Operation Regulation; Broad Creek, Laurel, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the regulation that governs the operation of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge over Broad Creek, mile 8.25, both at Laurel, DE. The proposed new rule would change the current regulation by requiring a forty-eight hour advance notice and by allowing the bridges to remain in the closed position for the passage of vessels.

DATES: Comments and related material must reach the Coast Guard on or before January 7, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0778 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@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

CFR Code of Federal Regulations
DHS Department of Homeland Security

FR Federal Register
DELDOT Delaware Department of Transportation
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2013–0778), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0778] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2013–0778 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

The current operating schedule for the bridge is set out in 33 CFR 117.233(b), effective on September 11, 2006. The current regulation states: The draw of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.2, all at Laurel, shall open on signal if at least 48 hours notice is given. Previous regulation listed both bridges at mile 8.2. To differentiate the location of the bridges, we propose to refer to the Poplar Street Bridge at mile 8.2 and the U.S. 13A Bridge at mile 8.25.

C. Basis and Purpose

The bridge owner, Delaware Department of Transportation (DELDOT), requested a change in the operation regulation for the Poplar Street Bridge, mile 8.2, and U.S. 13A Bridge, mile 8.25, across Broad Creek. DELDOT provided information to the Coast Guard about the lack of any openings of the draw spans dating back to 1975.

In the closed-to-navigation position, the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.25, both in Laurel, DE, have vertical clearances of five feet and two feet above mean high water, and vertical clearances of eight feet and five feet above mean low water, respectively.

D. Discussion of Proposed Rule

In order to align the operating schedule of the bridge with observed marine traffic, the proposed change would amend the regulation to state that the bridge need not open. The lack of requests for vessel openings of the drawbridge for over 30 years illustrates that the vessels that use this waterway can safely navigate while the bridge is in the closed-to-navigation position.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Based off DELDOT bridge tender logs, there will not be any vessels impacted by this proposed change. This proposed regulation will not have an adverse impact on any of the vessels that use the waterway because none of the recorded transits have required an opening in 30 years.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed action will not have a significant economic impact on a substantial number of small entities for the following reason. There have been no requests for these bridges to open since 1975, and this proposed rule would amend the operating schedule of the drawbridges so that they will

normally remain in the closed to navigation position.

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 proposed rule would economically affect it.

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed 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 proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.233(b) to read as follows:

§ 117.233 Broad Creek.

* * * * *

(b) The draws of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.25, both at Laurel, need not open for the passage of vessels.

Dated: October 17, 2013.

Steven H. Ratti,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2013–26825 Filed 11–7–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0908]

RIN 1625–AA00

Safety Zone, Submarine Cable Replacement Operations, Kent Island Narrows; Queen Anne's County, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone encompassing certain waters of Kent Island Narrows in Queen Anne's County, MD. This action is necessary to provide for the safety of mariners and their vessels on navigable waters during submarine cable replacement operations at the Kent Island Narrows (MD–18B) Bridge. This action is intended to restrict vessel traffic movement to protect mariners from potential safety hazards associated with the bridge project. Entry into this zone would be prohibited unless specifically authorized by the Captain of the Port Baltimore or his designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before November 25, 2013.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@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. Public Participation and Request for Comments

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

1. Submitting Comments

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0908] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0908) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

This rule involves the installation of a submarine cable within a federal navigation channel requiring divers, a barge, and support boats during a 13-day period in December 2013. The bridge operation regulations for Kent Island Narrows listed in 33 CFR 117.561 do not apply to this activity.

C. Basis and Purpose

The legal basis and authorities for this rule are found in 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; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The purpose of this safety zone is to protect public boaters and their vessels from potential safety hazards associated with the electrical submarine cable replacement operations at the Kent Island Narrows (MD–18B) Bridge.

D. Discussion of Proposed Rule

The Maryland State Highway Administration will replace a submarine cable across the federal navigation channel at the Kent Island Narrows (MD–18B) Bridge over the Kent Island Narrows in Queen Anne's County, Maryland, scheduled from 8 a.m. on December 2, 2013 through 6 p.m. on December 15, 2013.

According to the Maryland State Highway Administration, the work in early December 2013 in necessary because a waterway construction restriction does not allow this type of work between December 15, 2013 and March 15, 2014, and further delaying

the submarine cable work until March 2014 would have a larger impact to those mariners using the federal navigation channel. The designated work site extends approximately 55 feet northward from the south side of the bridge, 55 feet southward from the south side of the bridge, 74 feet eastward of the federal navigation channel centerline, and 70 feet westward of the federal navigation channel centerline. Although outside the federal navigation channel, portions of Kent Island Narrows will remain open to marine traffic during the work and the bridge can be operated if necessary.

Through this regulation, the Coast Guard proposes to establish a temporary safety zone. The zone would encompass all waters of Kent Island Narrows, within an area bounded by the following points: from position latitude 38°58′14.5″ N, longitude 076°14′50.2″ W; thence easterly to position latitude 38°58′14.1″ N, longitude 076°14′48.4″ W; thence southerly to position latitude 38°58′12.3″ N, longitude 076°14′49.0″ W; thence westerly to position latitude 38°58′12.8″ N, longitude 076°14′50.8″ W; thence northerly to point of origin at position latitude 38°58′14.5″ N, longitude 076°14′50.2″ W. The zone would be enforced daily from 6 a.m. to 6 p.m., from 8 a.m. on December 2, 2013 to 6 p.m. on December 15, 2013.

The effect of this safety zone would be to restrict marine navigation in the regulated area during daily work activity. Vessels and persons would be allowed to transit the waters of Kent Island Narrows outside the safety zone.

This rule would require that, with the exception of Maryland State Highways Administration support vessels, entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented would be required to depart the zone. To seek permission to transit the area of the safety zone, the Captain of the Port Baltimore can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Coast Guard vessels enforcing the safety zone can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Federal, state, and local agencies may assist the Coast Guard in the enforcement of the safety zone. The Coast Guard will issue notices to the maritime community to further publicize the safety zone and notify the public of changes in the status of the zone. Such notices will continue until the work activity is complete.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation would restrict access to this area, the effect of this proposed rule would not be significant because: (i) the Coast Guard would give advance notification via maritime advisories so mariners can adjust their plans accordingly, (ii) the safety zone would not be activated, and thus subject to enforcement, daily from 6 p.m. to 6 a.m., from 8 a.m. on December 2, 2013 to 6 p.m. on December 15, 2013, and (iii) although the safety zone would apply to the entire width of the federal navigation channel and not the entire width of Kent Island Narrows, vessel traffic not constrained by draft or height may be able to transit safely around the safety zone.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Kent Island Narrows daily from 6 a.m. to 6 p.m., from 8 a.m. on December 2, 2013 to 6 p.m. on December 15, 2013.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for 12 hours during the day. Although the safety zone would apply to the entire width of the federal navigation channel, vessel traffic could pass safely around the safety zone. Before the activation of the zone, we would issue maritime advisories widely available to users of the river.

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

3. Assistance for Small Entities

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a temporary safety zone in the Kent Island Narrows to maintain public safety during submarine cable replacement operations at the Kent Island Narrows (MD–18B) Bridge. This action is necessary to protect persons and property during the project. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0908 to read as follows:

§ 165.T05–0908 Safety Zone, Submarine Cable Replacement Operations, Kent Island Narrows; Queen Anne's County, MD.

(a) *Location.* The following area is a safety zone: all waters of Kent Island Narrows, within an area bounded by the following points: from position latitude 38°58′14.5″ N, longitude 076°14′50.2″ W; thence easterly to position latitude 38°58′14.1″ N, longitude 076°14′48.4″ W; thence southerly to position latitude 38°58′12.3″ N, longitude 076°14′49.0″ W; thence westerly to position latitude 38°58′12.8″ N, longitude 076°14′50.8″ W; thence northerly to point of origin at position latitude 38°58′14.5″ N, longitude 076°14′50.2″ W, located in Queen Anne's County, Maryland. All coordinates refer to datum NAD 1983.

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–0908.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) With the exception of Maryland State Highways Administration support vessels, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed as directed while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

Maryland State Highways Administration Support Vessels means

all vessels engaged in submarine cable replacement operations under the auspices of the Maryland State Highways Administration's authorization for repairs at the MD–18B Bridge across Kent Island Narrows in Queen Anne's County, Maryland.

(d) *Enforcement periods.* This section will be enforced daily from 6 a.m. to 6 p.m., from 8 a.m. on December 2, 2013 to 6 p.m. on December 15, 2013.

Dated: October 24, 2013.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2013–26971 Filed 11–6–13; 4:15 pm]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0564; FRL–9902–56-Region 4]

Approval and Promulgation of Implementation Plans; Florida: Non-interference Demonstration for Removal of Federal Low-Reid Vapor Pressure Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State of Florida's August 15, 2013, State Implementation Plan (SIP) revision to the State's approved maintenance plans addressing the 1997 8-hour ozone national ambient air quality standards (NAAQS). Specifically, Florida's revision, including updated modeling, shows that the Southeast Florida, Tampa Bay and Jacksonville areas would continue to maintain the 1997 8-hour ozone standard if the currently applicable Federal Reid Vapor Pressure (RVP) standard for gasoline of 7.8 pounds per square inch (psi) was modified to a less stringent standard of 9.0 psi for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties (hereafter also referred to as ''Maintenance Plan Areas'') during the high-ozone season. Also, based on a request by the State on November 29, 2012, EPA is proposing to remove the existing SIP references related to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. The State has included a technical demonstration with the August 15, 2013, SIP revision which demonstrate that the less-stringent RVP standard and the absence of an inspection and maintenance program in these areas would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Approval of this SIP revision is a prerequisite for EPA's consideration of an amendment to the regulations to remove the Maintenance Plan Areas from the list of areas that are currently subject to the Federal 7.8 psi RVP requirements. The specific elements of the maintenance plan modeling that EPA is proposing update for the Maintenance Plan Areas are the ozone maintenance plan attainment inventories, emissions projections and air quality monitoring data. The revised modeling utilizes updated models to calculate the mobile source emissions. EPA has preliminarily determined that Florida's August 15, 2013, SIP revision with respect to the changes to the modeling and associated technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and with respect to the use of updated models, is consistent with the applicable provisions of the Clean Air Act (CAA or Act). Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a subsequent rulemaking. EPA has also preliminarily determined that removal of the regulatory provisions associated with the previously-implemented inspection and maintenance programs from the Maintenance Plan Areas is consistent with the applicable provisions of the CAA.

DATES: Written comments must be received on or before December 9, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R04–OAR–2013–0564 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0564, 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.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0564. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW.,

Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman may be reached by phone at (404) 562–9043, or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is being proposed?

Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida are currently designated attainment for the 1997 8-hour ozone NAAQS. As discussed further below, these counties were previous nonattainment areas for the 1-hour ozone NAAQS but were subsequently redesignated from nonattainment to attainment for this NAAQS, and as such, these counties were required to implement a ''110(a)(1) ozone Maintenance Plan'' for the 1997 8-hour ozone NAAQS.[1] This rulemaking proposes to approve a revision to the 110(a)(1) ozone Maintenance Plans for the Maintenance Plan Areas submitted by the Florida Department of Environmental Protection (FDEP). Specifically, EPA is proposing to approve changes to the previously-approved 110(a)(1) ozone Maintenance Plans, including updated modeling, that show that the Maintenance Plan Areas can continue to maintain the 1997 8-hour ozone standard without reliance on emissions reductions from inspection and maintenance programs previously implemented in these Areas,[2] and without the use of gasoline with an RVP of 7.8 psi in any of the Maintenance Plan Areas during the high ozone season—June 1 through September 15.[3] EPA is also proposing to conclude that the new modeling associated with these changes demonstrates that the Maintenance Plan Areas would continue to attain the 1997 8-hour ozone NAAQS without the implementation of an inspection and maintenance program and with the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season. Consistent with section 110(l) of the Act, EPA also proposes to conclude that the removal of the regulatory references in the Florida SIP to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, and the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season would not interfere with other applicable requirements.

Specifically, the new modeling conducted by Florida to account for the proposed relaxation of the applicable RVP standard in the Maintenance Plan Areas results in changes to the on-road mobile and non-road emissions associated with the maintenance plans.[4] This modeling also accounts for the absence of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. As such, the Florida SIP revision updates the on-road mobile and non-road source emissions for the Areas. EPA is also proposing approval of these changes.

This preamble is hereafter organized into six parts. Section II provides the background of the designation status for the Maintenance Plan Areas with respect to the various ozone NAAQS. Section III describes the applicable history of Federal gasoline regulation. Section IV includes the history of the inspection and maintenance programs in the Maintenance Areas. Section V provides the Agency's policy regarding relaxation of the volatility standards. Section VI provides EPA's analysis of the information submitted by Florida to support: (1) The removal of the regulatory references to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, and a relaxation of the more stringent volatility standard in the Areas; (2) changes to the on-road mobile and non-road source emissions associated with the 110(a)(1) Maintenance Plan for the Areas; and (3) provides EPA's analysis regarding the proposed change.

II. What is the background of the areas?

On November 6, 1991 (56 FR 56694), EPA designated the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). As discussed in greater detail below, as part of the RVP requirements associated with its nonattainment designation, gasoline sold in the 1-hour ozone nonattainment areas could not exceed 7.8 psi RVP during the high-ozone season months.

Following implementation of the 7.8 psi RVP requirement in the Southeast Florida, Jacksonville and Tampa areas, each area was redesignated to attainment for the 1-hour ozone NAAQS (60 FR 41 (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

Included with Florida's redesignation requests, the State submitted the required 1-hour ozone monitoring data and maintenance plans ensuring that these areas would remain in attainment of the 1-hour ozone standard for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plans submitted by Florida followed EPA guidance for maintenance areas subject to section 175A of the CAA. Florida later updated all three maintenance plans, in accordance with section

[1] Per the Phase 1 final rule to implement the 1997 8-hour Ozone standard, anti-backsliding provisions—codified at 40 CFR 51.905(a)(4)—require maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (Apr. 30, 2004).

[2] On August 2, 2001 (66 FR 40137), and August 15, 2002 (67 FR 53314), EPA removed the emission reductions attributable to the Motor Vehicle Inspection Program in the ozone maintenance plans for the Jacksonville (i.e., Duval County), Southeast Florida (i.e., Broward, Dade and Palm Beach Counties) and Tampa (i.e,. Hillsborough and Pinellas Counties) areas. However, in those rulemakings, EPA did not remove Florida Code Annotated Section 62–242 from the table of EPA-approved rules at 40 CFR 52.520. EPA is now proposing to remove these rules from the Florida SIP.

[3] As discussed further below, a separate rulemaking is required for relaxation of the current requirement to use gasoline with an RVP of 7.8 psi in the Area. While EPA evaluates the approvability of Florida's revision to the maintenance plan pursuant to section 110(l), the decision regarding removal of Federal RVP requirements pursuant to section 211(h) in the Area is made at the discretion of the Administrator.

[4] In addition to a less stringent RVP standard, the new modeling also utilizes updated models for on-road and off-road mobile emission sources.

175(A)(b) to extend the maintenance plans to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of these areas to attainment for the 1-hour ozone NAAQS.

These 1-hour ozone maintenance plan requirements remained in place for the Maintenance Plan Areas when they were subsequently designated unclassifiable/attainment for the subsequent 1997 8-hour ozone NAAQS [5] and then designated unclassifiable/attainment for the revised 2008 8-hour ozone NAAQS. *See* 77 FR 30088, May 21, 2012. However, the Maintenance Plan Areas were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[6] As required, these 110(a)(1) maintenance plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also include components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provide contingency measures should an area violate the NAAQS. Florida's ozone redesignation requests and maintenance plans for the Maintenance Plan Areas did not remove the 7.8 psi RVP standard, and as such, these areas remain subject to the 7.8 psi RVP standard per the terms of their approved respective 110(a)(1) maintenance plans. However, Florida did submit, and EPA subsequently approved, maintenance plans to remove the emission reductions attributable to the previously-implemented inspection and maintenance in the Maintenance Plan Areas. More discussion on the history of the gasoline volatility requirement, and the history of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, is provided below.

[5] Effective June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857. The same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[6] As noted above, maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (Apr. 30, 2004).

III. What is the history of the gasoline volatility requirement?

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of CAA EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that we may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658).

As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to EPA's volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the limits of CAA section 211(h).[7] In those rulemakings, EPA explained that the Governor of a State may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a nonattainment area. The petition must demonstrate such a change is appropriate because of a particular local economic impact and that sufficient alternative programs are available to achieve attainment and maintenance of the 1-hour ozone NAAQS. A current listing of the RVP requirements for states can be found on EPA's Web site at: *http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm.*

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard in a nonattainment area is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years after redesignation. Depending on the Area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard. As noted above, however, Florida did not request relaxation of the applicable 7.8 psi RVP standard when the Area was redesignated to attainment for the 1-hour ozone NAAQS. Rather, Florida is now seeking to relax the 7.8 psi RVP

[7] See 55 FR 23658 (June 11, 1990), 56 FR 24242 (May 29, 1991) and 56 FR 64704 (Dec. 12, 1991).

standard after the Area has been redesignated to attainment for the 1-hour ozone NAAQS. Accordingly, the original modeling and maintenance demonstration supporting the section 110(a)(1) ozone maintenance plans must be revised to reflect continued attainment under the relaxed 9.0 psi RVP standard that the State has requested.

IV. What is the history of the Motor Vehicle Inspection Program in the areas?

The State of Florida previously implemented a motor vehicle inspection and maintenance program in the Jacksonville, Southeast Florida and Tampa areas as part of the State's strategy to meet the 1-hour ozone NAAQS. This program was referred to as the Motor Vehicle Inspection Program (MVIP). On July 1, 2000, the Florida legislature terminated the MVIP for Jacksonville, Southeast Florida and Tampa, and removed the program's statutory authority. As a consequence of this repeal, FDEP developed and submitted SIP revisions to remove the emissions reductions attributable to this program in the aforementioned areas from the Florida SIP. Specifically, on December 10, 1999, FDEP submitted a revision to the SIP for the ozone air quality maintenance plans for the Jacksonville and Southeast Florida areas, and on August 29, 2000, for the Tampa, Florida area. FDEP's submissions requested the removal of the emission reduction credits attributable to the MVIP from the future year emission projections contained in those plans and provided a demonstration that such removals would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. At the time, however, Florida did not also explicitly request removal from its SIP of the regulatory references to the MVIP program. Subsequently, in EPA's final rulemakings, published August 2, 2001 (66 FR 40137), and August 15, 2002 (67 FR 53314), the Agency approved the SIP revisions removing the emissions reductions that were attributable to the inspection and maintenance program in the Maintenance Plan Areas, but the regulatory references to the MVIP program remained.

In summary, Florida's December 10, 1999, and August 29, 2000, SIP revisions demonstrated that the Maintenance Plan Areas could maintain the ozone NAAQS without the implementation of the MVIP. EPA reviewed the State's emissions inventory and modeling analyses and found that they met the applicable guidance and requirements. Therefore, the State made the necessary demonstration that the MVIP was not necessary to maintain the ozone NAAQS and that attainment of the NAAQS for any other pollutant would not be affected by removing the MVIP from the SIP. However, in EPA's final rulemakings related to Florida's December 10, 1999, and August 29, 2000, SIP revisions, EPA did not remove Florida Code Annotated Section 62–242 from the table of EPA-approved rules at 40 CFR 52.520. On November 29, 2012, FDEP submitted a letter to EPA requesting that EPA remove Rules 62–242.100 through 62.242.900 (i.e., entire Chapter 62–242) from the Florida SIP. In its letter, the State noted that these rules relate to the defunct MVIP, and also noted EPA's previous rulemakings to remove the emissions reductions attributable to this program in its SIP. Today's proposed action is being taking in response to FDEP's request in the November 29, 2012, letter.

EPA notes that the MVIP was terminated over 12 years ago and as mentioned above, on August 15, 2013, FDEP submitted revisions to the 110(a)(1) maintenance plans for the same counties formerly subject to the MVIP. EPA also notes that Florida's August 15, 2013, SIP revision included a technical demonstration supporting the State's request to relax the applicable RVP standard in the Maintenance Plan Areas. That demonstration provides that, were the Maintenance Plan Areas subject to the less stringent RVP standard, continued maintenance is demonstrated and the ambient air quality standard should not be violated in the future. This demonstration of continued maintenance is premised upon the absence of the previously-implemented MVIP in the Maintenance Plan Areas, and as such, is consistent with the previous analysis demonstrating that discontinuing the MVIP in the Maintenance Plan Areas would not interfered with the continued maintenance in these Areas.

V. What are the section 110(l) requirements?

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of Florida's August 15, 2013, SIP revision is whether the requested action complies with section 110(l) of the CAA. Because the modeling associated with the current maintenance plans for Florida are premised in part upon the 7.8 psi RVP requirements, a request to revise the maintenance plan modeling to no longer rely on the 7.8 psi RVP requirement is subject to the requirements of CAA section 110(l). Therefore, the State must demonstrate that its August 15, 2013, SIP revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA. As discussed above, it should also be noted that Florida's technical demonstration in its August 15, 2013, SIP revision accounts for the absence of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas.

The section 110(l) non-interference demonstration is a case-by-case determination based upon the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated, but for which the EPA has not yet made designations. The specific elements of the 110(l) analysis contained in the SIP revision depend on the circumstances and emissions analyses associated with that revision. EPA's analysis of Florida's August 15, 2013, SIP revision, including review of section 110(l) requirements, is provided below.

Finally, EPA notes that this rulemaking is only proposing to approve the State's revision to its existing maintenance plans for the Maintenance Plan Areas showing that the areas can continue to maintain the standard without the emission reductions attributable to the previously-implemented inspection and maintenance program, and without relying upon gasoline with an RVP of 7.8 psi being sold in the Areas during the high ozone season. Consistent with CAA section 211(h) and the Phase II volatility regulations, a separate rulemaking is required for relaxation of the current requirement to use gasoline with an RVP of 7.8 psi in the Area.

VI. What is EPA's analysis of Florida's submittal and request?

a. Overall Preliminary Conclusions for Non-Interference Analyses for Florida's Request for Removal of the Federal RVP Requirement

On August 15, 2013, FDEP submitted revisions to the 110(a)(1) maintenance plans for the Maintenance Plan Areas. The submission modifies the existing 110(a)(1) maintenance plans to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for these

areas. Florida's August 15, 2013, SIP revision includes an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards and on other the applicable NAAQS. Florida's August 15, 2013, SIP revision also includes an update to the attainment inventory, emissions projections and air quality data which continues to account for the absence of the previously-implemented inspection and maintenance programs, and the 7.8 psi RVP requirements for the Maintenance Plan Areas.

For the purposes of these changes, EPA is making the preliminary determination that the applicable NAAQS [8] of interest for the non-interference demonstration required by section 110(l) of the CAA are the ozone, particulate matter and nitrogen dioxide (NO_2) standards. VOC and NOx emissions are precursors for ozone and particulate matter (PM), and NO_2 is a component of NOx. There are no emissions reductions attributable to the emissions of lead, sulfur dioxide (SO_2), or carbon monoxide (CO) from RVP requirements. As a result, there is no information indicating the proposed SIP revision would have any impact on those NAAQS. Therefore, EPA's analysis below focuses on the impact of Florida's changes to the RVP requirements on the ozone, particulate matter and NO_2 NAAQS.

Florida's August 15, 2013, SIP revision, includes revised mobile source emissions modeling using EPA's approved models—Motor Vehicle Emissions Simulator (MOVES) and NONROAD2008—to support the request to modify the RVP gasoline requirement from 7.8 psi to 9.0 psi, and accounts for the removal of the previously-implemented inspection and maintenance program for the Areas. In that technical demonstration, FDEP provided information regarding the emissions trends from the maintenance plans for the 1997 8-hour ozone NAAQS. To determine these emissions, FDEP's maintenance demonstration compared the 2002 baseline emissions inventory to the 2018 projected emissions inventory for each Maintenance Plan Area. FDEP used 7.8 RVP for model years 2002, 2009 and 2011 and 9.0 RVP for model year 2014 and 2018, and did not include inspection and maintenance programs in any of the Areas. FDEP concluded that if projected emissions remain at or below the baseline emissions, continued maintenance is demonstrated and the ambient air quality standard should not be violated in the future. In addition to comparing the final year of the plan, all of the interim years are compared to the 2002 baseline to demonstrate that these years are also expected to show continued maintenance of the 8-hour ozone NAAQS as shown below in tables 1 and 2.

While the remainder of this rulemaking is focused on the emission impacts related to the potential relaxation of the Federal RVP requirements from 7.8 psi to 9.0 psi in the Maintenance Plan Areas, it should be noted that since the time that EPA removed the emission reductions attributable to the previously-implemented inspection and maintenance programs in the areas, no credit for inspection and maintenance programs has been taken in the Florida SIP. Only the residual regulatory citation and language remained in the Florida SIP. Today's action is proposing to remove this residual regulatory citation and language from the Florida SIP based on the technical demonstration that accounts for the absence of the inspection and maintenance programs in the Maintenance Plan Areas.

Relaxation of the RVP standard from 7.8 to 9.0 psi revealed a slight increase in NOx and VOC emissions. Notwithstanding this slight increase, EPA believes the most appropriate analysis for purposes of evaluating non-interference is whether total area emissions in the future years would remain at or below the level determined to be consistent with maintenance of the NAAQS. The State's emission analysis is comprised of two different man-made emission inventory source classifications; (1) on-road mobile and (2) off-road mobile, which are each discussed below.

On-road mobile sources are those vehicles that travel on the roadways. The MOVES model uses the road class vehicle miles traveled (VMT) and other operating conditions as input parameters to generate an output file that contain estimated emissions. For the projected years' inventories, the on-road mobile sources emissions are calculated using the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected Federal tailpipe standards, fleet turnover and new fuel standards.

Off-road mobile sources are equipment that can move but do not use the roadways (i.e., lawn mowers, construction equipment, railroad locomotives, aircraft). With the exception of the railroad locomotives and aircraft engines, the emissions from this category are calculated using the EPA's NONROAD2008 non-road mobile model. The railroad locomotive and aircraft engine emissions are estimated by taking an activity and multiply by an emission factor. Total off-road mobile source emissions represent the sum of emissions generated by the NONROAD 2008 model and emissions calculated for aircraft and railroad locomotives.

As noted above, although the revised emissions analysis showed slight increases in NO_X and VOC emissions for on-road and off-road mobile sources when the less-stringent RVP standard was used, the Maintenance Plan Areas nonetheless continue to demonstrate a downward trend in NO_X and VOC emissions through all future years. Tables 1 and 2 below provide the emission analysis results for total on-road, area, point and non-road emissions in the Maintenance Plan Areas using a less-stringent RVP standards of 9.0 psi for years 2014 and 2018. Tables 3 and 4 below show a comparison of VOC and NO_X estimates for 2009 and projected emissions for 2018 if the 7.8 psi RVP remained in place.

TABLE 1—TOTAL MAN-MADE VOC EMISSIONS (tons per day (TPD)) FOR THE MAINTENANCE PLAN AREAS

County	2002	2005	2008	2011	2014	2018
Jacksonville Area						
Duval	138.9	127.4	116.0	107.3	104.2	103.9

[8] The six NAAQS for which EPA establishes health and welfare based standards are CO, lead, NO_2, ozone, PM, and SO_2.

TABLE 1—TOTAL MAN-MADE VOC EMISSIONS (tons per day (TPD)) FOR THE MAINTENANCE PLAN AREAS—Continued

County	2002	2005	2008	2011	2014	2018
Southeast Florida Area						
Broward	207.6	191.6	175.6	165.6	162.4	165.2
Dade	276.7	257.4	238.0	224.4	218.7	219.9
Palm Beach	180.1	164.1	148.1	136.6	131.0	129.6
Tampa Area						
Hillsborough	165.1	152.2	139.3	129.5	125.8	125.3
Pinellas	135.1	124.7	114.3	106.7	104.3	104.8

TABLE 2—TOTAL MAN-MADE NO_X EMISSIONS (TPD) FOR THE MAINTENANCE PLAN AREAS

County	2002	2005	2008	2011	2014	2018
Jacksonville Area						
Duval	259.4	188.2	127.1	90.5	64.3	62.3
Southeast Florida Area						
Broward	263.4	208.3	153.2	112.5	88.9	67.7
Dade	294.3	247.8	201.3	160.3	131.6	102.5
Palm Beach	189.7	154.1	118.5	89.1	71.2	56.5
Tampa Area						
Hillsborough	315.5	230.4	145.2	99.0	82.5	66.4
Pinellas	152.4	122.0	91.6	68.1	55.3	44.6

TABLE 3—TOTAL MAN-MADE VOC EMISSIONS (tons per summer day) FOR THE MAINTENANCE PLAN AREAS

County	2009	2018	
	7.8 RVP	7.8 RVP	9.0 RVP
Jacksonville Area			
Duval	112.1	103.1	103.9
Southeast Florida Area			
Broward	170.1	164.1	165.2
Dade	231.6	218.3	219.9
Palm Beach	142.9	128.3	129.6
Tampa Area			
Hillsborough	135.0	124.3	125.3
Pinellas	110.9	103.9	104.8

TABLE 4—TOTAL MAN-MADE NO_X EMISSIONS (tons per summer day) FOR THE MAINTENANCE PLAN AREAS

County	2009	2018	
	7.8 RVP	7.8 RVP	9.0 RVP
Jacksonville Area			
Duval	106.6	62.2	62.3
Southeast Florida Area			
Broward	134.8	67.6	67.7
Hillsborough	116.8	66.3	66.4
Dade	185.8	102.3	102.5
Palm Beach	106.6	56.4	56.5
Tampa Area			
Hillsborough	116.8	66.3	66.4

TABLE 4—TOTAL MAN-MADE NO_X EMISSIONS (tons per summer day) FOR THE MAINTENANCE PLAN AREAS—Continued

County	2009	2018	
	7.8 RVP	7.8 RVP	9.0 RVP
Pinellas	81.4	44.5	44.6

As Tables 1 and 2 indicate, NO_X and VOC emissions in the Maintenance Plan Areas will continue to decrease, even with the increase in high ozone season fuel RVP to 9.0 psi. The slight increase in emissions as shown in Tables 3 and 4 is being mitigated area-wide by a steady decrease in tailpipe emissions, which is the result of a cleaner new vehicle fleet replacing the older fleet and other Federal and State emissions reduction programs. As discussed below, based on this data, together with air quality data, and maintenance demonstrations and attainment designations for the NAAQS, EPA is making the preliminary determination that the slight increase in NO_X and VOC emissions resulting from this change will not interfere with the Maintenance Plan Areas' ability to maintain the NAAQS, or any other applicable requirement. More details on the individual non-interference analyses for the ozone, PM, and NO_2 NAAQS are provided below.

b. Non-Interference Analysis for the Ozone NAAQS

As described above, each of the Maintenance Plan Areas was redesignated to attainment for purposes of the 1-hour ozone NAAQS. These redesignations were based upon Florida redesignation requests for each Maintenance Plan Area which included the required 1-hour ozone monitoring data and maintenance plans ensuring the areas would remain in attainment of the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). These maintenance plan requirements remained in place for the counties when they were subsequently designated unclassifiable/attainment on April 30, 2004, for the 1997 8-hour ozone NAAQS (69 FR 23858) effective June 15, 2004. However, because these 1997 8-hour ozone unclassifiable/attainment areas had existing maintenance plans pursuant to the 1-hour ozone NAAQS, they were required to submit a 10-year 110(a)(1) maintenance plan for purposes of the 1997 8-hour ozone NAAQS. As required, 110(a)(1) maintenance plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as unclassifiable/attainment for the 1997 8-hour ozone NAAQS. As a previous 1-hour ozone nonattainment areas, the Maintenance Plan Areas were already subject to the Federal RVP requirements for high ozone season gasoline. Although originally implemented for the 1-hour ozone NAAQS, these Federal RVP requirements continued to apply to the Maintenance Plan Areas per the 110(a)(1) maintenance plans required to show continued attainment and maintenance of the 1997 8-hour ozone NAAQS.

The Maintenance Plan Areas are continuing to meet the 1-hour and 1997 8-hour ozone NAAQS,[9] and are meeting the 2008 8-hour ozone NAAQS, based on recent air quality monitoring data. The 2008 ozone NAAQS is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.075 parts per million (ppm) or less. The current design values for ozone for the Maintenance Plan Areas are shown in Table 5 with the highest design value in the Area being 0.072 ppm in 2012. EPA also evaluated the potential increase in the VOC and NO_X precursor emissions, and whether it is reasonable to conclude that the requested change to RVP requirements in the Areas during the high ozone season would cause the Maintenance Plan Areas to be out of compliance with the 2008 8-hour ozone NAAQS.

Table 5 below show the design value (DV) for the Maintenance Plan Areas currently show attainment of the 2008 8-hour NAAQS based upon the most recent design values.

TABLE 5—AREA DESIGN VALUES

County	2005–2007 DV (ppm)	2006–2008 DV (ppm)	2007–2009 DV (ppm)	2008–2010 DV (ppm)	2009–2011 DV (ppm)	2010–2012 DV (ppm)
Jacksonville Area						
Duval	0.077	0.075	0.070	0.068	0.067	0.065
Southeast Florida Area						
Broward	0.067	0.068	0.063	0.062	0.060	0.059
Dade	0.074	0.074	0.069	0.068	0.065	0.065
Palm Beach	0.065	0.067	0.065	0.065	0.063	0.063
Tampa Area						
Hillsborough	0.081	0.081	0.079	0.075	0.073	0.072
Pinellas	0.072	0.072	0.069	0.067	0.066	0.067

In light of the current designations, monitoring and emissions trend data showing attainment and the submitted modeling, including the fact that the NO_X emissions inventories are projected

[9] The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration. The level of the 2008 8-hour ozone NAAQS is 0.075 ppm. The 2008 8-hour ozone NAAQS is not met when the design value is greater than 0.075 ppm.

to continue to significantly decrease,[10] EPA has preliminarily determined that the revised modeling associated with Florida's technical demonstration related to the State's request to change to the RVP requirement for the Maintenance Plan Areas will not interfere with continued attainment of the ozone NAAQS.

c. Non-Interference Analysis for the PM NAAQS

The precursors for fine particulate matter less than 2.5 micrometers ($PM_{2.5}$) are NO_X, SO_2, VOC and ammonia. As mentioned earlier in this rulemaking, the RVP requirements result in emissions benefits for VOC and NO_X, accordingly EPA focused on these precursors for the analysis of the potential impact of Florida's requested SIP change.

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour NAAQS of 65 μg/m³. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour NAAQS of 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. On January 15, 2013 (78 FR 3086), EPA established an annual primary $PM_{2.5}$ NAAQS at 12.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA retained the 2006 24-hour NAAQS at 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations.[11]

On January 5, 2005 (70 FR 944), all counties in the Maintenance Plan Areas were designated unclassifiable/attainment for the 1997 annual $PM_{2.5}$ standards, and on November 13, 2009 (74 FR 58688), all counties in the Areas were designated unclassifiable/attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. As Table 6 indicates the $PM_{2.5}$ annual and 24-hour design values demonstrate attainment of the respective NAAQS for the Maintenance Plan Areas.

TABLE 6—$PM_{2.5}$ DESIGN VALUES

Year	2007–2009	2008–2010	2009–2011	2010–2012
Annual Design Value				
Jacksonville Area				
Duval	9.0	8.6	8.4	8.1
Southeast Florida Area				
Broward	7.3	7.0	6.8	6.7
Dade	8.0	7.8	7.5	7.5
Palm Beach	6.5	6.3	6.3	7.1
Tampa Area				
Pinellas	8.2	7.9	7.7	7.5
24-Hour Design Value				
Jacksonville Area				
Duval	21	18	22	21
Southeast Florida Area				
Broward	18	16	15	15
Dade	18	16	14	14
Palm Beach	17	14	14	16
Tampa Area				
Pinellas	18	16	16	16

As noted above, although the revised emissions analysis showed slight increases in the PM precursor emissions (NO_X and VOC) associated with the less-stringent RVP standard, the Maintenance Plan Areas nonetheless continue to demonstrate a downward trend in NO_X and VOC emissions through all future years. Therefore, EPA does not expect the RVP revision to have a significant effect on continued maintenance of the PM NAAQS. EPA has preliminarily determined that a change to the Federal RVP requirement the Areas will not interfere with the Areas maintaining the 1997 $PM_{2.5}$ annual or the 2006 24-hour $PM_{2.5}$ NAAQS.

d. Non-Interference Analysis for the 2010 NO_2 NAAQS

On February 17, 2012 (77 FR 9532), EPA finalized designations for the 2010 NO_2 NAAQS. All counties in Florida, were designated unclassifiable/attainment for the 2010 NO_2 NAAQS. Based on Florida's August 15, 2013, SIP revision, EPA has evaluated the potential increase in the NOx emissions (between June 1st and September 15th) associated with the proposed less-stringent 9.0 psi RVP requirement to determine whether this change would cause the Maintenance Plan Areas to violate the 2010 NO_2 NAAQS. This evaluation indicates that the slight

[10] Future decreases in the inventory are an order of magnitude greater than the increases associated with the change in RVP.

[11] EPA also retained the 1997 annual $PM_{2.5}$ NAAQS of 15.0 μg/m³ as a secondary NAAQS to protect against certain welfare effects and EPA retained the 1997 24-hour $PM_{2.5}$ NAAQS of 65 μg/m³.

increase in NO_X emissions associated with the less-stringent RVP requirement would be mitigated by a steady decrease in tailpipe emissions, which is the result of cleaner new light- and heavy-duty vehicle fleets replacing the older fleets. See Tables 2 and 4 above.

In light of the current designation, including the fact that NOx emissions inventories are projected to continue to significantly decrease, EPA has preliminarily determined that a change to the Federal RVP requirements for the Maintenance Plan Areas would not interfere with the continued decline in NO_X emissions, nor with attainment or maintenance of the 2010 NO_2 NAAQS.

VII. Proposed Action

First, EPA is proposing to approve the State of Florida's August 15, 2013, SIP revision to its 1997 8-hour ozone NAAQS 110(a)(1) Maintenance Plans for the Maintenance Plan Areas. Specifically, EPA is proposing to approve the State's showing that the Maintenance Plan Areas can continue to maintain the 1997 ozone standard without emissions reductions associated with both the previously-implemented MVIP, and the use of gasoline with an RVP of 7.8 psi during the high ozone season—June 1 through September 15 in the Maintenance Plan Areas. Second, EPA is proposing to approve updated attainment inventories, emissions projections and air quality monitoring which are associated with updated and revised modeling related to the proposed change in the applicable RVP standard, and the absence of the previously-implemented inspection and maintenance programs for the Maintenance Plan Areas. The models used to calculate these projections for mobile sources also have been updated to the most currently-approved versions. Third, EPA is proposing to remove the Florida Code Annotated Section 62–242, which pertains to the previously-implemented MVIP, from the Florida SIP.

EPA has preliminarily determined that Florida's August 15, 2013 SIP revision, including the technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and the updated attainment inventory, emissions projections and air quality monitoring data, are consistent with the applicable provisions of the CAA. Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal 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 proposed 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 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 proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: October 28, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–26850 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 78, No. 217

Friday, November 8, 2013

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 4, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received by December 9, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business—Cooperative Service

Title: Rural Economic Development Loan and Grant Program

OMB Control Number: 0570–0035

Summary of Collection: The information collected is necessary to implement Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940(c)) that established a loan and grant program. Rural Business Service (RBS) mission is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Under this program, zero interest loans and grants are provided to electric and telecommunications utilities that have borrowed funds from RUS. The purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects.

Need and Use of the Information: RBS needs this collected information to select the projects it believes will provide the most long-term economic benefit to rural areas. The selection process is competitive and RBS has generally received more applications than it could fund. RBS also needs to make sure the funds are used for the intended purpose, and in the case of the loan, the funds will be repaid. RBS must determine that loans made from revolving loan funds established with grants are used for eligible purposes.

Description of Respondents: Not-for-profit Institutions; business or other for-profit;

Number of Respondents: 120

Frequency of Responses: Reporting: On occasion, annually

Total Burden Hours: 4,968

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–26794 Filed 11–7–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 4, 2013.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by December 9, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: USDA Food Connect Web site.

OMB Control Number: 0581–0224.

Summary of Collection: The USDA Food Connect Web site (previously known as the USDA Food and Commodity Connection Web site) operates pursuant to the authority of Section 32 of Public Law 320, Section 8 of the Child Nutrition Act of 1966 (42 U.S.C. 1777) and the National School Lunch Program, 7 CFR part 210. It was developed to assist the institutional food service community across the United States. The Web site focuses on providing information to institutional food service professions, as well as providing a platform for processors and brokers to post information about their processed USDA supplied commodities and other commercial food products available for institutional food service purchase. The USDA Food Connect Web site provides food related associations a location to provide information on services and materials available from the organization. The Web site is a public Web site and the information provided is considered as public information.

Need and Use of the Information: The USDA Food Connect Web site will collect all information electronically at one time upon registration. Each new user must create their individual login and password. There are four primary types of users; institutional food service professionals, processors, brokers and food related associations. The Food Connect Web site is designed as a central location in which institutional food service professionals, who provide meals in institutional settings, can locate processors who manufacture foods utilizing USDA provided commodities, brokers who represent the processors, and food related associations. No information is collected from a user when they access the Web site as a guest.

Description of Respondents: Business or other for-profit; Farms; State, Local & Tribal governments.

Number of Respondents: 1,215.

Frequency of Responses: Reporting: Other (One Time).

Total Burden Hours: 297.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–26793 Filed 11–7–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0025]

Okanagan Specialty Fruits, Inc.; Availability of Plant Pest Risk Assessment and Environmental Assessment for Determination of Nonregulated Status of Apples Genetically Engineered to Resist Browning

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is making available for public comment our plant pest risk assessment and our draft environmental assessment regarding a request from Okanagan Specialty Fruits, Inc., seeking a determination of nonregulated status of apple events designated as events GD743 and GS784, which have been genetically engineered to resist browning. We are soliciting comments on whether these genetically engineered apples are likely to pose a plant pest risk.

DATES: We will consider all comments that we receive on or before December 9, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/# !documentDetail;D=APHIS-2012-0025*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0025, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/# !docketDetail;D=APHIS-2012-0025* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

Supporting documents are also available on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition Number 10–161–01p.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Stankiewicz Gabel, Chief, Biotechnology Environmental Analysis Branch, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3927, email: *rebecca.l.stankiewicz-gabel@aphis.usda.gov.* To obtain copies of the supporting documents for this petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR Part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR Part 340. APHIS has received a petition (APHIS Petition Number 10–161–01p) from Okanagan Specialty Fruits, Inc., (Okanagan) of British Columbia, Canada, seeking a determination of nonregulated status of apples (*Malus x domestica*) designated as events GD743 and GS784, which have been genetically engineered to resist browning. The petition stated that these apples are unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR Part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/# !docketDetail;D=APHIS-2011-0129*.

[2] To view the notice, the petition, and the comments we received, go to *http://*

the **Federal Register** on July 13, 2012, (77 FR 41362–41363, Docket No. APHIS–2012–0025), APHIS announced the availability of the Okanagan petition for public comment. APHIS solicited comments on the petition for 60 days ending on September 11, 2012, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received 1,939 comments on the petition. Several of these comments included electronic attachments consisting of a consolidated document of many identical or nearly identical letters, for a total of 72,745 comments. Issues raised during the comment period include concerns regarding marketing and economic impacts; cross-pollination; and health, nutrition, and food safety. APHIS has evaluated the issues raised during the comment period and, where appropriate, has provided a discussion of these issues in our environmental assessment (EA).

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for public involvement in our decisionmaking process. According to our public review process (see footnote 1), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its EA, preliminary finding of no significant impact (FONSI), and its plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period.

Alternatively, if APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues, APHIS will follow Approach 2. Under Approach 2, APHIS first solicits written comments from the public on a draft EA and PPRA for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement). For this petition, we are using Approach 2.

APHIS has prepared a PPRA to determine if apple events GD743 and GS784 are unlikely to pose a plant pest risk. In section 403 of the Plant Protection Act, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

APHIS has also prepared a draft EA in which we present two alternatives based on our analysis of data submitted by Okanagan, a review of other scientific data, field tests conducted under APHIS oversight, and comments received on the petition. APHIS is considering the following alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of apple events GD743 and GS784 and they would continue to be regulated articles, or (2) make a determination of nonregulated status of apple events GD743 and GS784.

The EA was prepared in accordance with (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR Parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR Part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR Part 372).

In accordance with our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments on our PPRA and draft EA regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 30 days from the date of this notice. Copies of the PPRA and draft EA, as well as the previously published petition, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

As noted previously, after the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. After reviewing and evaluating the comments on the draft EA and PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final EA. Based on the final EA, APHIS will prepare a NEPA decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

If a FONSI is reached, APHIS will furnish a response to the petitioner, either approving or denying the petition. APHIS will also publish a notice in the **Federal Register** announcing the regulatory status of the GE organism and the availability of APHIS' final EA, PPRA, FONSI, and our regulatory determination.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of November 2013.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–26792 Filed 11–7–13; 8:45 am]

BILLING CODE 3410–34–P

www.regulations.gov/#!docketDetail;D=APHIS-2012-0025.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the Rural Community Development Initiative (RCDI) grant program.

DATES: Comments on this notice must be received by January 7, 2014 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Susan Woolard, Loan Specialist, Community Programs Division, RHS, USDA, 1400 Independence Ave. SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1506, Email *susan.woolard@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Funds Availability (NOFA) Inviting Applications for the

Rural Community Development Initiative.

OMB Number: 0575–0180.

Expiration Date of Approval: November 30, 2013.

Type of Request: Extension of a currently approved information collection.

Abstract: RHS, an Agency within the USDA Rural Development mission area, will administer the RCDI grant program through their Community Facilities Division. The intent of the RCDI grant program is to develop the capacity and ability of rural area recipients to undertake projects through a program of technical assistance provided by qualified intermediary organizations. The eligible recipients are nonprofit organizations, low-income rural communities, or federally recognized Indian tribes. The intermediary may be a qualified private, nonprofit, or public (including tribal) organization. The intermediary is the applicant. The intermediary must have been organized a minimum of 3 years at the time of application. The intermediary will be required to provide matching funds, in the form of cash or committed funding, in an amount at least equal to the RCDI grant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.24 hours per response.

Respondents: Intermediaries and recipients.

Estimated Number of Respondents: 1,260.

Estimated Number of Responses per Respondent: 2.67.

Estimated Number of Responses: 3,470.

Estimated Total Annual Burden on Respondents: 4,188.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: October 29, 2013.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2013–26889 Filed 11–7–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: International Trade Administration, Committee for the Implementation of Textile Agreements.

Title: Procedures for Considering Requests and Comments from the Public under the Textile Safeguard Provision of the United States-Peru Trade Promotion Agreement.

OMB Control Number: 0625–0267.

Form Number(s): N/A.

Type of Request: Regular submission.

Burden Hours: 24.

Number of Respondents: 6 (1 for Request; 5 for Comments).

Average Hours per Response: 4 hours for a Request; and 4 hours for each Comment.

Needs and Uses: Title III, Subtitle B, Section 321 through Section 328 of the United States-Peru Free Trade Agreement Implementation Act (the ''Act'') implements the textile and apparel safeguard provisions, provided for in Article 3.1 of the United States-Peru Free Trade Agreement (the ''Agreement''). This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, a Peruvian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.1 permits the United States to increase duties on the imported article from Peru to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement entered into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under section 322(a) of the Act, and for providing relief under section 322(b) of the Act.

In Proclamation No. 8341 (74 FR 4105, January 22, 2009), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Peru, thereby allowing CITA to take corrective action to protect the viability of the domestic textile or apparel industry, subject to section 322(b) of the Act.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.eop.gov.*

Dated: November 5, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–26831 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Request for Nominations of Members To Serve on the Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of request for nominations.

SUMMARY: The Bureau of the Census (Census Bureau) is requesting nominations of individuals and organizations to the Census Scientific Advisory Committee. The Census Bureau will consider nominations received in response to this notice, as well as from other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by December 9, 2013.

ADDRESSES: Please submit nominations to Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233. Nominations also may be submitted via fax at 301–763–8609 or by email to *jeri.green@census.gov.*

FOR FURTHER INFORMATION CONTACT: Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–2070.

SUPPLEMENTARY INFORMATION: The Census Scientific Advisory Committee was established in accordance with the Federal Advisory Committee Act (Title 5, United States Code (U.S.C.), Appendix 2). The following provides information about the committee, membership, and the nomination process.

Objectives and Duties

1. The Census Scientific Advisory Committee advises the Director of the Census Bureau on the uses of scientific developments in statistical data collection, statistical analysis, survey methodology, geospatial analysis, econometrics, cognitive psychology, and computer science as they pertain to the full range of Census Bureau programs and activities (including: communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics).

2. The Census Scientific Advisory Committee provides scientific and technical expertise from the following disciplines: demography, economics, geography, psychology, statistics, survey methodology, social and behavioral sciences, Information Technology and computing, marketing, communications, and other fields of expertise, as appropriate, to address Census Bureau program needs and objectives. This expertise is necessary to ensure that the Census Bureau continues to provide relevant and timely statistics used by federal, state, and local governments as well as business and industry in an increasingly technologically-oriented society.

3. The Census Scientific Advisory Committee functions solely as an advisory body under the Federal Advisory Committee Act.

4. The Census Scientific Advisory Committee reports to the Director of the Census Bureau.

Membership

1. The Census Scientific Advisory Committee consists of up to 20 members and one Chair appointed by the Director of the Census Bureau.

2. Members are appointed for a two or three-year term with staggered term-end dates.

3. Members shall serve as either Special Government Employees (SGEs) or Representatives. SGEs will be subject to the ethical standards applicable to SGEs. Members will be individually advised of the capacity in which they serve through appointment letters. Committee membership will be reevaluated at the conclusion of the two or three-year term with the prospect of member renewal, active attendance and participation in meetings, administrative compliance, Census Bureau needs, and the Director's concurrence will also be factors in renewals.

4. Committee members are selected in accordance with applicable Department of Commerce guidelines. The Census Scientific Advisory Committee aims to have balanced representation, considering such factors as geography, technical, and scientific expertise. The Advisory Committee will include members from diverse backgrounds, including academia and private enterprise, which are further diversified by business type or industry, geography, and other factors.

5. No employee of the federal government can serve as a member of the Census Scientific Advisory Committee.

Miscellaneous

1. Members of the Census Scientific Advisory Committee serve without compensation, but receive reimbursement for committee-related travel and lodging expenses.

2. The Census Scientific Advisory Committee meets at least once a year, budget permitting, but additional meetings may be held as deemed necessary by the Census Director or Designated Federal Official. All Advisory Committee meetings are open to the public in accordance with the Federal Advisory Committee Act.

Nomination Information

1. Nominations are requested as described above.

2. Nominees must have scientific and technical expertise in such areas as demography, economics, geography, psychology, statistics, survey methodology, social and behavioral sciences, Information Technology, computing, or marketing. Such knowledge and expertise are needed to provide advice and recommendations to the Director of the Census Bureau on the trends, uses, and application of scientific innovations and developments in relation to the full range of Census Bureau programs and activities.

3. Individuals, groups, and/or organizations may submit nominations on behalf of individual candidates. A summary of the candidate's qualifications (resumé or curriculum vitae) *must* be included along with the nomination letter. Nominees must be able to actively participate in the tasks of the Census Scientific Advisory Committee, including, but not limited to, regular meeting attendance, committee meeting discussant responsibilities, review of materials, as well as participation in conference calls, webinars, working groups, and/or special committee activities.

4. Nominations of organizations may come from individuals or organizations. Organizations also may self-nominate. A summary of the organization's qualifications and the experience that qualifies it for membership should be included in the nomination letter. Nominated organizations must be able to participate actively in the tasks of the Census Scientific Advisory Committee, including, but not limited to, regular meeting attendance, review of materials, and participation in conference calls, webinars, working groups, and special committee activities.

5. The Department of Commerce is committed to equal opportunity in the workplace and seeks diverse Advisory Committee membership.

Dated: November 1, 2013.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2013–26834 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register.** All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303. *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final*

Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://www.trade.gov/enforcement* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [1] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://trade.gov/enforcement/* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than September 30, 2014.

	Period to be reviewed
Antidumping Duty Proceedings	
Germany: Certain Small Diameter Carbon and Alloy Seamless Standard,[3] Line and Pressure Pipe, A–428–820	8/1/12–7/31/13
Benteler Steel/Tube GmbH.	
India: Certain Lined Paper Products, A–533–843	9/1/12–8/31/13
Ampoules & Vials Manufacturing Co. Ltd.	
A.R. Printing & Packaging (India) Pvt. Ltd.	
Pioneer Stationery Pvt. Ltd.	
Premier Exports.	
Marisa International.	
Navneet Publications (India) Ltd.	
Riddhi Enterprises.	
SGM Paper Products.	
Super Impex.	
Mexico: Certain Magnesia Carbon Bricks, A–201–837	9/1/12–8/31/13
RHI Glas GmbH.	
RHI-Refmex S.A. de C.V.	
Trafinsa S.A. de C.V.	
Vesuvius Mexico S.A. de C.V.	
Mexico: Light-Walled Rectangular Pipe and Tube,[4] A–201–83	8/1/12–7/31/13
Regiomontana de Perfiles y Tubos S.A. de C.V.	
Socialist Republic of Vietnam: Certain Frozen Fish Fillets,[5 6] A–552–801	8/1/12–7/31/13
C.P. Vietnam Corporation (''CP Vietnam'').	
TG Fishery Holdings Corporation (''TG'').	
Taiwan: Narrow Woven Ribbons with Woven Selvedge, A–583–844	9/1/12–8/31/13
Apex Trimmings Inc. d/b/a Papillon Ribbon & Bow (Canada).	
Cheng Hsing Ribbon Factory.	
Hen Hao Trading Co. Ltd. a.k.a. Taiwan Tulip Ribbons and Braids Co. Ltd.	
Hubscher Ribbon Corp., Ltd. d/b/a Hubschercorp.	
King Young Enterprises Co., Ltd.	
Multicolor.	

[1] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[2] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Papillon Ribbon & Bow (H.K.) Ltd.	
Papillon Ribbon & Bow (Shanghai) Ltd.	
Roung Shu Industry Corporation.	
Shienq Huong Enterprise Co., Ltd./Hsien Chan Enterprise Co., Ltd./Novelty Handicrafts Co., Ltd.[7]	
Yama Ribbons and Bows Co., Ltd.	
Yangzhou Bestpak Gifts & Crafts Co., Ltd.	
Yu Shin Development Co. Ltd.	
The People's Republic of China: Certain Kitchen Appliance Shelving and Racks,[8] A–570–941	9/1/12–8/31/13
Jiangsu Weixi Group Co.	
The People's Republic of China: Certain Magnesia Carbon Bricks,[9] A–570–954	9/1/12–8/31/13
ANH (Xinyi) Refractories Co. Ltd.	
Anyang Rongzhu Silicon Industry Co., Ltd.	
Barsan Global Lojistik Ve Gum. Mus.	
Bayuquan Refractories Co., Ltd.	
Beijing Tianxing Ceramic Fiber Composite Materials Corp.	
Benxi Iron & Steel (Group) International Economic & Trading Co.	
Changxing Magnesium Furnace Charge Co., Ltd.	
Changxing Wangfa Architectural & Metallurgical Materials Co., Ltd.	
Changzing Zhicheng Refractory Material Factory.	
China Metallurgical Raw Material Beijing Company.	
China Quantai Metallurgical (Beijing) Engineering & Science Co., Ltd.	
Chosun Refractories.	
Cimm Group of China.	
CNBM International Corporation.	
Dalian Cerax Co., Ltd.	
Dalian Dalmond Trading Co., Ltd.	
Dalian F.T.Z. Huaxin International.	
Dalian F.T.Z. Maylong Resources Co., Ltd.	
Dalian Huayu Refractories International Co., Ltd.	
Dalian LST Metallurgy Co., Ltd.	
Dalian Masoo International Trading.	
Dalian Mayerton Refractories Ltd.	
Dalian Morgan Refractories Ltd.	
Dashiqiao Bozhong Mineral Products Co., Ltd.	
Dashiqiao City Magnesite.	
Dashiqiao City Guangcheng Refractory Co., Ltd.	
Dashiqiao Jia Sheng Mining Co., Ltd.	
Dashiqiao Jinlong Refractories Co., Ltd.	
Dashiqiao RongXing Refractory Material Co., Ltd.	
Dashiqiao Sanqiang Refractory Material Co., Ltd.	
Dashiqiao Yutong Packing Factory.	
Dashiqiao Zhongjian Magnesia.	
Dengfeng Desheng Refractory Co., Ltd.	
DFL Minmet Refractories Corp.	
Duferco SA.	
Duferco BarInvest SA Beijing Office.	
Duferco Ironet Shanghai Representative Office.	
Eastern Industries & Trading Co., Ltd.	
Far Horizon Trading Limited.	
Fedmet Resources Corporation.	
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City.	
Fengchi Mining Co., Ltd of Haicheng City.	
Fengchi Refractories Co., of Haicheng City.	
Fengchi Refractories Corp.	
Ferro Alliages & Mineraux Inc.	
Firma.	
Haicheng City Qunli Mining Co., Ltd.	
Haicheng City Xiyang Import & Export Corporation.	
Haicheng Donghe Taidi Refractory Co., Ltd.	
Haicheng Ruitong Mining Co., Ltd.	
Haiyuan Talc Powder Manufacture Factory.	
Henan Boma Co. Ltd.	
Henan Kingway Chemicals Co., Ltd.	
Henan Tagore Refractories Co., Ltd.	
Henan Xinmi Changzxing Refractories, Co., Ltd.	
Hebei Qinghe Refractory Group Co. Ltd.	
Huailin Refractories (Dashiqiao) Pte. Ltd.	
Hualude Hardware Products Co. Ltd.	
Indian Technomac Co., Ltd.	
Jfe Refractories Corporation.	
Jiangsu Sujia Group New Materials Co., Ltd.	
Jiangsu Sujia Joint-Stock Co., Ltd.	
Jinan Forever Imp. & Emp. Trading Co., Ltd.	

	Period to be reviewed
Jinan Linquan Imp. & Emp. Co. Ltd.	
Jinan Ludong Refractory Co., Ltd.	
Kosmokraft Refractory Limited.	
Kuehne & Nagel Ltd. Dalian Branch Office.	
Kumas Sanayi Urunleri Ve Insaat Paz.	
Lechang City Guangdong Province SongXin Refractories Co., Ltd.	
Liaoning Fucheng Refractories Group Co., Ltd.	
Liaoning Fucheng Special Refractory Co., Ltd.	
Liaoning Jiayi Metals & Minerals Ltd.	
Liaoning Jinding Magnesite Group.	
Liaoning Mayerton Refractories Co., Ltd.	
Liaoning Mineral & Metallurgy Group Co., Ltd.	
Liaoning Qunyi Group Refractories Co., Ltd.	
Liaoning Qunyi Trade Co., Ltd.	
Liaoning RHI Jinding Magnesis Co., Ltd.	
Liaoning Zhongxing Mining Industry Group Co., Ltd.	
LiShuang Refractory Industrial Co., Ltd.	
Lithomelt Co., Ltd.	
Lua Viet Bestref Joint Venture Co.	
Luheng Refractory Co., Ltd.	
Luoyang Refractory Group Co., Ltd.	
Mayerton Refractories.	
Minsource International Ltd.	
Minteq International Inc.	
National Minerals Co., Ltd.	
Navis Zufall Ueberseespeditions.	
North Refractories Co., Ltd.	
Orestar Metals & Minerals Co., Ltd.	
Oreworld Trade (Tangshan) Co., Ltd.	
Puyang Refractories Co., Ltd.	
Qingdao Almatis Co., Ltd. (HQ).	
Qingdao Almatis Co., Ltd. (Manufacturing).	
Qingdao Almatis Trading Co., Ltd. (Sales Office).	
Qingdao Blueshell Import & Emport Corp.	
Qingdao Fujing Group Co., Ltd.	
Qingdao Huierde International Trade Co., Ltd.	
Refratechnik Cement GmbH.	
Refratechnik Steel GmbH.	
RHI AG.	
RHI GLAS GmbH.	
RHI Refractories Asia Pacific Pte. Ltd.	
RHI Refractories (Dalian) Co., Ltd.	
RHI Refractories Liaoning Co., Ltd.	
RHI Trading Shanghai Branch.	
RHI Trading (Dalian) Co., Ltd.	
Rongyuan Magnesite Co., Ltd. of Dashiqiao City.	
Shandong Cambridge International Trade Inc.	
Shandong Lunai Kiln Refractories Co., Ltd.	
Shandong Refractories Corp.	
Shanghai Pudong Imp. & Exp. Co. Ltd.	
Shanghai Vista Packaging Co., ltd.	
Shanxi Dajin International (Group) Co., Ltd.	
Shanxi Xinrong International Trade Co. Ltd.	
Shenyang Shenghui Refractory Imp.	
Shenyang Yi Xin Sheng Lai Refractory Materials Co., Ltd.	
Shinagawa Refractories Co., Ltd.	
Shinagawa Rongyuan Refractories Co., Ltd.	
Sinosteel Corporation.	
SMMC Group Co., Ltd.	
Store System Inc. O B Dongning Shunf.	
Syndicate Exp. Pvt., Ltd.	
Tangshan Success Import & Export Trading Co., Ltd.	
Tianjin New Century Refractories, Ltd.	
Tianjin New World Import & Export Trading Co., Ltd.	
Tianjin Weiyuan Refractory Co., Ltd.	
The Economic Trading Group of Haicheng Huoying Corporation Ltd.	
Vereeniging Refractories (Pty).	
Vesuvius Advanced Ceramics (Suzhou) Co. Ltd.	
Wonjin Refractories Co., Ltd.	
Wuxi Tian Liang Foreign Trade Co., Ltd.	
Xiyuan Xingquan Forsterite Co., Ltd.	
Yanshi City Guangming High-Tech Refractories Products Co., Ltd.	
YHS Minerals Co., Ltd.	

	Period to be reviewed
Yingkou Bayuquan Refractories Co., Ltd.	
Yingkou Bl Mining Co., Ltd.	
Yingkou Dalmond Refractories Co., Ltd.	
Yingkou Guangyang Refractories Co., Ltd.	
Yingkou Guangyang Refractories Co., Ltd. (YGR).	
Yingkou Heping Samwha Minerals Co., Ltd.	
Yingkou Jiahe Refractories Co., Ltd.	
Yingkou Jinlong Refractories Group.	
Yingkou Kyushu Refractories Co., Ltd.	
Yingkou New Century Refractories Ltd.	
Yingkou Qinghua Group Imp. & Emp. Co., Ltd.	
Yingkou Qinghua Refractories Co., Ltd.	
Yingkou Sanhua Refractory Materials Co., Ltd.	
Yingkou Tianrun Refractory Co.,Ltd.	
Yingkou Wonjin Refractory Material Co., Ltd.	
Yingkou Yongji Mag Refractory, Ltd.	
Yixing Runlong Trade Co., Ltd.	
Yixing Xinwei Leeshing Refractory Material Co., Ltd.	
Yixing Zhenqiu Charging Ltd.	
Zhejiang Changxing Guangming Special Refractory Material Foundry, Co., Ltd.	
Zhejiang Deqing Jinlei Refractory Co., Ltd.	
Zhejiang Huzhou Fuzilin Refractory Metals Group Co., Ltd.	
Zhengzhou Annec Industrial Co., Ltd.	
Zhengzhou Huachen Refractory Co., Ltd.	
Zhengzhou Huawei Refractories Co., Ltd.	
Zibo Lianzhu Refractory Materials Co., Ltd.	
The People's Republic of China: Certain New Pneumatic Off-the-Road Tires,[10] A–570–912	9/1/12–8/31/13
Double Coin Group Rugao Tyre Co., Ltd.	
Double Coin Group Shanghai Donghai Tyre Co., Ltd.	
Double Coin Holding Ltd.	
Guizhou Advance Rubber Co., Ltd.	
Guizhou Tyre Co., Ltd.	
Guizhou Tyre Import and Export Co., Ltd.	
Hangzhou Zhongce Rubber Co., Ltd.	
Trelleborg Wheel System (Xingtai) China, Co. Ltd.	
Weihai Zhongwei Rubber Co., Ltd.	
The People's Republic of China: Freshwater Crawfish Tail Meat,[11] A–570–848	9/1/12–8/31/13
China Kingdom (Beijing) Import & Export Co., Ltd.	
Deyan Aquatic Products and Food Co., Ltd.	
Hubei Zhenghe Food Co., Ltd.	
Nanjing Gemsen International Co., Ltd.	
Shanghai Ocean Flavor International Trading Co., Ltd.	
Xiping Opeck Food Co., Ltd.	
Xuzhou Jinjiang Foodstuffs Co., Ltd.	
Yancheng Hi-King Agriculture Developing Co., Ltd.	
The People's Republic of China: Narrow Woven Ribbons with Woven Selvedge,[12] A–570–952	9/1/12–8/31/13
Apex Trimmings Inc. d/b/a Papillon Ribbon & Bow (Canada).	
Cheng Hsing Ribbon Factory.	
Hen Hao Trading Co., Ltd. a.ka. Taiwan Tulip Ribbons and Braid Co. Ltd.	
Hsien Chan Enterprise Co., Ltd.	
Hubscher Ribbon Corp., Ltd. d/b/a Hubschercorp.	
King Young Enterprises Co., Ltd.	
Multicolor.	
Novelty Handicrafts Co., Ltd.	
Papillon Ribbon & Bow (H.K.) Ltd.	
Papillon Ribbon & Bow (Shanghai) Ltd.	
Roung Shu Industry Corporation a.k.a Cheng Hsing Ribbon Factory.	
Shienq Huong Enterprise Co., Ltd.	
Yama Ribbons and Bows Co., Ltd.	
Yangzhou Bestpak Gifts & Crafts Co., Ltd.	
Yu Shin Development Co. Ltd.	
Countervailing Duty Proceedings	
India: Certain Lined Paper Products, C–533–844	1/1/12–12/31/12
A.R. Printing & Packaging (India) Pvt. Ltd.	
Navneet Publications (India) Ltd.	
The People's Republic of China: Certain Kitchen Appliance Shelving and Racks, C–570–942	1/1/12–12/31/12
Jiangsu Weixi Group Co.	
The People's Republic of China: Certain Magnesia Carbon Bricks, C–570–955	1/1/12–12/31/12
ANH (Xinyi) Refractories Co. Ltd.	
Anyang Rongzhu Silicon Industry Co., Ltd.	
Bayuquan Refractories Co., Ltd.	
Beijing Tianxing Ceramic Fiber Composite Materials Corp.	

	Period to be reviewed
Changxing Magnesium Furnace Charge Co., Ltd.	
Changxing Wangfa Architectural & Metallurgical Materials Co., Ltd.	
Changzing Zhicheng Refractory Material Factory.	
China Metallurgical Raw Material Beijing Company.	
China Quantai Metallurgical (Beijing) Engineering & Science Co., Ltd.	
Cimm Group of China.	
CNBM International Corporation.	
Dalian Dalmond Trading Co., Ltd.	
Dalian F.T.Z. Huaxin International.	
Dalian F.T.Z. Maylong Resources Co., Ltd.	
Dalian Huayu Refractories International Co., Ltd.	
Dalian LST Metallurgy Co., Ltd.	
Dalian Masoo International Trading.	
Dalian Mayerton Refractories Ltd.	
Dalian Morgan Refractories Ltd.	
Dashiqiao Bozhong Mineral Products Co., Ltd.	
Dashiqiao City Guangcheng Refractory Co., Ltd.	
Dashiqiao Jia Sheng Mining Co., Ltd.	
Dashiqiao RongXing Refractory Material Co., Ltd.	
Dashiqiao Sanqiang Refractory Material Co., Ltd.	
Dashiqiao Yutong Packing Factory.	
Dengfeng Desheng Refractory Co., Ltd.	
DFL Minmet Refractories Corp.	
Duferco BarInvest SA Beijing Office.	
Duferco Ironet Shanghai Representative Office.	
Eastern Industries & Trading Co., Ltd.	
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City.	
Fengchi Mining Co., Ltd of Haicheng City.	
Fengchi Refractories Co., of Haicheng City.	
Fengchi Refractories Corp.	
Haicheng City Qunli Mining Co., Ltd.	
Haicheng City Xiyang Import & Export Corporation.	
Haicheng Donghe Taidi Refractory Co., Ltd.	
Haicheng Ruitong Mining Co., Ltd.	
Haiyuan Talc Powder Manufacture Factory.	
Henan Boma Co. Ltd.	
Henan Kingway Chemicals Co., Ltd.	
Henan Tagore Refractories Co., Ltd.	
Henan Xinmi Changzxing Refractories, Co., Ltd.	
Hebei Qinghe Refractory Group Co. Ltd.	
Huailin Refractories (Dashiqiao) Pte. Ltd.	
Hualude Hardware Products Co. Ltd.	
Jiangsu Sujia Group New Materials Co., Ltd.	
Jiangsu Sujia Joint-Stock Co., Ltd.	
Jinan Forever Imp. & Emp. Trading Co., Ltd.	
Jinan Linquan Imp. & Emp. Co. Ltd.	
Jinan Ludong Refractory Co., Ltd.	
Kosmokraft Refractory Limited.	
Kuehne & Nagel Ltd. Dalian Branch Office.	
Lechang City Guangdong Province SongXin Refractories Co., Ltd.	
Liaoning Fucheng Refractories Group Co., Ltd.	
Liaoning Fucheng Special Refractory Co., Ltd.	
Liaoning Jiayi Metals & Minerals Ltd.	
Liaoning Jinding Magnesite Group.	
Liaoning Mayerton Refractories Co., Ltd.	
Liaoning Mineral & Metallurgy Group Co., Ltd.	
Liaoning Qunyi Group Refractories Co., Ltd.	
Liaoning Qunyi Trade Co., Ltd.	
Liaoning RHI Jinding Magnesis Co., Ltd.	
LiShuang Refractory Industrial Co., Ltd.	
Lithomelt Co., Ltd.	
Luheng Refractory Co., Ltd.	
Luoyang Refractory Group Co., Ltd.	
Mayerton Refractories.	
Minsource International Ltd.	
Minteq International Inc.	
National Minerals Co., Ltd.	
North Refractories Co., Ltd.	
Orestar Metals & Minerals Co., Ltd.	
Oreworld Trade (Tangshan) Co., Ltd.	
Puyang Refractories Co., Ltd.	
Qingdao Almatis Co., Ltd. (HQ).	
Qingdao Almatis Co., Ltd. (Manufacturing).	

	Period to be reviewed
Qingdao Almatis Trading Co., Ltd. (Sales Office).	
Qingdao Blueshell Import & Emport Corp.	
Qingdao Fujing Group Co., Ltd.	
Qingdao Huierde International Trade Co., Ltd.	
RHI Refractories (Dalian) Co., Ltd.	
RHI Refractories Liaoning Co., Ltd.	
RHI Trading Shanghai Branch.	
RHI Trading (Dalian) Co., Ltd.	
Rongyuan Magnesite Co., Ltd. of Dashiqiao City.	
Shandong Cambridge International Trade Inc.	
Shandong Lunai Kiln Refractories Co., Ltd.	
Shandong Refractories Corp.	
Shanxi Dajin International (Group) Co., Ltd.	
Shanxi Xinrong International Trade Co. Ltd.	
Shenyang Yi Xin Sheng Lai Refractory Materials Co., Ltd.	
Shinagawa Rongyuan Refractories Co., Ltd.	
Sinosteel Corporation.	
SMMC Group Co., Ltd.	
Tangshan Success Import & Export Trading Co., Ltd.	
Tianjin New Century Refractories, Ltd.	
Tianjin New World Import & Export Trading Co., Ltd.	
Tianjin Weiyuan Refractory Co., Ltd.	
Vesuvius Advanced Ceramics (Suzhou) Co. Ltd.	
Wonjin Refractories Co., Ltd.	
Xiyuan Xingquan Forsterite Co., Ltd.	
Yanshi City Guangming High-Tech Refractories Products Co., Ltd.	
YHS Minerals Co., Ltd.	
Yingkou Bayuquan Refractories Co., Ltd.	
Yingkou Dalmond Refractories Co., Ltd.	
Yingkou Guangyang Refractories Co., Ltd.	
Yingkou Guangyang Refractories Co., Ltd. (YGR).	
Yingkou Heping Samwha Minerals Co., Ltd.	
Yingkou Jiahe Refractories Co., Ltd.	
Yingkou Jinlong Refractories Group.	
Yingkou Kyushu Refractories Co., Ltd.	
Yingkou New Century Refractories Ltd.	
Yingkou Qinghua Group Imp. & Emp. Co., Ltd.	
Yingkou Qinghua Refractories Co., Ltd.	
Yingkou Sanhua Refractory Materials Co., Ltd.	
Yingkou Tianrun Refractory Co., Ltd.	
Yingkou Wonjin Refractory Material Co., Ltd.	
Yingkou Yongji Mag Refractory, Ltd.	
Yixing Runlong Trade Co., Ltd.	
Yixing Xinwei Leeshing Refractory Material Co., Ltd.	
Yixing Zhenqiu Charging Ltd.	
Zhejiang Changxing Guangming Special Refractory Material Foundry, Co., Ltd.	
Zhejiang Deqing Jinlei Refractory Co., Ltd.	
Zhejiang Huzhou Fuzilin Refractory Metals Group Co., Ltd.	
Zhengzhou Annec Industrial Co., Ltd.	
Zhengzhou Huachen Refractory Co., Ltd.	
Zhengzhou Huawei Refractories Co., Ltd.	
Zibo Lianzhu Refractory Materials Co., Ltd.	
The People's Republic of China: Certain New Pneumatic Off-the-Road Tires, C–570–913	1/1/12–12/31/12
Guizhou Tyre Co, Ltd.	
The People's Republic of China: Narrow Woven Ribbons with Woven Selvedge, C–570–953	1/1/12–12/31/12
Yangzhou Bestpak Gifts & Crafts Co., Ltd.	

Suspension Agreements

None.

[3] The company listed was inadvertently omitted from the initiation notice that published on October 2, 2013 (78 FR 60834).

[4] The companies listed for this review in the initiation notice that published on October 2, 2013 (78 FR 60834), inadvertently included Maquilacero S.A. de C.V.; the review should have been initiated on Regiomontana de Perfiles y Tubos S.A. de C.V. alone.

[5] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Frozen Fish Fillets the Socialist Republic of Vietnam who have not qualified for a separate rate are deemed to be covered by this review as part of the single Vietnam entity of which the named exporters are a part.

[6] The companies listed were inadvertently omitted from the initiation notice that published on October 2, 2013 (78 FR 60834).

[7] The Department received a request for an administrative review of the antidumping duty order on narrow woven ribbons (''NWR'') from Taiwan with respect to Shienq Huong Enterprise Co., Ltd., Hsien Chan Enterprise Co., Ltd. and Novelty Handicrafts Co., Ltd. (collectively, ''the Shienq Huong Group''). NWR produced and exported in any of 26 producer/exporter combinations involving the Shienq Huong Group is excluded from the order. See *Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Antidumping Duty Orders,* 75 FR 53632, 53633 (Sept. 1, 2010). This administrative review covers NWR produced or exported by the Shienq Huong Group which is not specifically excluded from the order.

[8] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Kitchen Appliance Shelving and Racks from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule. See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule''*), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule. See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule''*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.* The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping (AD) and countervailing duty (CVD) proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S.

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the single PRC entity of which the named exporters are a part.

[9] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Magnesia Carbon Bricks the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[10] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain New Pneumatic Off-the-Road Tires the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[11] If one of the above-named companies does not qualify for a separate rate, all other exporters of Freshwater Crawfish Tail Meat the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[12] If one of the above-named companies does not qualify for a separate rate, all other exporters of Narrow Woven Ribbons with Woven Selvedge from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this segment.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: November 4, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–26847 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Preliminary Results of New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd.

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) is conducting a new shipper review (NSR) of Shijiazhuang Goodman Trading Co., Ltd. (Goodman) under the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review (POR) of November 1, 2011, through October 31, 2012. As discussed below, the Department preliminarily determines that Goodman has made sales in the United States at prices below normal value. Interested parties are invited to comment on these results.

DATES: *Effective Date:* November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., Nick Czajkowski, or Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4340, (202) 482–1395, or (202) 482–2316, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR covered by this NSR is November 1, 2011, through October 31, 2012.

Scope of the Order

The products covered by the order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing subject to certain exceptions. For a complete description of the scope, see ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review,'' issued concurrently with this notice for a complete description of the Scope of the Order (Preliminary Decision Memorandum).

Methodology

The Department is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. The Department calculated export prices in accordance with section 772 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, dated concurrently with these preliminary results and hereby adopted by this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's centralized electronic service system (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Department's Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of New Shipper Review

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

Exporter/producer	Weighted-average dumping margin
Shijiazhuang Goodman Trading Co., Ltd..	$0.44 per kg.

Disclosure and Public Comment

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[1] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this review is now November 4, 2013.

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

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

[1] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013) (''Tolling Memorandum'').

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

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

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

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

The Department will issue the final results of this NSR, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(4), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.[6] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[7]

Assessment Rates

Upon issuing the final results of this NSR, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[8] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this NSR.

In this review, we calculated a per-unit rate for each importer by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. If the respondent's weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Then, we will instruct CBP to assess antidumping duties on all appropriate entries covered by this NSR. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this NSR shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this administrative review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

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

Notification to Importers

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

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.214, and 351.221(b)(4).

Dated: November 4, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

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

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BILLING CODE 3510–DS–P

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

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

[8] *See* 19 CFR 351.212(b)(1).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824, A–583–837]

Polyethylene Terephthalate Film, Sheet and Strip From India and Taiwan: Preliminary Results of the Second Sunset Review of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 8, 2013.

SUMMARY: On April 2, 2013, the Department of Commerce (''Department'') initiated the second sunset review of the antidumping duty orders on Polyethylene Terephthalate Film, Sheet and Strip (''PET Film'') from India and Taiwan. The Department determined that it was appropriate to conduct full reviews. The Department

preliminarily finds that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the rates identified in the ''Preliminary Results of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT:

Jacqueline Arrowsmith or Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty orders on PET Film from India and Taiwan were published on July 1, 2002.[1] On April 2, 2013, the Department initiated the second sunset review of these orders pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[2] The Department received a notice of intent to participate from DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, ''the domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. are manufacturers of a domestic like product in the United States and, accordingly, are domestic interested parties pursuant to section 771(9)(C) of the Act.

On May 2, 2013, the Department received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no response from the respondent interested parties, *i.e.,* PET Film producers and exporters from India and/or Taiwan. On the basis of the notice of intent to participate and adequate substantive response filed by the domestic interested parties and the inadequate response from any respondent interested party, the Department decided to conduct expedited sunset reviews of these orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C). However, on July 22, 2013, the Department revised its original adequacy determination and determined to conduct full sunset reviews of these orders.[3] The Department also extended the deadline for issuing the preliminary results of these full sunset reviews by 90 days, to October 18, 2013.[4] The reviews were converted to full sunset reviews to provide interested parties with an opportunity to comment concerning the implementation of the *Final Modification for Reviews,* and the deadline was extended for the preliminary results of these reviews because these reviews are extraordinarily complicated.[5] On October 18, 2013, the Department issued a tolling memorandum extending all deadlines by 16 days for the duration of the government shutdown.[6] The deadline for these reviews is now November 4, 2013.

Scope of the Orders

The products covered by these orders are all gauges of raw, pretreated or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film were classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item number 3920.62.00. Effective July 1, 2003, the HTSUS subheading 3920.62.00.00 was divided into 3920.62.00.10 (metallized PET film) and 3920.62.00.90 (non-metallized PET film). Although the HTSUS subheadings are provided for the convenience and customs purposes, the written description of the scope of these orders is dispositive. Since these orders were published, there was one scope determination for PET film from India, dated August 25, 2003. In this determination, requested by International Packaging Films Inc., the Department determined that tracing and drafting film is outside of the scope of the order on PET film from India.[7]

Analysis of Comments Received

All issues raised for the preliminary results of these reviews are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Edward Yang, Director, Office VII, Office of AD/CVD Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice. The issues discussed in the Decision Memorandum are the likelihood of continuation or recurrence of dumping, and the magnitude of the margins of dumping likely to prevail if these orders were revoked. The analysis addresses the impact of the *Final Modification for Reviews* on these reviews. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/.* The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Preliminary Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we preliminarily determine that revocation of the antidumping duty orders on PET Film from India and Taiwan would be likely to lead to continuation or recurrence of dumping. Further, we determine that the magnitude of the margins of dumping likely to prevail are as follows:

Exporter or producer	Margin (percent)
Ester Industries Limited, Inc.	24.10
Polyplex Corporation Limited ...	3.02
All Others	16.96

[1] *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India,* 67 FR 44175 (July 1, 2002); *see also Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan,* 67 FR 44174 (July 1, 2002).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 19647 (April 2, 2013).

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Mark Hoadley, Acting Director, Office 6, on ''Sunset Reviews of the Antidumping Duty Orders on Polyethylene Terephthalate Film from India and Taiwan: Adequacy Redetermination, '' dated July 22, 2013.

[4] *See Polyethylene Terephthalate Film from India and Taiwan: Extension of Time Limits for Preliminary and Final Results of the Second Antidumping Duty Sunset Reviews* 78 FR 45512 (July 29, 2013) (''PET Film Extension Notice'').

[5] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification for Reviews,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews*'').

[6] *See* ''Memorandum for The Record from Paul Piquado, Assistant Secretary of Enforcement and Compliance,'' dated October 18, 2013 (''Tolling Memorandum'')

[7] *See Notice of Scope Rulings,* 70 FR 24533 (May 10, 2005).

Exporter or producer	Margin (percent)
Nan Ya Plastics Corporation, Ltd.	8.99
Shinkong Synthetic Fibers Corporation/Shinkong Materials Technology Co., Ltd.	0.75
All Others	4.37

Interested parties may submit case briefs no later than 50 days after the date of publication of the preliminary results of these full sunset reviews, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). A hearing, if requested, will be held two days after the date the rebuttal briefs are due. The Department will issue a notice of final results of these full sunset reviews, which will include the results of its analysis of issues raised in any such comments, no later than March 13, 2014.[8]

The Department is issuing and publishing these preliminary results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: November 4, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2013–26851 Filed 11–7–13; 8:45 am]

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[8] *See PET Film Extension Notice; see also Tolling Memorandum.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Intent To Rescind 2012 Countervailing Duty Administrative Review, in Part

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Brooke Kennedy, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2013, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC) for the period January 1, 2012, through December 31, 2012.[1] On May 31, 2013, we received from Electrolux North America, Inc., Electrolux Home Products, Inc., and Electrolux Major Appliances (collectively, Electrolux), a domestic interested party, a request that the Department conduct an administrative review of Hong Kong Gree Electric Appliances Sales Limited (Hong Kong Gree).[2] On June 28, 2013, the Department published a notice of initiation of administrative review with respect to 153 companies.[3] On August 27, 2013, Hong Kong Gree notified the Department that it had no shipments of subject merchandise to the United States during the period of review (POR).[4]

Intent To Rescind the 2012 Administrative Review, in Part

Hong Kong Gree submitted a letter to the Department certifying that it had no shipments of subject merchandise to the United States during the POR. Electrolux did not comment on Hong Kong Gree's claim of no shipments.

Previously, on August 2, 2013, we released the results of a U.S. Customs and Border Protection (CBP) data query, which showed that Hong Kong Gree had no suspended entries of subject merchandise during the POR.[5] After receipt of Hong Kong Gree's no shipment certification, we sent a ''no shipments inquiry'' message to CBP, which posted the message on September 20, 2013.[6] CPB did not respond to the Department within the customary ten days regarding the inquiry into whether there were any suspended entries from Hong Kong Gree during the POR.

Based on our analysis of all the information on the record, we preliminarily determine that Hong Kong Gree had no shipments or entries of subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice,[7] we preliminarily determine to rescind the review for Hong Kong Gree. We will continue this administrative review with respect to those companies for which a review was requested and not subsequently withdrawn.[8]

Public Comment

The Department is setting aside a period for interested parties to raise issues regarding the Department's intent to rescind the administrative review for Hong Kong Gree. Interested parties should submit such comments within 20 calendar days of the publication of this notice. All comments are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building, and must also be served on interested parties.[9] An electronically filed document must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Standard Time on the day it is due.[10] The period for public comment is intended to provide the Department with ample opportunity to consider all issues prior to the issuance any the notice of rescission of the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 25420, 25424 (May 1, 2013).

[2] *See* Letter from Crowell & Moring on behalf of Electrolux regarding ''Request for Administrative Review'' (May 31, 2013). This public document and all other public documents and public versions of business proprietary documents for this administrative review are on file electronically via IA ACCESS.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 38924 (June 28, 2013) (*Initiation Notice*).

[4] *See* Letter from Hong Kong Gree regarding ''No Shipment Certification'' (August 27, 2013).

[5] *See* Department Memorandum regarding ''Analysis of CBP Data and Identification of Companies to Receive Q&V Questionnaires'' (August 2, 2013).

[6] *See* Message number 3263301available at http://addcvd.cbp.gov and also IA ACCESS.

[7] *See, e.g., Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission of Countervailing Duty Administrative Review,* 77 FR 19634 (April 2, 2012); *see also Welded Carbon Steel Standard Pipe and Tube From Turkey: Notice of Rescission of Countervailing Duty Administrative Review, In Part,* 74 FR 47921 (September 18, 2009).

[8] The Department received several submissions for the withdrawal of administrative review requests and will publish separately a ''Notice of Partial Rescission of Countervailing Duty Administrative Review'' with respect to those companies for which review requests have been withdrawn.

[9] *See* 19 CFR 351.303(f).

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

administrative review for Hong Kong Gree.

We are issuing this notice in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 4, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–26865 Filed 11–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Brooke Kennedy, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2013, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC).[1] Pursuant to requests from interested parties, the Department initiated an administrative review with respect to 153 companies for the period January 1, 2012, through December 31, 2012.[2] The deadline for a party to withdraw a request for review was September 26, 2013.[3]

Withdrawal of Review Requests

Between August 13, 2013, and September 26, 2013, several interested parties filed with the Department submissions to withdraw review requests.[4] The companies for which a request for an administrative review was withdrawn and for which there is no outstanding review request are listed in the attachment to this notice.

Partial Rescission of the 2012 Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. The Department published the notice of initiation of this review on June 28, 2013.[5] All withdrawal of review requests were submitted within the 90-day deadline set forth under 19 CFR 351.213(d)(1). Further, no other party requested an administrative review of these particular companies. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice,[6] we are rescinding this review of the CVD order on aluminum extrusions from the PRC with respect to the companies listed in the attachment to this notice. The review will continue with respect to all other firms for which a review was requested and initiated.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all appropriate entries. For the companies for which this review is rescinded, CVDs shall be assessed at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2012, through December 31, 2012, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 4, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Attachment—Companies for Which Administrative Review Requests Were Withdrawn

Acro Import and Export Co.
Activa International Inc.
Changshu Changshen Aluminum Products Co., Ltd.
Changzhou Tenglong Auto Parts Co., Ltd
Clear Sky Inc
Cosco (J.M.) Aluminum Co., Ltd
Dynamic Technologies China
First Union Property Limited
Foreign Trade Co. of Suzhou New & Hi-Tech Industrial Development Zone
Foshan City Nanhai Hongjia Aluminum Alloy Co.
Foshan Guancheng Aluminum Co., Ltd
Foshan Jinlan Aluminum Co. Ltd.
Foshan JMA Aluminum Company Limited
Foshan Shanshui Fenglu Aluminum Co., Ltd.
Foshan Shunde Aoneng Electrical Appliances Co., Ltd
Foshan Yong Li Jian Alu. Ltd
Fujian Sanchuan Aluminum Co., Ltd
Gangzhou Mingcan Die-Casting Hardware Products, Co. Ltd.
Global PMX Dongguan Co., Ltd.
Golden Dragon Precise Copper Tube Group, Inc.
Gree Electric Appliances
Guang Dong Xin Wei Aluminum Products Co., Ltd
Guangdong Xingfa Aluminum Co., Ltd

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 25420, 25424 (May 1, 2013).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 38924 (June 28, 2013) (*Initiation Notice*).

[3] *See* Department Memorandum regarding ''Deadline to File Withdrawal of Requests for Review'' (September 18, 2013). This public document and all other public documents and public versions of all business proprietary documents are on file electronically via IA ACCESS, which is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building.

[4] On August 13, 2013, Manhattan American Terrazzo Strip Co., Inc. withdrew its review request of North Fenghua Aluminum Ltd. On August 26, Shenzhen Hudson Technology Development Co., Ltd. withdrew its review request of itself. On August 27, 2013, Dek Rail Solution withdrew its review request of Nanhai Textiles Import & Export Co., Ltd. of Guangdong. On September 26, 2013, the Aluminum Extrusions Fair Trade Committee (the Petitioner) withdrew its review request of 80 companies.

[5] *See Initiation Notice.*

[6] *See, e.g., Certain Lined Paper Products From India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 21781 (May 11, 2009); and *Aluminum Extrusions From the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review,* 77 FR 65671 (October 30, 2012).

Hangzhou Zingyi Metal Products Co., Ltd
Hanwood Enterprises Limited
Hao Mei Aluminum Co., Ltd
Hao Mei Aluminum International Co., Ltd
Honsense Development Company
Hui Mei Gao Aluminum Foshan Co., Ltd.
Idex Dinglee Technology (Tianjin Co., Ltd)
Idex Health
Innovative Aluminum (Hong Kong) Limited
Jiangmen Qunxing Hardware Diecasting Co., Ltd.
Jiangyin Trust International Inc
Jiangyin Xinhong Doors and Windows Co., Ltd.
Jiaxing Taixin Metal Products Co., Ltd.
JMA (HK) Company Limited
Kanal Precision Aluminum Product Co., Ltd
Karlton Aluminum Company Ltd.*
Kunshan Giant Light Metal Technology Co., Ltd.
Liaoyang Zhongwang Aluminum Profiled Co. Ltd.
Longkou Donghai Trade Co., Ltd.
Midea Air Conditioning Equipment Co., Ltd.
Miland Luck Limited
Nanhai Textiles Import & Export Co., Ltd. of Guangdong
New Asia Aluminum & Stainless Steel Product Co., Ltd.
Nidec Sankyo Singapore Pte. Ltd.
Ningbo Coaster International Co., Ltd.
Ningbo Hi Tech Reliable Manufacturing Company
Ningbo Yili Import and Export Co., Ltd.
North China Aluminum Co., Ltd.
North Fenghua Aluminum Ltd.
Northern States Metals
PanAsia Aluminum (China) Limited
Pingguo Aluminum Company Limited
Pingguo Asia Aluminum Co., Ltd
Popular Plastics Company Limited
Samuel, Son & Co., Ltd.
Sanchuan Aluminum Co., Ltd
Shangdong Huasheng Pesticide Machinery Co.
Shangdong Nanshan Aluminum Co., Ltd
Shanghai Canghai Aluminum Tube Packaging Co., Ltd
Shanghai Dongsheng Metal
Shanghai Shen Hang Imp & Exp Co., Ltd.
Shenzhen Hudson Technology Development Co., Ltd.
Shenzhen Jiuyuan Co., Ltd
Suzhou JRP Import & Export Co., Ltd.
Suzhou New Hongji Precision Part Co
Tai-Ao Aluminum (Taishan) Co. Ltd
Taogoasei America Inc
Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
Top-Wok Metal Co., Ltd.
USA Worldwide Door Components (Pinghu) Co., Ltd.
Xin Wei Aluminum Company Limited
Xinya Aluminum & Stainless Steel Product Co., Ltd.
Zhaoqing Asia Aluminum Factory Company Ltd
Zhaoqing New Zhongya Aluminum Co., Ltd.*
Zhejiang Anji Xinxiang Aluminum Co., Ltd.
Zhejiang Yongkang Listar Aluminum Industry Co., Ltd
Zhejiang Zhengte Group Co., Ltd.
Zhenjiang Xinlong Group Co., Ltd.
Zhongshan Gold Mountain Aluminium Factory Ltd. (ZGM)[7]
Zhuhai Runxingtai Electrical Equipment Co., Ltd

*Because a timely withdrawal of review request was submitted, the Department is including Karlton Aluminum Company Ltd. (Karlton) and Zhaoqing New Zhongya Aluminum Co., Ltd. (Zhaoqing) in this rescission notice. However, we note that Zhaoqing is also known as Guangdong Zhongya Aluminum Company Ltd. (Guangdong).[8] A review of Guangdong was requested and such request was not withdrawn. Furthermore, the Department previously has determined that Zhaoqing and Karlton are cross-owned affiliates with Zhongya Shaped Aluminum (HK) Holding Limited (Shaped) and that these companies are part of the company grouping known as Zhongya Companies.[9] A review of Shaped was requested and not withdrawn.[10] Therefore, Karlton and Zhaoqing remain subject to the review as part of the Zhongya Companies.[11] In light of the above, entries of the Zhongya Companies will remain suspended during the 2012 administrative review.

[FR Doc. 2013–26864 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–DS–P

[7] In the *Initiation Notice,* the company's name was spelled ''Zhongshan Gold Mountain *Aluminum* Factory Ltd.'' *See Initiation Notice,* 78 FR at 38937. However, according to ZGM's no shipment letter filed with the Department, the company name is spelled ''Zhongshan Gold Mountain *Aluminium* Factory Ltd.'' as indicated above. *See* Letter from ZGM regarding ''Notice of No Sales and Request to Terminate Review'' (July 31, 2013).

[8] *See* CBP message 2319302 (November 14, 2012) available at *http://addcvd.cbp.gov* and also IA ACCESS.

[9] *See Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 76 FR 18521 (April 4, 2011), and accompanying Issues and Decision Memorandum (Aluminum Extrusions Decision Memorandum) at ''Attribution of Subsidies.''

[10] *See Initiation Notice,* 78 FR at 38936–37.

[11] *See* Aluminum Extrusions Decision Memorandum at ''Attribution of Subsidies.''

DEPARTMENT OF COMMERCE

International Trade Administration

Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Opportunity to Apply for Membership on the Manufacturing Council.

SUMMARY: The Department of Commerce is currently seeking applications from representatives of the U.S. manufacturing industry to fill five vacant positions on the Manufacturing Council (Council). The purpose of the Council is to advise the Secretary of Commerce on government policies and programs that affect U.S. manufacturing and to provide a forum for regular communication between the U.S. Government and the manufacturing sector.

ADDRESSES: Please submit application information via email to *oacie@trade.gov* or by mail to Elizabeth Emanuel, Office of Advisory Committees, Manufacturing Council Executive Secretariat, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230.

DATES: All applications for immediate consideration for appointment must be received by the Office of Advisory Committees by close of business on December 6, 2013. After that date, the Office of Advisory Committees will continue to accept applications under this notice until July 31, 2014 to fill any new vacancies that may arise.

FOR FURTHER INFORMATION CONTACT: Elizabeth Emanuel, Manufacturing Council Executive Secretariat, Room 4043, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: 202–482–1369, email: *elizabeth.emanuel@trade.gov.*

Please visit the Manufacturing Council Web site at: *http://trade.gov/manufacturingcouncil/index.asp.*

SUPPLEMENTARY INFORMATION: The Office of Advisory Committees is accepting applications from representatives of the U.S. manufacturing industry for five vacant positions on the Council for the current member appointment terms that run through November 30, 2014. The Council was rechartered most recently on April 5, 2012. For the remainder of the current charter term, the Department is expanding the scope of entities eligible for representation on the Council to include U.S. businesses in the manufacturing industry that are controlled directly or indirectly by a foreign parent company (i.e., U.S. subsidiaries of foreign companies).

The Department previously had limited eligibility to U.S. entities incorporated in the United States (or an unincorporated firm with its principal place of business in the United States) that are controlled by U.S. citizens or another U.S. entity, as determined by direct or indirect control of the entity's stock or ownership interests. The Department is expanding the eligibility criteria for the remainder of this charter term to allow for appointment to the Council of representatives of U.S. businesses that are controlled directly or indirectly by foreign companies. U.S. businesses that are controlled directly or indirectly by foreign companies play an important role in the U.S. economy, including in the U.S. manufacturing

sector. Expanding the scope of entities eligible for representation on the Council is expected to enhance the recommendations and advice received from the Council, particularly with respect to the Council's duty to provide recommendations on ''ways to ensure that the United States remains the preeminent destination for investment in manufacturing throughout the world'' as provided for in Section 4 of the current Council charter.

Because U.S. manufacturers that are subsidiaries of foreign companies are not currently represented on the Council, applicants requesting to represent such entities are particularly encouraged to apply. However, all eligible applicants will be considered to fill the five vacant positions.

Members will be selected, in accordance with applicable Department of Commerce guidelines, based on each individual's ability to advise the Secretary of Commerce on matters relating to the U.S. manufacturing sector, to act as a liaison among the stakeholders represented by the membership and to represent the viewpoint of those stakeholders on current and emerging issues in the manufacturing sector. In assessing this ability, the Department will consider such factors as, but not limited to, the candidate's proven experience in promoting, developing and marketing programs in support of manufacturing industries, job creation in the manufacturing sector, or the candidate's proven abilities to manage manufacturing organizations. Given the duties and objectives of the Council, the Department particularly seeks applicants who are active manufacturing executives (Chief Executive Officer, President, or a comparable level of responsibility) that are leaders within their local manufacturing communities and industry sectors. The Council's membership shall reflect the diversity of American manufacturing by representing a balanced cross-section of the U.S. manufacturing industry in terms of industry sectors, geographic locations, demographics, and company size, particularly seeking the representation of small- and medium-sized enterprises.

The Secretary of Commerce appoints all Council members. All Council members serve at the discretion of the Secretary of Commerce. Council members shall serve in a representative capacity, representing the views and interests of a U.S. entity in the manufacturing industry and its particular sector. For the purposes of eligibility, a U.S. entity is defined as a firm incorporated in the United States or with its principal place of business in the United States that is (a) majority controlled (more than 50% ownership interest and/or voting stock) by U.S. citizens or by another U.S. entity or (b) majority controlled (more than 50% ownership interest and/or voting stock) directly or indirectly by a foreign parent company.

As noted above, Council members serve in a representative capacity, expressing the views and interests of a U.S. entity; they are, therefore, not Special Government Employees. Council members receive no compensation for their participation in Council activities. Members participating in Council meetings and events are responsible for their travel, living and other personal expenses. Meetings are held regularly and not less than annually, usually in Washington, DC. Members are required to attend a majority of the Council's meetings.

To be considered for membership, please provide the following:

1. Name and title of the individual requesting consideration.
2. A sponsor letter from the applicant on his or her entity's letterhead or, if the applicant is to represent an entity other than his or her employer, a letter from the entity to be represented, containing a brief statement of why the applicant should be considered for membership on the Council. This sponsor letter should also address the applicant's manufacturing-related experience, including any manufacturing trade policy experience.
3. The applicant's personal resume.
4. An affirmative statement that the applicant meets all eligibility criteria.
5. An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.
6. An affirmative statement that the applicant is not a federally registered lobbyist, and that the applicant understands that, if appointed, the applicant will not be allowed to continue to serve as a Council member if the applicant becomes a federally registered lobbyist.
7. Information regarding the control of the entity to be represented, including the governing structure and stock holdings, as appropriate, demonstrating compliance with the criteria set forth above.
8. The entity's size, place of incorporation or principal place of business, ownership, product or service line and major markets in which the entity operates.
9. Please include all relevant contact information such as mailing address, fax, email, phone number, and support staff information where relevant.

Dated: November 4, 2013.

Elizabeth Emanuel,

Executive Secretary, Manufacturing Council.

[FR Doc. 2013–26812 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 130712613–3613–01]

Notice of Limited, Program-Wide, Public Interest Waivers of Section 1605(a) (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009

AGENCY: National Institute of Standards and Technology, U.S. Department of Commerce (Commerce).

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is hereby providing notice of two, program-wide, limited public interest waivers of the Buy American requirements set forth in the American Recovery and Reinvestment Act of 2009 (ARRA). The two limited, program-wide, public interest waivers set forth in this Notice apply to projects constructed by recipients receiving financial assistance awards (grants) pursuant to the NIST ARRA Construction Grant Program to which the ARRA Buy American requirements apply.

The first limited, program-wide, public interest waiver applies to a grant recipient's use of a de minimis amount of non-domestic iron, steel or manufactured goods that, in the aggregate, comprises no more than five percent of the total cost of the iron, steel and manufactured goods used in a grant recipient's ARRA construction project. The second limited, program-wide, public interest waiver applies to a grant recipient's use of non-domestic manufactured goods where such non-domestic goods are necessary for the integration and operation of the recipient's construction project into the recipient's existing safety and security systems. Both program-wide, public interest waivers of the Buy American requirements apply over the entire award period of the grant projects. The two, limited, public interest Buy American waivers set forth in this Notice do not apply to procurement contracts issued pursuant to the NIST ARRA Construction of Research Facilities program.

DATES: The limited, public interest, ARRA Buy American waivers set forth in this Notice are effective upon publication and apply to certain iron, steel and manufactured goods used by recipients, at any time during an award's authorized construction period, in projects receiving financial assistance awards under the NIST ARRA Construction Grant Program.

FOR FURTHER INFORMATION CONTACT: Michael Diestel, P.E., Federal Program Officer, NIST Construction Grants Program Office, Office of Facilities and Property Management (OFPM), National Institute of Standards and Technology, 100 Bureau Drive, Mailstop 1900, Gaithersburg, Maryland 20899; email: *michael.diestel@nist.gov*.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the ARRA (Pub. L. 111–5) prohibits the use of ARRA funds for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States (Buy American requirements), or unless the head of a Federal department or agency grants a waiver to the Buy American requirements. ARRA Section 1605(b)(1) provides that the Buy American requirements shall not apply in any case or category in which the head of a Federal department or agency finds that applying the Buy American requirements would be inconsistent with the public interest. ARRA Section 1605(c) provides that if the head of a Federal department or agency makes a determination under ARRA Section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

On November 23, 2010, the Secretary of Commerce delegated authority to the Under Secretary of Commerce for Standards and Technology and Director, National Institute of Standards and Technology (NIST Director) to make case-by-case inapplicability (waiver) determinations under ARRA Section 1605 for construction projects funded pursuant to the NIST ARRA Construction Grant Program. On September 10, 2013, the Secretary of Commerce amended the aforementioned November 23, 2010 delegation of authority to authorize the NIST Director to make limited, program-wide, public interest waiver determinations under ARRA Section 1605 for construction projects funded pursuant to the NIST ARRA Construction Grant Program.

In accordance with ARRA Section 1605 and pursuant to the aforementioned amended delegation of authority to the NIST Director, the NIST Director is issuing the following two, limited, program-wide, public interest waivers of the Buy American requirements applying to projects funded by the NIST ARRA Construction Grant Program:

(1) A grant recipient's use of a de minimis amount of non-domestic iron, steel or manufactured goods that, in the aggregate, comprises no more than five percent of the total cost of the iron, steel and manufactured goods used in a grant recipient's ARRA construction project (De Minimis Waiver); and

(2) A grant recipient's use of non-domestic manufactured goods where such non-domestic goods are necessary for the integration and operation of the recipient's ARRA construction project into the recipient's existing safety and security systems (Safety and Security Systems Waiver). Both program-wide, public interest waivers of the Buy American requirements apply over the entire award period of the grant projects.

Background

Pursuant to appropriated funding made available under ARRA, NIST issued competitive grant awards in the total amount of approximately $180 million to support the construction of 16 new research science facilities at 15 universities and 1 nonprofit research organization across the United States. The awarded construction projects support critical infrastructure for a diverse portfolio of cutting-edge scientific research ranging from offshore wind power, aquaculture, and marine ecology, to physics research and nanotechnology. Together with matching shares from the grant recipients, the 16 ARRA projects will result in more than $400 million being invested in new laboratory construction projects.

Of the 16 recipients of NIST ARRA construction grants, the following 10 are subject to the ARRA Buy American requirements by virtue of their respective status as public universities and the respective status of their construction project as a public building or public work: Auburn University; Georgia Institute of Technology; Kansas University; Purdue University; University of Kentucky; University of Maine; University of Maryland at College Park; University of Nebraska at Lincoln; University of North Carolina at Wilmington; and University of Pittsburgh. The remaining 6 NIST ARRA construction grant awards are not subject to the ARRA Buy America requirements, which do not apply to construction projects owned by non-public organizations such as private institutions and non-profit entities: Columbia University; Georgetown University; NOVA Southeastern University; Rice University; University of Miami; and Woods Hole Oceanographic Institution.

De Minimis Waiver

The NIST Director is hereby issuing a limited, program-wide, waiver of the ARRA Buy American requirements set forth in ARRA Section 1605(a) based on his determination that, under ARRA Section 1605(b)(1), the application of the Buy American requirements would be inconsistent with the public interest as applied to a de minimis amount of incidental items used in a grant recipient's construction project where such items, in the aggregate, comprise no more than five percent of the total cost of the iron, steel and manufactured goods used and incorporated into the project.

Large-scale and complex construction projects, such as those supported by the NIST ARRA Construction Grant Program, typically use thousands of miscellaneous, generally low-cost items that are essential for, but incidental to, the construction of public buildings or public works that are incorporated into the physical structure of the project. The miscellaneous character of these items, together with their low cost (both individually and when procured in bulk), further characterize them as incidental to the project. Examples of these incidental construction items include nuts, bolts, wires, cables, switches, etc. For many of these incidental items, the country of manufacture and the availability of domestic alternatives are not always readily or reasonably identifiable to the grant recipient, even after substantial research and due diligence.

Requiring NIST construction grant recipients to expend substantial resources to comply with Buy American requirements as they pertain to incidental construction components jeopardizes timely project completion by the recipients, as well as the public use of the much needed scientific research facilities and, therefore, is inconsistent with the public interest. Moreover, requiring grant recipients to request individual ARRA Buy American waivers for incidental components would be time prohibitive and overly burdensome for both grant recipients and NIST staff charged with the oversight of these projects. Accordingly, the NIST Director's issuance of the De Minimis waiver is justified in the public interest because it will help grant recipients (and their subrecipients and contractors) avoid unnecessary costs

and delays in carrying out their respective ARRA construction projects; thereby, facilitating the timely completion and public use of the newly-constructed scientific research facilities.

Safety and Security Systems Waiver

The NIST is hereby issuing a limited, program-wide, waiver of the Director ARRA Buy American requirements set forth in ARRA Section 1605(a) based on his determination that, under ARRA Section 1605(b)(1), the application of the Buy American requirements would be inconsistent with the public interest as applied to a grant recipient's use of non-domestic manufactured goods where such non-domestic goods are necessary for the integration and operation of the recipient's ARRA construction project to the recipient's existing safety and security systems.

All of the construction projects awarded under the NIST ARRA Construction Grant Program are either additions to existing buildings or new facilities within a campus environment. Public universities and other grant recipients constructing these projects generally employ uniform safety and security features that are interoperable across the campus, such as integrated police, fire alarm and other emergency communication systems, security locks, access card readers, high-pressure steam valves, etc. These common and uniform safety and security systems tend to greatly enhance the proper functioning and availability of these systems as a whole; thereby, providing maximum protection to persons and property. Uniform systems are also generally more cost effective for recipients to install, monitor and maintain versus multiple or mismatched systems across a campus environment. Conversely, mismatched components are often incompatible and extremely difficult or impossible for the recipient to properly integrate into existing systems due to the differing technical specifications, fitments, and other interoperability concerns. As a result, mismatched components may not integrate into existing common security or building automation systems, or may be more prone to failure, as well as being costlier to maintain and repair than common systems. The potential for these mismatched systems to not properly integrate or communicate within an existing campus system could present imminent life safety concerns. Further, while system function and interoperability is of primary public interest concern, warranty is also a consideration in that certain manufacturers will not warranty their systems if non-specified components or components from a specific manufacturer are not used.

It is inconsistent with the public interest to increase safety risks to persons and casualty losses to property in order to comply with the ARRA Buy American requirements as they specifically apply to grant recipients' (and to their subrecipients' and contractors') use of non-domestic manufactured goods, where such non-domestic goods are necessary for the integration and operation of the recipient's ARRA construction project into the recipient's existing safety and security systems. Accordingly, NIST's issuance of the Safety and Security Systems Waiver is in the public interest because it will help ensure that the installation, maintenance, interoperability, and overall operation of safety and security systems incorporated into a grant recipient's construction project function properly and are otherwise compatible with the recipient's existing systems; thereby, providing maximum protection to persons and to property.

Recipient Compliance and NIST Monitoring

Recipients of NIST ARRA Construction Grant Program awards seeking to utilize the De Minimis Waiver and/or the Safety and Security Systems Waiver must determine with specificity the items to be covered by the waiver(s) and must retain complete and accurate records and supporting documentation, including the types and/or categories of items to which this waiver is applied and, for incidental construction items, the calculations by which the grant recipient determined its use of non-domestic iron, steel or manufactured goods used in the project equals five percent or less than the total cost of the iron, steel and manufactured goods used in the project. The recipient's records will be reviewed periodically by NIST as part of its ongoing project monitoring and oversight functions and, upon request, the records must be made available to the Department of Commerce Office of Inspector General for inspection.

This **SUPPLEMENTARY INFORMATION** constitutes the detailed written justification required by ARRA Section 1605(c) for waivers based on a public interest finding under ARRA Section 1605(b)(1). The waiver determinations set forth herein are being made pursuant to the delegation of authority by the Secretary of Commerce to the NIST Director for projects funded under the NIST ARRA Construction Grant Program. The NIST Director reserves the right to revisit and amend the determinations set forth herein based on new developments or new information.

Authority: Section 1605 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5, Section 1605.

Catalogue of Federal Domestic Assistance (CFDA): 11.618, National Institute of Standards and Technology Construction Grant Program

Dated: November 4, 2013.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2013–26827 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Construction Safety Team Advisory Committee Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Construction Safety Team (NCST) Advisory Committee (Committee) will meet on Tuesday, December 10, 2013 from 8:30 a.m. to 5:00 p.m. Eastern time and Wednesday, December 11, 2013, from 8:30 a.m. to 12:30 p.m. Eastern time. The meeting will be open to the public. This meeting was originally scheduled for October 15–16, 2013 and was rescheduled as a result of the government shutdown due to a lapse in appropriations. The primary purpose of this meeting is to update the Committee on the status of the National Institute of Standards and Technology (NIST) Disaster and Failure Studies Program, receive NIST's response to the Committee's 2012 annual report recommendations, update the Committee on the progress of the NIST Technical Investigation of the May 22, 2011 Tornado in Joplin, MO, and gather information for the Committee's 2013 Annual Report to Congress. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/el/disasterstudies/ncst/.*

DATES: The NCST Advisory Committee will meet on Tuesday, December 10, 2013 from 8:30 a.m. until 5:00 p.m. Eastern time and Wednesday, December 11, 2013, from 8:30 a.m. to 12:30 p.m. Eastern time.

ADDRESSES: The meeting will be held in Rooms C103–C106, Advanced Measurement Laboratory (AML) Building (215), National Institute of Standards and Technology, 100 Bureau

Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Program and Management Analyst, Disaster and Failure Studies Program, Engineering Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (301) 975–5911.

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to Section 11 of the NCST Act (Pub. L. 107–231), codified at 15 U.S.C. 7301 *et seq.* The Committee is composed of ten members, appointed by the Director of NIST, who were selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues affecting teams established under the NCST Act. The Committee advises the Director of NIST on the functions and composition of Teams established under the NCST Act and on the exercise of authorities enumerated in the NCST Act and reviews the procedures developed to implement the NCST Act and reports issued under section 8 of the NCST Act. Background information on the NCST Act and information on the NCST Advisory Committee is available at *http://www.nist.gov/el/disasterstudies/ncst/.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NCST Advisory Committee will meet on Tuesday, December 10, 2013, from 8:30 a.m. until 5:00 p.m. Eastern time and on Wednesday, December 11, 2013, from 8:30 a.m. until 12:30 p.m. Eastern time. The meeting will be open to the public.

This meeting was originally scheduled for October 15–16, 2013 and was rescheduled as a result of the government shutdown due to a lapse in appropriations. The primary purpose of this meeting is to update the Committee on the status of the NIST Disaster and Failure Studies Program, receive NIST's response to the Committee's 2012 annual report recommendations, update the Committee on the progress of the NIST Technical Investigation of the May 22, 2011 Tornado in Joplin, MO, and gather information for the Committee's 2013 Annual Report to Congress. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/el/disasterstudies/ncst/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to request a place on the agenda. On December 10, 2013, approximately fifteen minutes will be reserved near the conclusion of the meeting for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be 5 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NCST Advisory Committee Web site at *http://www.nist.gov/el/disasterstudies/ncst/.* Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Ms. Tina Faecke, *tina.faecke@nist.gov,* by 5:00 p.m. Eastern time, Tuesday, December 3, 2013.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the National Construction Safety Team Advisory Committee, National Institute of Standards and Technology, 100 Bureau Drive, MS 8604, Gaithersburg, Maryland 20899–8604, via fax at (301) 975–4032, or electronically by email to *tina.faecke@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by 5:00 p.m. Eastern time, Tuesday, December 3, 2013, in order to attend. Please submit your full name, email address, and phone number to Tina Faecke. Non-U.S. citizens must also submit their country of citizenship, title, and employer/sponsor. Ms. Faecke's email address is *tina.faecke@nist.gov,* and her phone number is (301) 975–5911.

Dated: October 31, 2013.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–26828 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Nominations for Members To Serve on National Institute of Standards and Technology Federal Advisory Committees

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites and requests nomination of individuals for appointment to eight existing Federal Advisory Committees: Board of Overseers of the Malcolm Baldrige National Quality Award, Judges Panel of the Malcolm Baldrige National Quality Award, Information Security and Privacy Advisory Board, Manufacturing Extension Partnership Advisory Board, National Construction Safety Team Advisory Committee, Advisory Committee on Earthquake Hazards Reduction, NIST Smart Grid Advisory Committee, and Visiting Committee on Advanced Technology. NIST will consider nominations received in response to this notice for appointment to the Committees, in addition to nominations already received. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees.

DATES: Nominations for all committees will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: See below.

SUPPLEMENTARY INFORMATION:

Board of Overseers of the Malcolm Baldrige National Quality Award

Addresses: Please submit nominations to Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at: *http://www.nist.gov/baldrige/community/overseers.cfm.*

For Further Information Contact: Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–4781; fax 301–975–

4967; or via email at *robert.fangmeyer@nist.gov.*

Committee Information

The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award). The Board will make such suggestions for the improvement of the Award process as it deems necessary.

2. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Board will report to the Director of NIST.

Membership

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of organizational performance excellence. There will be a balanced representation from U.S. service and manufacturing industries as well as from education, health care, and nonprofit. The Board will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Board members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Board will meet annually, except that additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one day in duration. Historically, the Board has met twice per year.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

Nomination Information

1. Nominations are sought from the private and public sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, educational institutions, health care providers, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Judges Panel of the Malcolm Baldrige National Quality Award

Addresses: Please submit nominations to Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at: *http://patapsco.nist.gov/BoardofExam/Examiners_Judge2.cfm.*

For Further Information Contact: Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–4781; fax 301–975–4967; or via email at *robert.fangmeyer@nist.gov.*

Committee Information

The Judges Panel of the Malcolm Baldrige National Quality Award (Panel) was established in accordance with 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Panel will ensure the integrity of the Malcolm Baldrige National Quality Award (Award) selection process. Based on a review of results of examiners' scoring of written applications, Panel members will vote on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants. The Panel will also review recommendations from site visits, and recommend Award recipients.

2. The Panel will ensure that individual judges will not participate in the review of applicants as to which they have any potential conflict of interest.

3. The Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Panel will report to the Director of the National Institute of Standards and Technology (NIST).

Membership

1. The Panel is composed of approximately nine, and not more than twelve, members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. There will be a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Panel will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Panel members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms

will commence on March 1 and end on February 28 of the appropriate year.

Miscellaneous

1. Members of the Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Panel will meet three times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. When approved by the Department of Commerce Chief Financial Officer and Assistant Secretary for Administration, Panel meetings are closed to the public.

Nomination Information

1. Nominations are sought from all U.S. service and manufacturing industries, education, health care, and nonprofits as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, educational institutions, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Panel, and will actively participate in good faith in the tasks of the Panel. Besides participation at meetings, it is desired that members be either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Panel duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Panel membership.

Information Security and Privacy Advisory Board (ISPAB)

Addresses: Please submit nominations to Annie Sokol, NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–975–8670, Attn: ISPAB Nominations. Additional information regarding the ISPAB, including its charter and current membership list, may be found on its electronic home page at: *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

For Further Information Contact: Annie Sokol, ISPAB Designated Federal Officer (DFO), NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930; telephone 301–975–2006; fax: 301–975–8670; or via email at *annie.sokol@nist.gov.*

Committee Information

The ISPAB was originally chartered as the Computer System Security and Privacy Advisory Board (CSSPAB) by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). The Federal Information Security Management Act of 2002 (Pub. L. 107–347, Title III), amended Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), including changing the committee's name, and the charter was amended accordingly.

Objectives and Duties

The objectives and duties of the ISPAB are:

1. To identify emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.

2. To advise the National Institute of Standards and Technology (NIST), the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal government information systems, including thorough review of proposed standards and guidelines developed by NIST.

3. To annually report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

4. To function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Membership

The Director of NIST will appoint the members of the ISPAB, and members serve at the discretion of the Secretary of Commerce. Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. The ISPAB is comprised of twelve members, in addition to the Chairperson. The membership of the Board includes:

1. Four members from outside the Federal Government eminent in the technology industries, at least one of whom is representative of small or medium sized companies in such industries.

2. Four members from outside the Federal Government who are eminent in the field of information technology, or related disciplines, but who are not employed by or representative of a producer of information technology; and

3. Four members from the Federal Government who have information system management experience, including experience in information security and privacy, at least one whom shall be from the National Security Agency.

Miscellaneous

Members of the ISPAB who are not full-time employees of the Federal government are not compensated for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while otherwise performing duties at the request of the ISPAB Chairperson, while away from their homes or a regular place of business.

Meetings of the ISPAB are usually two to three days in duration and are usually held quarterly. ISPAB meetings are open to the public and members of the press usually attend. Members do not have access to classified or proprietary information in connection with their ISPAB duties.

Nomination Information

Nominations are being accepted in all three categories described above.

Nominees should have specific experience related to information security or privacy issues, particularly as they pertain to Federal information technology. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Also include (where applicable) current or former service on Federal advisory boards and any Federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the ISPAB, and that they will actively participate in good faith in the tasks of the ISPAB.

Besides participation at meetings, it is desired that members be able to devote a minimum of two days between meetings to developing draft issue papers, researching topics of potential

interest, and so forth in furtherance of their ISPAB duties.

Selection of ISPAB members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as ISPAB vacancies occur.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse ISPAB membership.

Manufacturing Extension Partnership (MEP) Advisory Board

Addresses: Please submit nominations to Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800. Nominations may also be submitted via fax to 301–963–6556. Additional information regarding the Board, including its charter may be found on its electronic home page at: *http://www.nist.gov/mep/advisory-board.cfm.*

For Further Information Contact: Ms. Karen Lellock, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800; telephone 301–975–4269, fax 301–963–6556; or via email at *karen.lellock@nist.gov.*

Committee Information

The MEP Advisory Board (Board) is authorized under Section 3003(d) of the America COMPETES Act (Pub. L. 110–69); codified at 15 U.S.C. 278k(e), as amended, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board will provide advice on MEP programs, plans, and policies.

2. The Board will assess the soundness of MEP plans and strategies.

3. The Board will assess current performance against MEP program plans.

4. The Board will function solely in an advisory capacity, and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

5. The Board shall transmit through the Director of the National Institute of Standards and Technology (NIST) an annual report to the Secretary of Commerce for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request each year. The report shall address the status of the MEP program and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under 15 U.S.C. 278i(c) and (d).

Membership

1. The Board shall consist of 10 members, broadly representative of stakeholders, appointed by the Director of NIST. At least 2 members shall be employed by or on an advisory board for the MEP Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

2. The Director of NIST shall appoint the members of the Board. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. Board members serve at the discretion of the Director of NIST.

3. Committee members from the manufacturing industry and those representing specific stakeholder groups shall serve in a representative capacity. Committee members from the academic community shall serve as experts, will be considered Special Government Employees (SGEs), and will be subject to all ethical standards and rules applicable to SGEs.

4. The term of office of each member of the Board shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. Any person who has completed two consecutive full terms of service on the Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second term.

Miscellaneous

1. Members of the Board will not be compensated for their services but will, upon request, be allowed travel and per diem expenses as authorized by 5 U.S.C. 5701 *et seq.,* while attending meetings of the Board or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Board will meet at least three times a year. Additional meetings may be called by the Director of NIST or the Designated Federal Officer (DFO) (or his or her designee).

3. Committee meetings are open to the public.

Nomination Information

Nominations are being accepted in all categories described above.

Nominees should have specific experience related to manufacturing and industrial extension services. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Each nomination letter should state that the person agrees to the nomination and acknowledges the responsibilities of serving on the MEP Advisory Board.

Selection of MEP Advisory Board members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as Board vacancies occur.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse MEP Advisory Board membership.

National Construction Safety Team Advisory Committee

Addresses: Please submit nominations to Tina Faecke, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032. Additional information regarding the committee, including its charter may be found on its electronic home page at: *http://www.nist.gov/el/disasterstudies/ncst.*

For Further Information Contact: Tina Faecke, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604, telephone 301–975–5911, fax 301–975–4032; or via email at *tina.faecke@nist.gov.*

Committee Information

The National Construction Safety Team Advisory Committee (Committee) was established in accordance with the National Construction Safety Team Act, Public Law 107–231 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of the National Institute of Standards and Technology (NIST) on carrying out the National Construction Safety Team Act (Act), review and provide advice on the procedures developed under section 2(c)(1) of the Act, and review and provide advice on the reports issued under section 8 of the Act.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

3. The Committee shall report to the Director of NIST.

4. On January 1 of each year, the Committee shall transmit, through the

Director of the NIST Engineering Laboratory (EL) and the Director of NIST to the Secretary of Commerce, for submission to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes: (1) An evaluation of National Construction Safety Team activities, along with recommendations to improve the operation and effectiveness of National Construction Safety Teams, and (2) an assessment of the implementation of the recommendations of the National Construction Safety Teams and of the advisory committee.

Membership

1. The Committee shall consist of not fewer than five nor more than ten members. Members shall reflect the wide diversity of technical disciplines and competencies involved in the National Construction Safety Teams investigations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Construction Safety Teams.

2. The Director of the NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their services but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5703, while attending meetings of the Committee or of its subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs), will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet face-to-face at least once per year. Additional meetings may be called whenever the Chair or the Director of NIST requests a meeting; such meetings may be in the form of telephone conference calls and/or videoconferences.

Nomination Information

1. Nominations are sought from industry and other communities having an interest in the National Construction Safety Teams investigations.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Advisory Committee on Earthquake Hazards Reduction (ACEHR)

Addresses: Please submit nominations to Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032 or email at *tina.faecke@nist.gov.* Additional information regarding the Committee, including its charter and executive summary may be found on its electronic home page at: *http://www.nehrp.gov.*

For Further Information Contact: Jack Hayes, Director, National Earthquake Hazards Reduction Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604, telephone 301–975–5640, fax 301–975–4032; or via email at *jack.hayes@nist.gov.*

Committee Information

The Advisory Committee on Earthquake Hazards Reduction (Committee) was established in accordance with the National Earthquake Hazards Reduction Program Reauthorization Act of 2004, Public Law 108–360 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee will act in the public interest to assess trends and developments in the science and engineering of earthquake hazards reduction, effectiveness of the National Earthquake Hazards Reduction Program in carrying out the activities under section (a)(2) of the Earthquake Hazards Reduction Act of 1977, as amended, (42 U.S.C. 7704(b)(a)(2)), the need to revise the Program, the management, coordination, implementation, and activities of the Program.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall report to the Director of NIST at least once every two years on its findings of the assessments and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC).

Membership

1. The Committee shall consist of not fewer than 11, nor more than 17 members. Members shall reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Earthquake Hazards Reduction Program.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy and that members shall have staggered terms such that the Committee will have approximately one-third new or reappointed members each year.

4. No Committee member may be an ''employee'' as defined in subparagraphs (A) through (F) of section 7342(a)(1) of Title 5 of the United States Code.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at

the request of the Chair, while away from their homes or regular places of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee members shall meet face-to-face at least once per year. Additional meetings may be called whenever requested by the NIST Director or the Chair; such meetings may be in the form of telephone conference calls and/or videoconferences.

4. Committee meetings are open to the public.

Nomination Information

1. Members will be drawn from industry and other communities having an interest in the National Earthquake Hazards Reduction Program, such as, but not limited to, research and academic institutions, industry standards development organizations, state and local government bodies, and financial communities, who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

NIST Smart Grid Advisory Committee

Addresses: Please submit nominations to Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200. Nominations may also be submitted via email to *cuong.nguyen@nist.gov.* Information about the committee may be found at: *http://www.nist.gov/smartgrid/committee.cfm.*

For Further Information Contact: Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–975–4091; or via email at *cuong.nguyen@nist.gov.*

Committee Information

The NIST Smart Grid Advisory Committee (Committee) was established in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of the National Institute of Standards and Technology (NIST) on carrying out duties authorized by section 1305 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140).

2. The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide input to NIST on the Smart Grid Standards, Priorities, and Gaps. The Committee shall provide input to NIST on the overall direction, status and health of the Smart Grid implementation by the Smart Grid industry including identification of issues and needs. The Committee shall provide input to NIST on Smart Grid Interoperability Panel activities and on the direction of research and standards activities.

5. Upon request of the Director of NIST, the Committee will prepare reports on issues affecting Smart Grid activities.

Membership

1. The Committee shall consist of no less than 10 and no more than 15 members. Members shall reflect the wide diversity of technical disciplines and competencies involved in the Smart Grid deployment and operations and will come from a cross section of organizations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting Smart Grid deployment and operations.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but will, upon request, be allowed travel and per diem expenses, in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Committee shall meet approximately two times per year at the call of the Designated Federal Officer (DFO). Additional meetings may be called by the DFO whenever one-third or more of the members so request it in writing or whenever the Director of NIST requests a meeting.

Nomination Information

1. Nominations are sought from all fields involved in issues affecting the Smart Grid.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Visiting Committee on Advanced Technology (VCAT or Committee)

Addresses: Please submit nominations to Gail Ehrlich, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060. Nominations may also be submitted via fax to 301–216–0529 or via email at *gail.ehrlich@nist.gov.* Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic homepage at: *http://www.nist.gov/director/vcat/vcat.htm.*

For Further Information Contact: Gail Ehrlich, Executive Director, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060, telephone 301–975–2149, fax 301–216–0529; or via email at *gail.ehrlich@nist.gov.*

Committee Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for the National Institute of Standards and Technology (NIST), its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide an annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress not later than 30 days after the submittal to Congress of the President's annual budget request in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect NIST, or with which the Committee in its official role as the private sector policy adviser of NIST is concerned. Each such report shall identify areas of program emphasis for NIST of potential importance to the long-term competitiveness of United States industry. Such report also shall comment on the programmatic planning document and updates thereto submitted to Congress by the Director under subsections (c) and (d) of section 23 of the NIST Act (15 U.S.C. 278i). The Committee shall submit to the Secretary and Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee shall consist of fifteen members. Members shall be selected solely on the basis of established records of distinguished service; shall provide representation of a cross-section of traditional and emerging United States industries; and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

Miscellaneous

1. Members of the Committee will not be compensated for their services, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs. As SGEs, the members are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. Meetings of the VCAT usually take place at the NIST headquarters in Gaithersburg, Maryland, and may be held periodically at the NIST site in Boulder, Colorado. Meetings are usually two days in duration and are held at least twice each year.

4. Generally, Committee meetings are open to the public.

Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the candidate agrees to the nomination, acknowledges the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Dated: October 31, 2013.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–26832 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC947

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's Outreach and Education Advisory Panel (OEAP) will meet.

DATES: The meeting will be held on November 26, 2013, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at CFMC Office, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The OEAP will meet to discuss the items contained in the following agenda:

—Call to Order
—Adoption of Agenda
—OEAP Chairperson's Report
—Status of:
  —Newsletter
  —Web Site
  —2014 Calendar
  —CFMC Brochure
  —St. Croix, Fuete y Verguilla Issue
  —USVI Activities: ''Marine Outreach & Education USVI Style''
  —Caribbean Fisheries Teacher's Resource Book
—Development of Visual Aids To Identify Changes in the Essential Fish Habitat of Some Species in FMPs Management Units
—PR Commercial Fisheries Project

—Summary of Commercial and Recreational Fishing Regulations for the US Caribbean Exclusive Economic Zone
—Other Business

The OEAP meeting will convene on November 26, 2013, from 9 a.m. until 5 p.m.

The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: November 5, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–26823 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coral Reef Conservation Program; Meeting

AGENCY: Coral Reef Conservation Program, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting, notice of public comment.

SUMMARY: Notice is hereby given of a public meeting of the U.S. Coral Reef Task Force (USCRTF). The meeting will be held in Christiansted, U.S. Virgin Islands at The Buccaneer Hotel, 5007 Estates Shoys, Christiansted, U.S. Virgin Islands 00820. The meeting provides a forum for coordinated planning and action among federal agencies, state and territorial governments, and nongovernmental partners. The meeting will be held Friday, November 15, 2013. Additional workshops and field trips will be held in advance of the meeting on Tuesday, November 12, Wednesday, November 13 and Thursday, November 14. Registration is requested for all events associated with the meeting.

This meeting has time allotted for public comment. All public comments must be submitted in written format. A written summary of the meeting will be posted on the USCRTF Web site within two months of occurrence. For information about the meeting, registering and submitting public comments, go to *http://www.coralreef.gov, https://dpnrczm.wufoo.com/forms/* or *https://uscrtf-events-registration-form/*or *https://dpnrczm.wufoo.com/forms/uscrtf-registration-form.*

Commenters may address the meeting, the role of the USCRTF, or general coral reef conservation issues. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment, including 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.

Established by Presidential Executive Order 13089 in 1998, the U.S. Coral Reef Task Force mission is to lead, coordinate and strengthen U.S. government actions to better preserve and protect coral reef ecosystems. Co-chaired by the Departments of Commerce and Interior, Task Force members include leaders of 12 federal agencies, seven U.S. states and territories and three freely associated states.

FOR FURTHER INFORMATION CONTACT: Shannon Simpson, NOAA USCRTF Steering Committee Point of Contact, NOAA Coral Reef Conservation Program, 1305 East-West Highway, N/OCRM, Silver Spring, MD 20910 at 303–497–6246 or Liza Johnson, USCRTF Executive Secretary, U.S. Department of Interior, MS–3530–MIB, 1849 C Street NW., Washington, DC 20240 at 202–208–4867 or visit the USCRTF Web site at *http://www.coralreef.gov.*

Dated: November 5, 2013.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–26947 Filed 11–7–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC962

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Joint Mid-Atlantic Fishery Management Council's (Council) and the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panel will hold public meetings.

DATES: The meeting will be held on Monday, November 25, 2013 from 1 p.m. to 4:30 p.m.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. Details on webinar registration and the telephone-only connection details are available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331, extension 255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Advisory Panel will discuss recreational management measures for the upcoming fishing year(s). Summer flounder recreational measures will be discussed from 1 p.m. to 2:30 p.m., scup measures from 2:30 p.m. to 3:30 p.m., and black sea bass measures from 3:30 p.m. to 4:30 p.m.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically

listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: November 5, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–26824 Filed 11–7–13; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 12/9/2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 8/23/2013 (78 FR 52512–52513), 8/30/2013 (78 FR 53734), and 9/6/2013 (78 FR 54871), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN: MR 377—Socks, Holiday.
NSN: MR 382—Duct Tape, Holiday Themed, Assorted Colors.
NSN: MR 10635—Serving Platter, Heavy Duty, Raised Surface, Fall Themed, White.
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC.
Contracting Activity: DEFENSE COMMISSARY AGENCY, FORT LEE, VA.
COVERAGE: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.
NSN: 6645–00–NIB–0141—Clock, Wall, Quartz Movement, 14.5″.
NSN: 6645–00–NIB–0143—Clock, Wall, Self-Set Movement, 14.5″.
NSN: 6645–00–NIB–0145—Clock, Wall, Quartz Movement, 16.5″.
NSN: 6645–00–NIB–0147—Clock, Wall, Self-Set Movement, 16.5″.
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 6645–00–NIB–0142—Clock, Wall, Quartz Movement, Customizable Logo, 14.5″.
NSN: 6645–00–NIB–0144—Clock, Wall, Self-Set Movement, Customizable Logo, 14.5″.
NSN: 6645–00–NIB–0146—Clock, Wall, Quartz Movement, Customizable Logo, 16.5″.
NSN: 6645–00–NIB–0148—Clock, Wall, Self-Set Movement, Customizable Logo, 16.5″.
NSN: 6645–00–NIB–0149—Clock, Wall, Quartz Movement, 15.5″.
NSN: 6645–00–NIB–0150—Clock, Wall, Quartz Movement, Customizable Logo, 15.5″.
NSN: 6645–00–NIB–0151—Clock, Wall, Self-Set Movement, 15.5″.
NSN: 6645–00–NIB–0152—Clock, Wall, Self-Set Movement, Customizable Logo, 15.5″.
COVERAGE: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL.
Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY.
NSN: 7520–00–NIB–0357—Kit, Mounting Board, GHS, SDS Information Center.
NSN: 7520–00–NIB–0360—Binder, GHS, Safety Data Sheets.
COVERAGE: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7520–00–NIB–0358—Kit, Mounting Board, GHS Information Center.
NSN: 7520–00–NIB–0359—Binder with Wire Rack Holder, GHS, Safety Data Sheets.
COVERAGE: B-List for the Broad Government requirement as aggregated by the General Services Administration.
NPA: Association for the Blind and Visually Impaired—Goodwill Industries of Greater Rochester, Rochester, NY.
Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–26805 Filed 11–7–13; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and delete services previously provided by such agencies.

Comments Must Be Received on or Before: 12/9/2013.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 USC

8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 8455–00–NIB–0036—ID Card Holder, Dual Cards, Rigid Plastic, Black, W/Neck Lanyard.
NSN: 8455–00–NIB–0037—ID Card Holder, Dual Cards, Rigid Plastic, Black.
NSN: 8455–00–NIB–0039—Badge Holder, ID, Plastic, Clear, Waterproof W/Neck Lanyard.
NPA: West Texas Lighthouse for the Blind, San Angelo, TX.
Contracting Activity: General Services Administration, Fort Worth, TX.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7520–00–NIB–1932—Pen, Roller Ball, Liquid Ink, Retractable, Needle Point, Airplane Safe, 0.5 mm, Refillable, Black.
NSN: 7520–00–NIB–1933—Pen, Roller Ball, Liquid Ink, Retractable, Needle Point, Airplane Safe, 0.5 mm, Refillable, Blue.
NSN: 7520–00–NIB–1934—Pen, Roller Ball, Liquid Ink, Retractable, Needle Point, Airplane Safe, 0.7 mm, Refillable, Black.
NSN: 7520–00–NIB–1935—Pen, Roller Ball, Liquid Ink, Retractable, Needle Point, Airplane Safe, 0.7 mm, Refillable, Blue.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7510–00–NIB–2241—Refill, Roller Ball, Liquid Ink, Airplane Safe, 0.5 mm, Black.
NSN: 7510–00–NIB–9896—Refill, Roller Ball, Liquid Ink, Airplane Safe, 0.5 mm, Blue.
NSN: 7510–00–NIB–9897—Refill, Roller Ball, Liquid Ink, Airplane Safe, 0.7 mm, Black.
NSN: 7510–00–NIB–9898—Refill, Roller Ball, Liquid Airplane Safe Ink, 0.7 mm, Blue.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: San Antonio Lighthouse for the Blind, San Antonio, TX.
Contracting Activity: General Services Administration, New York, NY.

Deletions

The following services are proposed for deletion from the Procurement List:

Services

Service Type/Location: Switchboard Operation Service, Department of Justice, FBI Academy, Quantico, VA.
NPA: Rappahannock Goodwill Industries, Inc., Fredericksburg, VA.
Contracting Activity: Dept of Justice, Federal Bureau of Investigation, Washington, DC.
Service Type/Location: Vehicle Detailing Service; Fleet Management Center, Medford, OR.
NPA: Living Opportunities, Inc., Medford, OR.
Contracting Activity: General Services Administration, FPDS Agency Coordinator, Washington, DC.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–26806 Filed 11–7–13; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, November 13, 2013, 10 a.m.–12 p.m.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

Matters To Be Considered

Decisional Matters

1. Voluntary Recall Notice NPR
2. FY 2014 Operating Plan

A live webcast of the Meeting can be viewed at *www.cpsc.gov/live*.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: November 5, 2013.

Todd A. Stevenson,

Secretary.

[FR Doc. 2013–26879 Filed 11–6–13; 11:15 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps Application Instructions for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Jennifer Bastress Tahmasebi, at 202–606–6667 or email to *jbastresstahmasebi@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Jasmeet Seehra, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Jasmeet Seehra, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *Jasmeet_K._Seehra@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on 8/19/2013. This comment period ended 10/18/2013. Six entities provided comments. Many of the comments addressed the content of the FY2013 AmeriCorps State and National Notice of Funding Opportunity. CNCS will address these comments through a

different forum. The comments related to the Application Instructions are addressed below.

Two commenters asked that if CNCS releases multiple versions of the Application Instructions that they be dated. CNCS will date all versions of the Applications Instructions moving forward.

Three commenters asked that CNCS raise the applicant burden to 80 hours to account for both the initial application preparation as well as the reworking of the application based on State Commission review and feedback. In response to the comments, CNCS will raise the applicant burden to 80 hours to ensure that the burden estimate provides the public, especially new applicants, with adequate notice of the time required to prepare an application. We expect that many applicants will be able to complete the application in less than 80 hours, but support providing notice to applicants that will allow them to budget time effectively.

Two commenters asked if the fields ''Total Private Match'' and ''Total Local, State, and Federal Government Match'' will be populated by the ''Total Match'' amount captured in the budget. No. The ''Total Match'' amount captured in the budget is a combination of private and government match. CNCS is interested in breaking out the match into two categories.

Two commenters asked the purpose of requesting ''Leveraged funds,'' if there was a requirement to track those funds, and what repercussions would there be if an applicant raised leverage funds that were either above or below the expected amount. The collection of ''Leveraged funds'' enables CNCS to better understand the total cost of running an AmeriCorps program. For cost reimbursement applicants, funding in addition to the CNCS share and the required match may be required to run an AmeriCorps program. For fixed amount applicants, funding in addition to the CNCS share is required to run an AmeriCorps program. There is no requirement to track leveraged funds as long as successful applicants have adequate resources to sustain program operations. If there are sufficient funds to operate successfully, there are no repercussions should the applicant raise more or less of the anticipated ''Leveraged Funds'' amount.

One commenter asked for definitions for ''episodic'' and ''ongoing'' volunteers. CNCS has provided those definitions in the FY2013 AmeriCorps State and National Notice of Funding Opportunity.

One commenter asked if the operating sites chart will be provided to State Commissions as part of the consultative process that takes place between National Direct applicants and State Commissions. CNCS plans to incorporate the operating site data into the state profiles, which are updated annually and available for Commission use. At this time, CNCS does not have plans to share this information with state commissions to facilitate the National Direct—State Commission consultative process, largely due to egrants system limitations.

Description: CNCS is seeking approval of AmeriCorps Application Instructions, which is used by Nonprofit organizations and State, Local, and Tribal Governments to apply for AmeriCorps funding.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Application Instructions: State Commissions; State and National Competitive; Professional Corps, Indian Tribes; State and Territories without Commissions; and State and National Planning.

OMB Number: 3045–0047.

Agency Number: None.

Affected Public: Nonprofit organization, State, Local and Tribal.

Total Respondents: 2,000.

Frequency: Annually or as grant solicitations require.

Average Time per Response: 80 hours.

Estimated Total Burden Hours: 160,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: November 4, 2013.

Bill Basl,

Director, AmeriCorps.

[FR Doc. 2013–26782 Filed 11–7–13; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Advisory Committee Closed Meeting; U.S. Strategic Command Strategic Advisory Group

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee closed meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group.

DATES: December 10, 2013, from 8:00 a.m. to 5:00 p.m. and December 11, 2013, from 8:00 a.m. to 10:30 a.m.

ADDRESSES: Dougherty Conference Center, Building 432, 906 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Sudduth, Designated Federal Officer, (402) 294–4102, 901 SAC Boulevard, Suite 1F7, Offutt AFB, NE 68113–6030.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2, Section 1), the Government in Sunshine Act of 1976 (5 U.S.C. § 552b), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Policy Issues, Space Operations, Nuclear Weapons Stockpile Assessment, Weapons of Mass Destruction, Intelligence Operations, Cyber Operations, Global Strike, Command and Control, Science and Technology, Missile Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General C. Robert Kehler, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*http://facasms.fido.gov/*. Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written

statements and provide copies to all the committee members.

Dated: November 4, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–26761 Filed 11–7–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

GPS Satellite Simulator Control Working Group Meeting

AGENCY: Space and Missile Systems Center, Global Positioning Systems (GPS) Directorate, Air Force, DoD.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice to replace the initially posting to the **Federal Register** on October 24, 2013 Vol. 78 No. 206. This new meeting notice is to inform GPS simulator manufacturers, who supply products to the Department of Defense (DoD), and GPS simulator users, both government and DoD contractors, that the GPS Directorate will host a GPS Satellite Simulator Control Working Group (SSCWG) meeting on 6 December 2013 from 0900–1300 PST at Los Angeles Air Force Base.

The purpose of this meeting is to disseminate information about GPS simulators, discuss current and on-going efforts related to GPS simulators, and to discuss future GPS simulator development. This event will be conducted as a classified meeting.

FOR FURTHER INFORMATION CONTACT: We request that you register for this event no later than 29 November 2013. Please send your registration (name, organization, and email address) to *wayne.urubio.3@us.af.mil* and have your security personnel submit your VAR through JPAS. SMO Code: GPSD and POC: Lt Wayne Urubio, 310–653–4603. Please visit *http://www.gps.gov/technical/sscwg/* for information regarding an address and a draft agenda.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2013–26802 Filed 11–7–13; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0039]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Contract Pricing

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0232 for use through January 31, 2014. DoD is proposing that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by January 7, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0232, using any of the following methods:

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

○ Email: *dfars@osd.mil.* Include OMB Control Number 0704–0232 in the subject line of the message.

○ Fax: (571) 372–6094.

○ Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, at (571) 372–6099. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.htm.* Paper copies are available from Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.4, Contract Pricing; DD Form 1861, Contract Facilities Capital Cost of Money; OMB Control Number 0704–0232.

Needs and Uses:

DoD contracting officers use DD Form 1861 in computing profit objectives for negotiated contracts. A DD Form 1861 is normally completed for each proposal for a contract for supplies or services that is priced and negotiated on the basis of cost analysis. The form enables contracting officers to differentiate profit objectives for various types of contractor assets (land, buildings, equipment). DoD needs this information to develop appropriate profit objectives when negotiating Government contracts.

DoD contracting officers need the information required by DFARS 215.407–5, Estimating systems, and the related contract clause at 252.215–7002, Cost Estimating System Requirements, to determine if a contractor has an acceptable system for generating cost estimates, and to monitor the correction of any deficiencies.

Affected Public: Businesses and other for-profit entities.

Number of Respondents: 10,300.

Responses per Respondent: Approximately 5.

Annual Responses: 53,458.

Average Burden per Response: Approximately 10 hours.

Annual Response Burden Hours: 538,480.

Reporting Frequency: On occasion.

Summary of Information Collection

DFARS 215.404–71–4, Facilities capital employed, requires the use of DD Form 1861 as a means of linking Form CASB–CMF, Facilities Capital Cost of Money Factors Computation, and DD Form 1547, Record of Weighted Guidelines Application. The contracting officer uses DD Form 1861 to record and compute contract facilities capital cost of money and facilities capital employed, and carries the facilities

capital employed amount to DD Form 1547 to develop a profit objective. When the weighted guidelines method is used as one of the three structured approaches for developing a prenegotiation profit or fee objective in accordance with DFARS 215.404–4, completion of DD Form 1861 requires contractor information not included on Form CASB–CMF, i.e., distribution percentages of land, buildings, and equipment for the business unit performing the contract.

DFARS 215.407–5, Estimating systems, and the clause at 252.215–7002, Cost Estimating System Requirements, require that certain large business contractors—

- Establish an acceptable cost estimating system and disclose the estimating system to the administrative contracting officer (ACO) in writing;
- Maintain the estimating system and disclose significant changes in the system to the ACO on a timely basis; and
- Respond in writing to written reports from the Government that identify deficiencies in the estimating system.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–26815 Filed 11–7–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0038]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions

AGENCY: Defense Acquisition Regulation System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through January 31, 2014. DoD proposes that OMB extend its approval for these collections to expire three years after the approval date.

DATES: DoD will consider all comments received by January 7, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0286, using any of the following methods:

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

○ *Email: dfars@osd.mil.* Include OMB Control Number 0704–0231 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Lesa Scott, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Lesa Scott, at (571) 372–6104. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.htm.* Paper copies are available from Ms. Lesa Scott, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 205, Publicizing Contract Actions, and associated clause at DFARS 252.205–7000, Provision of Information to Cooperative Agreement Holders; OMB Control Number 0704–0286.

Needs and Uses: This information collection requirement pertains to contractor information provided to Cooperative Agreement Holders. DFARS subpart 205.4, Release of Information, and the clause at DFARS 252.205–7000 require defense prime contractors awarded contracts over $1,000,000 to provide cooperative agreement holders, upon request, a list of employees or offices responsible for entering into subcontracts under defense contracts. The cooperative agreement holders further disseminate the information to other firms within a geographic area defined in the individual cooperative agreements. The purpose of the cooperative agreements is for the agreement holders to provide procurement technical assistance to business entities within a specified geographic area. This guidance implements 10 U.S.C. 2416.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Number of Respondents: 7,000.

Average Responses Per Respondent: 1.

Annual Responses: 7,000.

Average Burden per Response: Approximately 1.1 hour.

Annual Response Burden Hours: 7,700.

Reporting Frequency: On occasion.

Summary of Information Collection

DFARS subpart 205.4 and the clause at DFARS 252.205–7000 require defense prime contractors awarded contracts over $1,000,000 to provide cooperative agreement holders, upon request, a list of those employees or offices responsible for entering into subcontracts under defense contracts. The list must include the business address, telephone number, and area of responsibility of each employee or office. The contractor need not provide the list to a particular cooperative agreement holder more frequently than once a year.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–26814 Filed 11–7–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10–2774–003.

Applicants: Arizona Solar One LLC.

Description: Notice of Non-Material Change in Status of Arizona Solar One LLC.

Filed Date: 10/28/13.

Accession Number: 20131028–5174.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–202–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 10–28–13 SSR Notification to be effective 12/27/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5081.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–203–000.
Applicants: Citizens Sunrise Transmission LLC.
Description: Citizens Sunrise Transmission LLC submits Annual TRBAA Filing to be effective 1/1/2014.
Filed Date: 10/28/13.
Accession Number: 20131028–5083.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–204–000.
Applicants: Duke Energy Progress, Inc.
Description: Duke Energy Progress, Inc. submits Cancellation of Duke Energy Progress Rate Schedules to be effective 12/27/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5114.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–205–000.
Applicants: Duke Energy Progress, Inc.
Description: Duke Energy Progress, Inc. submits Rate Schedules Name Change Filing No. 1 to be effective 12/27/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5116.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–206–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits 10–28–13 MISO TOA revs re SOC to be effective 12/28/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5126.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–207–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Revisions to the PJM OATT regarding Phasor Measurement Units to be effective 12/28/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5133.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–208–000.
Applicants: Duke Energy Progress, Inc.
Description: Duke Energy Progress, Inc. submits Camden FRPPA—RS No. 197 to be effective 1/1/2014.
Filed Date: 10/28/13.
Accession Number: 20131028–5148.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–209–000.
Applicants: PowerOne Corporation.
Description: PowerOne Corporation submits MBR Application to be effective 11/28/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5162.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–210–000.
Applicants: Entergy Arkansas, Inc.
Description: Entergy Arkansas, Inc. submits Compliance Filing to be effective 4/29/2011.
Filed Date: 10/28/13.
Accession Number: 20131028–5167.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–211–000.
Applicants: Entergy Gulf States Louisiana, L.L.C.
Description: Entergy Gulf States Louisiana, L.L.C. submits Settlement Compliance Filing to be effective 4/29/2011.
Filed Date: 10/28/13.
Accession Number: 20131028–5168.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–212–000.
Applicants: Entergy Louisiana, LLC.
Description: Entergy Louisiana, LLC submits Settlement Compliance Filing—EL10–65 to be effective 4/29/2011.
Filed Date: 10/28/13.
Accession Number: 20131028–5169.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–213–000.
Applicants: Entergy Mississippi, Inc.
Description: Entergy Mississippi, Inc. submits EL10–65 Compliance Filing to be effective 4/11/2013.
Filed Date: 10/28/13.
Accession Number: 20131028–5170.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–214–000.
Applicants: Entergy New Orleans, Inc.
Description: Entergy New Orleans, Inc. submits EL10–65 Compliance Filing—Settlement Agreement to be effective 4/29/2011.
Filed Date: 10/28/13.
Accession Number: 20131029–5000.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ER14–215–000.
Applicants: Entergy Texas, Inc.
Description: Entergy Texas, Inc. submits Compliance Filing—Settlement Agreement to be effective 4/29/2011.
Filed Date: 10/28/13.
Accession Number: 20131029–5001.
Comments Due: 5 p.m. ET 11/18/13.

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

Docket Numbers: ES13–56–000
Applicants: Transource Missouri, LLC.
Description: Amendment to September 20, 2013 Application of Transource Missouri, LLC for Authorization Under Section 204(A) of the Federal Power Act to Borrow Up to $350 Million.
Filed Date: 10/29/13.
Accession Number: 20131029–5035.
Comments Due: 5 p.m. ET 11/8/13.

Docket Numbers: ES14–6–000.
Applicants: PECO Energy Company.
Description: Application of PECO Energy Company under Section. 204 of the Federal Power Act for the Authority to Issue Securities.
Filed Date: 10/28/13.
Accession Number: 20131028–5198.
Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: ES14–7–000.
Applicants: Commonwealth Edison Company.
Description: Application of Commonwealth Edison Company under Section. 204 of the Federal Power Act for the Authority to Issue Securities.
Filed Date: 10/28/13.
Accession Number: 20131028–5199.
Comments Due: 5 p.m. ET 11/18/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–3–000.
Applicants: CalPeak Power LLC, CalPeak Power—Border LLC, CalPeak Power—Enterprise LLC, CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC Starwood Power-Midway LLC.
Description: Quarterly Land Acquisition Report of CalPeak Power LLC, et al.
Filed Date: 10/28/13.
Accession Number: 20131028–5122.
Comments Due: 5 p.m. ET 11/18/13.

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

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

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

Dated: October 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–26736 Filed 11–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10–2984–014.
Applicants: Merrill Lynch Commodities, Inc.
Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.
Filed Date: 10/31/13.
Accession Number: 20131031–5303.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER10–2985–014.
Applicants: Champion Energy Marketing LLC, Champion Energy Services, LLC, Champion Energy, LLC.
Description: Notice of Change in Status of Champion Energy Marketing LLC, et. al.
Filed Date: 10/31/13.
Accession Number: 20131031–5322.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–96–001.
Applicants: Healthy Planet Partners Energy Company.
Description: Healthy Planet Partners Energy Company submits tariff filing per 35.17(b): HPP_MBRA_Amendment to be effective 1/15/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5002.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–250–000.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Deseret Generation & Transmission Co-operative, Inc. submits tariff filing per 35.13(a)(2)(iii: Northern Tier Transmission Group Funding Agreement to be effective 1/1/2014.
Filed Date: 10/31/13.
Accession Number: 20131031–5248.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–251–000.
Applicants: NorthWestern Corporation.
Description: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: Northern Tier Transmission Group Funding Agreement 2014–2015 to be effective 1/1/2014.
Filed Date: 10/31/13.
Accession Number: 20131031–5250.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–252–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–10–31 SA 2078 Northern State Power-Sibley to be effective 11/1/2013.
Filed Date: 10/31/13.
Accession Number: 20131031–5253.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–253–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: NTTG Funding Agreement 2014–2015 to be effective 1/1/2014.
Filed Date: 10/31/13.
Accession Number: 20131031–5263.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–254–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2013–10–31 Ameren-Dynegy (IP–DMG IA) J232 to be effective 11/2/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5003.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–255–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: IFA with City of Moreno Valley for San Michele Rd WDAT Project to be effective 11/2/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5005.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–256–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 10–31–2013 SA2541 Dynegy-Ameren GIA to be effective 11/2/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5006.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–257–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of cancellation of Original Service Agreement No. 2371, Queue No. Q41 of PJM Interconnection, L.L.C.
Filed Date: 10/31/13.
Accession Number: 20131031–5294.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–258–000.
Applicants: Western Massachusetts Electric Company, ISO New England Inc.
Description: Western Massachusetts Electric Company submits tariff filing per 35.13(a)(2)(iii: Elim of Unreserved Use Penalties—NU Sch 21 to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5020.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–259–000.
Applicants: PPL EnergyPlus, LLC,PPL Renewable Energy, LLC.
Description: Request for Waiver of PPL EnergyPlus, LLC, et. al.
Filed Date: 10/31/13.
Accession Number: 20131031–5327.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–260–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 11–1–13 Attachment O–2 Cleanup to be effective 1/2/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5034.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–261–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 11–01–13 Att GG and MM Name Change to be effective 1/2/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5035.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–262–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Wabash Valley Power Association, Inc. submits tariff filing per 35.13(a)(2)(iii: Amendments to Rate Schedule—Jasper County REMC to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5036.
Comments Due: 5 p.m. ET 11/22/13.

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

Docket Numbers: ES14–9–000.
Applicants: FirstEnergy Service Company, Jersey Central Power & Light, Metropolitan Edison Company, Monongahela Power Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Trans-Allegheny Interstate Line Company, The Potomac Edison Company.
Description: Application for Authorization of FirstEnergy Service Company on Behalf of the FirstEnergy Applicants under Section 204(a) of the Federal Power Act to Issue Short-Term Debt Securities.
Filed Date: 10/31/13.
Accession Number: 20131031–5333.
Comments Due: 5 p.m. ET 11/21/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–3–000.
Applicants: Duke Energy Corporation.
Description: Quarterly Land Acquisition Report of the Duke Energy MBR Affiliates under LA13–3.
Filed Date: 10/31/13.
Accession Number: 20131031–5323.
Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: LA13–3–000.
Applicants: EC&R O&M, LLC, E.ON Global Commodities North America LLC, Munnsville Wind Farm, LLC, Pioneer Trail Wind Farm, LLC, Settlers Trail Wind Farm, LLC, Stony Creek Wind Farm, LLC, Wildcat Wind Farm I, LLC.
Description: Quarterly Land Acquisition Report of the E.ON Sellers under LA13–3.
Filed Date: 10/31/13.
Accession Number: 20131031–5324.
Comments Due: 5 p.m. ET 11/21/13.

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

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

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

Dated: November 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–26771 Filed 11–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: EC14–15–000.
Applicants: CSOLAR IV South, LLC.
Description: Application for Approval Under Section 203 of the Federal Power Act and Request for Expedited Action of CSOLAR IV South, LLC.
Filed Date: 10/28/2013.
Accession Number: 20131028–5111.
Comment Date: 5 p.m. ET 11/18/13.

Docket Numbers: EC14–16–000.
Applicants: Star Energy Partners LLC.
Description: Application under Section 203 of FPA of Star Energy Partners, LLC.
Filed Date: 10/28/2013.
Accession Number: 20131028–5171.
Comment Date: 5 p.m. ET 11/18/13.

Docket Numbers: EC14–17–000.
Applicants: CPV Shore, LLC.
Description: CPV Shore, LLC Submits 203 Application for Authorization of Disposition of Jurisdictional Facilities.
Filed Date: 10/29/13.
Accession Number: 20131029–5097.
Comments Due: 5 p.m. ET 11/19/13.

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

Docket Numbers: ER11–2715–005.
Applicants: Interstate Power and Light Company.
Description: IPL Amended and Restated O&T Agreement with ITCM & CIPCO to be effective 9/27/2013.
Filed Date: 10/22/13.
Accession Number: 20131022–5107.
Comments Due: 5 p.m. ET 11/1/13.

Docket Numbers: ER11–2715–006.
Applicants: Interstate Power and Light Company.
Description: IPL Amended and Restated O&T Agreement with ICM & CIPCO to be effective 9/27/2013.
Filed Date: 10/22/13.
Accession Number: 20131022–5116.
Comments Due: 5 p.m. ET 11/1/13.

Docket Numbers: ER11–2715–007; EL10–68–002; EL09–71–002.
Applicants: Interstate Power and Light Company.
Description: Compliance Filing of executed Revised Settlement Agreement of Resale Power Group of Iowa, Inc., et al.
Filed Date: 10/22/13.
Accession Number: 20131022–5126.
Comments Due: 5 p.m. ET 11/1/13.

Docket Numbers: ER13–2245–001.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits SCE Response to Rhodia Deficiency Letter to be effective 10/26/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5073.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER13–2457–001.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits Errata Service Agreement No. 219, Amendment 1 to be effective 9/11/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5040.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–157–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 10–22–2013 Rate Schedule 32 Coordination Agreement to be effective 12/31/9998.
Filed Date: 10/22/13.
Accession Number: 20131022–5100.
Comments Due: 5 p.m. ET 11/1/13.

Docket Numbers: ER14–206–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits 10–29–13 Amendment to App A to be effective 12/28/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5087.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–216–000.
Applicants: Duke Energy Florida, Inc.
Description: Duke Energy Florida, Inc. submits Rate Schedules Name Change Filing No. 2 to be effective 12/28/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5022.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–217–000.
Applicants: Duke Energy Progress, Inc.
Description: Duke Energy Progress, Inc. submits Rate Schedules Name Change Filing No. 2 to be effective 12/28/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5023.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–218–000.
Applicants: Bangor Hydro Electric Company.
Description: Bangor Hydro Electric Company submits Filing to Effect Succession to Maine Public Service Company OATT to be effective 1/1/2014.
Filed Date: 10/29/13.
Accession Number: 20131029–5089.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–219–000.
Applicants: New York State Electric & Gas Corporation.
Description: New York State Electric & Gas Corporation submits NYSEG–DCEC Facilities Agreement to be effective 11/18/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5101.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–220–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits PMPA Backstand RS 340 Filing to be effective 1/1/2014.

Filed Date: 10/29/13.
Accession Number: 20131029–5109.
Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: ER14–221–000.
Applicants: Covanta Haverhill Associates, LP.
Description: Covanta Haverhill Associates, LP submits Application for Market-Based Rates to be effective 12/30/2013.
Filed Date: 10/29/13.
Accession Number: 20131029–5126.
Comments Due: 5 p.m. ET 11/19/13.

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

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

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

Dated: October 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–26737 Filed 11–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER14–263–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 11–1–2013 Ameren-Mt. Carmel WDS to be effective 4/1/2011.
Filed Date: 11/1/13.
Accession Number: 20131101–5080.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–264–000.
Applicants: Bangor Hydro Electric Company.
Description: Bangor Hydro Electric Company submits tariff filing per 35.1: Filing to Effect Succession to Bangor Hydro Electric Company MBR Tariff to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5082.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–265–000.
Applicants: Bangor Hydro Electric Company.
Description: Bangor Hydro Electric Company submits tariff filing per 35.15: Filing to Effect Cancellation of Existing eTariff Database to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5087.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–266–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Entergy Resource Termination.
Filed Date: 11/1/13.
Accession Number: 20131101–5098.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–267–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 11–1–2013 Ameren-Centralia WDS Filing to be effective 11/1/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5099.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–268–000.
Applicants: Alabama Power Company.
Description: Alabama Power Company submits tariff filing per 35.12: OATT Attachment U and Amended Attachment N Filing to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5103.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–269–000.
Applicants: Virginia Electric and Power Company, Potomac Electric Power Company, PJM Interconnection, L.L.C.
Description: Virginia Electric and Power Company submits tariff filing per 35.13(a)(2)(iii): Dominion and Pepco submit Interconnection Agreement designated PJM SA No. 3657 to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5105.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–270–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Pawtucket Resource Termination.
Filed Date: 11/1/13.
Accession Number: 20131101–5107.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–271–000.
Applicants: El Paso Electric Company.
Description: El Paso Electric Company submits tariff filing per 35.13(a)(2)(iii): Rate Schedule No. 112 Nonconforming Firm PTP Service Agreement with PNM to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5121.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–272–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits tariff filing per 35.15: Notice of Termination of the SGIA for Acciona Solar Energy LLC to be effective 11/4/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5124.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–273–000.
Applicants: Entergy Louisiana, LLC.
Description: Entergy Louisiana, LLC submits tariff filing per 35.13(a)(2)(iii): ELL–EGSL/Cleco Implementation Agreement to be effective 12/19/2013.
Filed Date: 11/1/13.
Accession Number: 20131101–5128.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–274–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Amendments to Schedule 12—Appendix A re RTEP approved by PJM Board on 10/2/2013 to be effective 1/30/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5132.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–275–000.
Applicants: DTE Electric Company.
Description: DTE Electric Company submits tariff filing per 35.13(a)(2)(iii): Amendment to Clinton Agreement to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5133.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–276–000.
Applicants: Transource Missouri, LLC.
Description: Transource Missouri, LLC submits tariff filing per 35.13(a)(2)(iii): TMO Agreement for Licensing Transmission Structures to be effective 1/1/2014.
Filed Date: 11/1/13.
Accession Number: 20131101–5152.
Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–277–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per

35.13(a)(2)(iii): Revisions to the OATT & OA re DRS and removing the LSE role from ELRP to be effective 1/1/2014.

Filed Date: 11/1/13.

Accession Number: 20131101–5154.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–278–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): Schedule 1–A Tariff Administration Service Revisions to be effective 1/1/2014.

Filed Date: 11/1/13.

Accession Number: 20131101–5157.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–279–000.

Applicants: Midcontinent Independent System Operator, Inc., Interstate Power and Light Company.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 11–1–2013 Guttenberg WDS Agreements Filing to be effective 1/1/2014.

Filed Date: 11/1/13.

Accession Number: 20131101–5158.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER14–280–000.

Applicants: DATC Path 15, LLC.

Description: DATC Path 15, LLC submits tariff filing per 35: DATC Path 15 LLC, Annual Update of TRBAA to be effective 1/1/2014.

Filed Date: 11/1/13.

Accession Number: 20131101–5160.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER13–1631–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Request for Limited Extension of Waiver of certain tariff provisions until January 15, 2014 of Midcontinent Independent System Operator, Inc.

Filed Date: 11/1/13.

Accession Number: 20131101–5151.

Comments Due: 5 p.m. ET 11/22/13.

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

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

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

Dated: November 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–26770 Filed 11–7–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC14–14–000.

Applicants: NRG Energy Holdings, Inc., Edison Mission Energy.

Description: Errata to October 25, 2013 Joint Application of NRG Energy Holdings Inc. et. al. for Approval of Transaction under Section 203 of the Federal Power Act.

Filed Date: 10/28/13.

Accession Number: 20131028–5082.

Comments Due: 5 p.m. ET 12/9/13.

Docket Numbers: EC14–18–000.

Applicants: Discount Energy Group, LLC, Town Square Energy, LLC.

Description: Application for Authorization under Section 203 of the FPA of Discount Energy Group, LLC, et al.

Filed Date: 10/29/13.

Accession Number: 20131029–5146.

Comments Due: 5 p.m. ET 11/19/13.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–12–000.

Applicants: Lakeswind Power Partners, LLC.

Description: Notice of Self-Certification as an Exempt Wholesale Generator of Lakeswind Power Partners, LLC.

Filed Date: 10/30/13.

Accession Number: 20131030–5049.

Comments Due: 5 p.m. ET 11/20/13.

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

Docket Numbers: ER10–2839–003.

Applicants: Midland Cogeneration Venture Limited Partnership.

Description: Notice of Non-Material Change in Status of Midland Cogeneration Venture Limited Partnership.

Filed Date: 10/30/13.

Accession Number: 20131030–5117.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER12–1179–010.

Applicants: Southwest Power Pool, Inc.

Description: Revised Offer of Settlement Resolving Treatment of Grandfathered Agreements in SPP's Integrated Marketplace of Southwest Power Pool, Inc.

Filed Date: 10/30/13.

Accession Number: 20131030–5095.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER13–2078–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Grandfather Agreements Carve Out Compliance to be effective 3/1/2014.

Filed Date: 10/30/13.

Accession Number: 20131030–5068.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER13–2114–001.

Applicants: Virginia Electric and Power Company.

Description: Virginia Electric and Power Company submits Compliance Filing—Amendment to Pending Compl Filing of 080613 to be effective 10/31/2013.

Filed Date: 10/30/13.

Accession Number: 20131030–5098.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–170–001.

Applicants: Midcontinent Independent System Operator Inc.

Description: Midcontinent Independent System Operator, Inc. submits 10–30–2013 Attachment C Errata Filing to be effective 12/22/2013.

Filed Date: 10/30/13.

Accession Number: 20131030–5124.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–222–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits 2014 RSBAA Update Filing to be effective 1/1/2014.

Filed Date: 10/30/13.

Accession Number: 20131030–5055.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–223–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits 1630R4 The Empire District Electric Company NITSA and NOA to be effective 10/1/2013.

Filed Date: 10/30/13.

Accession Number: 20131030–5059.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–224–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits 2626 Transource Missouri, KCP&L, KCP&L GMO Novation to be effective 10/30/2013.

Filed Date: 10/30/13.
Accession Number: 20131030–5062.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–225–000.
Applicants: New Brunswick Energy Marketing Corporation.
Description: New Brunswick Energy Marketing Corporation submits Notice of Succession to be effective 10/1/2013.
Filed Date: 10/30/13.
Accession Number: 20131030–5072.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–225–001.
Applicants: New Brunswick Energy Marketing Corporation.
Description: Notice of Non-Material Change in Status of New Brunswick Energy Marketing Corporation.
Filed Date: 10/30/13.
Accession Number: 20131030–5100.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–226–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Notices of Cancellation with Samsung C&T America, Inc. to be effective 12/30/2013.
Filed Date: 10/30/13.
Accession Number: 20131030–5087.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–227–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits SCE 2014 Update ETC Reliability Services Rate to be effective 1/1/2014.
Filed Date: 10/30/13.
Accession Number: 20131030–5089.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–228–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits Sunflower Electric Power Corporation Formula Rate to be effective 1/1/2014.
Filed Date: 10/30/13.
Accession Number: 20131030–5091
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–229–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits 2213R2 Cimarron Windpower II, LLC GIA to be effective 10/7/2013.
Filed Date: 10/30/13.
Accession Number: 20131030–5110.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–230–000.
Applicants: Covanta Haverhill Associates, LP.
Description: Notice of Cancellation of Rate Schedule FERC No. 1 and Supplement No. 1 of Covanta Haverhill Associates, LP.
Filed Date: 10/30/13.
Accession Number: 20131030–5112.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–231–000.
Applicants: California Power Exchange Corporation.
Description: California Power Exchange Corporation submits Rate Filing for Rate Period 24 to be effective 1/1/2014.
Filed Date: 10/30/13.
Accession Number: 20131030–5127.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: ER14–232–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits 10–30–2013 SA 2549 DTE Electric-ITC E&P to be effective 10/31/2013.
Filed Date: 10/30/13.
Accession Number: 20131030–5128.
Comments Due: 5 p.m. ET 11/20/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA13–3–000.
Applicants: Bishop Hill Energy II LLC, Cordova Energy Company LLC, MidAmerican Energy Company, Saranac Power Partners, L.P.
Description: Quarterly Land Acquisition Report of the MidAmerican Parties.
Filed Date: 10/30/13.
Accession Number: 20131030–5057.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: LA13–3–000.
Applicants: Astoria Generating Company, L.P.
Description: Quarterly Land Acquisition Report of Astoria Generating Company, L.P.
Filed Date: 10/30/13.
Accession Number: 20131030–5058.
Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: LA13–3–000.
Applicants: Cedar Creek II, LLC, Copper Mountain Solar 1, LLC, Copper Mountain Solar 2, LLC, Energia Sierra Juarez U.S., LLC, Flat Ridge 2 Wind Energy LLC, Fowler Ridge II Wind Farm LLC, Mehoopany Wind Energy LLC, Mesquite Power, LLC, Mesquite Solar 1, LLC, San Diego Gas & Electric Company, Sempra Generation, Termoelectrica U.S., LLC.
Description: Quarterly Land Acquisition Report of Sempra Generation, et. al.
Filed Date: 10/30/13.
Accession Number: 20131030–5102.
Comments Due: 5 p.m. ET 11/20/13.

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

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

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Dated: October 30, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–26735 Filed 11–7–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9402–2]

Access to Confidential Business Information by Eastern Research Group and Its Identified Subcontractor, Energy Services, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Eastern Research Group (ERG) of Chantilly, VA, and subcontractor Energy Services, Inc., of Tallahassee, FL, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about May 30, 2013.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@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 notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the Agency taking?

Under EPA Contract Number EP–W–09–033, contractor ERG of 14555 Avion Parkway, Suite 200 and Energy Services, Inc., of 1300 Metropolitan Blvd., Tallahassee, FL, are assisting EPA by reviewing technical documents and providing technical expertise in the natural gas pipeline industry.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA Contract Number EP–W–09–033, ERG and its subcontractor required access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ERG and its subcontractor's personnel were given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided ERG and its subcontractor access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters and ERG's Chantilly, VA, site in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until September 30, 2014. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ERG and its subcontractor's personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: October 21, 2013.

Matthew G. Leopard,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26763 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9902–70–OEI]

Office of Environmental Information; Pause the Development of the Draft Quality Standard for Environmental Data Collection, Production, and Use by Non-EPA (External) Organizations and Two Associated QA Handbooks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** of December 26, 2012, concerning request for comments for the Draft Quality Standard for Environmental Data Collection, Production, and Use by Non-EPA (External) Organizations and two associated QA Handbooks. EPA has decided to pause the development of the draft Quality Standards for Data Collection, Production and Use. This decision was made after careful consideration of the comments received from external stakeholders and discussion with our internal stakeholders.

This pause will allow the Agency to revise the existing EPA Quality Policy and Procedure to integrate the relevant sections of the EPA Order 5360.1, EPA Quality Manual and draft Quality Standards. At the conclusion of this revision, we will revise the draft Quality Standards to align with the revised Quality Policy and Procedure and integrate the relevant sections of our existing QA Requirements documents (*R–2, R–5*). Throughout the process, EPA plans to solicit input from both internal and external stakeholders and provide frequent status updates. We believe this approach will address many of the concerns raised by our stakeholders during the public comment period for the Quality Standard.

FOR MORE INFORMATION CONTACT: Katherine Chalfant, Environmental Protection Agency; 1200 Pennsylvania Avenue, MC 2811T; Washington, DC 20460; Phone: 202–564–1511; email address: *quality@epa.gov.*

Monica D. Jones,

Director, Quality Staff.

[FR Doc. 2013–26866 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9011–8]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 10/28/2013 Through 11/01/2013, Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*

EIS No. 20130318, Final EIS, USFS, CA, Harris Vegetation Management Project, Review Period Ends: 12/23/2013, Contact: Emelia Barnum 530–926–4511

EIS No. 20130319, Draft EIS, USFS, UT, High Uintas Wilderness Colorado

River Cutthroat Trout (CRCT) Habitat Enhancement, Comment Period Ends: 12/23/2013, Contact: Ronald Brunson 435–781–5202

EIS No. 20130320, Final EIS, USACE, CA, Suncreek Specific Plan, Review Period Ends: 12/09/2013, Contact: Lisa M. Gibson 916–557–5288

EIS No. 20130321, Draft Supplement, USFS, AZ, Bill Williams Mountain Restoration Project, Comment Period Ends: 12/23/2013, Contact: Marcos Roybal 928–635–8210

EIS No. 20130322, Draft EIS, BLM, MT, Lewistown Field Office Greater Sage-Grouse Draft Resource Management Plan Amendment, Comment Period Ends: 02/05/2014, Contact: Adam Carr 406–538–1913

EIS No. 20130323, Draft EIS, USFS, OR, Malheur National Forest Site-Specific Invasive Plants Treatment Project, Comment Period Ends: 12/23/2013, Contact: Joseph H. Rausch 541–575–3141

EIS No. 20130324, Final EIS, BLM, CA, Stateline Solar Farm Project, Proposed Final Plan Amendment, Review Period Ends: 02/05/2014, Contact: Jeffery Childers 951–807–6737

EIS No. 20130325, Draft EIS, NPS, MO, Ozark National Scenic Riverways Draft General Management Plan, Wilderness Study, Comment Period Ends: 12/30/2013, Contact: William Black 573–323–4236

EIS No. 20130326, Draft EIS, USFS, CA, California Pacific Electricity Company 625 and 650 Electrical Line Upgrade Project, Comment Period Ends: 01/07/2014, Contact: Robert Rodman, Jr. 530–543–2613

EIS No. 20130327, Draft EIS, NPS, CA, Channel Islands National Park Draft General Management Plan, Wilderness Study, Comment Period Ends: 01/09/2014, Contact: Greg Jarvis 303–969–2263

EIS No. 20130328, Final EIS, USACE, CA, Pier S Development and Back Channel Navigational Safety Improvements in the Port of Long Beach, Review Period Ends: 12/09/2013, Contact: John Markham 805–585–2150

Amended Notices

EIS No. 20130288, Final EIS, USACE, TX, Luce Bayou Interbasin Transfer Project, Review Period Ends: 11/18/2013, Contact: Jayson Hudson 409–766–3108. Revision of FR Notice Published 10/04/2013; Extending Review Period from 11/04/2013 to 11/18/2013.

EIS No. 20130297, Draft EIS, USACE, LA, Calcasieu Lock Louisiana Feasibility Study, Comment Period Ends: 12/02/2013, Contact: Timothy K. George 314–331–8459. Revision to FR Notice Published 10/04/2013; Extending Comment Period from 11/18/2013 to 12/02/2013.

EIS No. 20130303, Final Supplement, FTA, HI, Honolulu Rail Transit Project/Amended Record of Decision, Contact: Ted Matley 415–744–3133. Revision to FR Notice Published 10/25/2013; Under MAP–21 section 1319, FHWA has issued a FSEIS and Amended ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

Dated: November 5, 2013.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2013–26870 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0724; FRL–9902–45]

Antimony Trioxide (ATO) TSCA Chemical Risk Assessment; Notice of Public Meetings and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 27, 2013, EPA announced that it would be holding three peer review meetings by web connect and teleconference on October 16, 2013, October 31, 2013, and November 14, 2013, regarding EPA's draft Toxic Substances Control Act (TSCA) chemical risk assessment, ''TSCA Workplan Chemical Risk Assessment for ATO.'' Due to the government shutdown, however, EPA has rescheduled the peer review meetings and is announcing the rescheduled meetings in this notice. EPA is also extending the due date for public comments.

DATES: *Meetings.* The peer review meetings will be held on Wednesday, November 13, 2013, from 10 a.m. to noon EST; Friday, December 6, 2013, from 11:30 a.m. to 4:30 p.m. EST; and Monday, January 6, 2014, from 11 a.m. to 1 p.m. EST.

Comments. Written comments on the assessment must be submitted on or before December 16, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0724, by one of the methods described in the September 27, 2013 **Federal Register** notice, a copy of which is available in the docket at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Stan Barone, Jr., Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–1169; email address: *barone.stan@epa.gov.*

For peer review meeting logistics contact: Susie Warner, the Scientific Consulting Group (SCG), Inc., 656 Quince Orchard Rd., Suite 210, Gaithersburg, MD 20878–1409; telephone number: (301) 670–4990, ext. 227; fax number: (301) 670–3815; email address: *SWARNER@scgcorp.com.*

SUPPLEMENTARY INFORMATION: For details about the meetings regarding the peer review of EPA's draft Toxic Substances Control Act (TSCA) chemical risk assessment, ''TSCA Workplan Chemical Risk Assessment for ATO,'' please see the announcement that published in the **Federal Register** of September 27, 2013 (78 FR 59679) (FRL–9400–5). However, due to the government shutdown, EPA has rescheduled the three peer review meetings and is announcing the rescheduled meetings in this notice. EPA is also extending the due date for public comments. To be sure your comments are contained in the peer review record and are available to the peer reviewers; please submit the comments on or before December 16, 2013.

The first rescheduled peer review panel meeting on November 13, 2013, will be devoted to providing the peer review panel an overview of the assessment and its charge and providing an opportunity for public comment on the draft ATO TSCA risk assessment.

The rescheduled second peer review panel meeting on December 6, 2013, will be devoted to deliberations of the draft ATO TSCA risk assessment by the peer review panel, guided by the charge questions to the peer review panel.

The third and final peer review panel meeting on January 6, 2014, will focus on the peer review panel's discussion of its draft ATO TSCA risk assessment recommendations to EPA, which will be posted on the contractor Web site prior to the final peer review meeting.

List of Subjects

Environmental protection, ATO, Chemicals, Flame retardant synergist. Peer review, Risk assessments.

Dated: October 31, 2013.

Jeffrey T. Morris,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26846 Filed 11–5–13; 4:15 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0722; FRL–9902–43]

HHCB (1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8,-hexamethylcyclopenta[γ]-2-benzopyran) TSCA Risk Assessment; Notice of Public Meetings and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's contractor, The Scientific Consulting Group (SCG), Inc., has identified a panel of scientific experts to conduct a peer review of EPA's draft Toxic Substances Control Act (TSCA) chemical risk assessment, ''TSCA Workplan Chemical Risk Assessment for HHCB.'' EPA will hold three peer review meetings by web connect and teleconference. EPA invites the public to register to attend the meetings as observers and/or speakers providing oral comments during any or all of the peer review meetings as discussed in this document. The public may also provide comment on whether they believe the appearance of conflict of interest exists for any proposed peer review panel expert.

DATES: *Meetings.* The peer review meetings will be held on Wednesday, December 4, 2013, from 12:00–2:00 p.m. EST; Thursday, January 9, 2014, from 10:30 a.m.–3:30 p.m. EST; and Thursday, February 6, 2014, from 10:30 a.m.–12:30 p.m. EST.

Conflict of interest comments. Comments on the appearance of a conflict of interest for any proposed peer review panel expert must be submitted on or before November 29, 2013.

Comments. Written comments by the public must be submitted on or before January 16, 2014, to be sure they are contained in the peer review record and are available to the peer reviewers.

Registration for meetings. To participate in any of the public peer review meetings, you must register no later than 11:59 p.m., EST, on November 29, 2013.

ADDRESSES: *Meetings.* Meetings will be held via web connect and teleconferencing. See Unit III.C. in **SUPPLEMENTARY INFORMATION**.

Registration. See Unit III. in **SUPPLEMENTARY INFORMATION**.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0722, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA William Jefferson Clinton Complex East, Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. Attn: Docket ID Number EPA–HQ–OPPT–2012–0722. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2012–0722. EPA's policy is that all comments received will be included in the 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 regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA William Jefferson Clinton Complex West, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Stan Barone, Jr., Risk Assessment Division (7403M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number (202) 564–1169; email address: *barone.stan@epa.gov.*

For peer review meeting logistics or registration contact: Susie Warner, The Scientific Consulting Group (SCG), Inc., 656 Quince Orchard Rd., Suite 210, Gaithersburg, MD 20878–1409; telephone number: (301) 670–4990, ext. 227; fax number: (301) 670–3815; email address: *SWARNER@scgcorp.com.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including those interested in environmental and human health assessment, the chemical industry, chemical users, consumer product companies, and members of the public interested in the assessment of chemical risks. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

On January 9, 2013, EPA published a document in the **Federal Register** (78 FR 1856) (FRL–9375–1) on the availability of five draft TSCA risk assessments for public comment. The Agency also asked for nominations for external experts to conduct peer reviews of the draft TSCA risk assessments, including one entitled, ''TSCA Workplan Chemical Risk Assessment for HHCB (1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8,-hexamethylcyclopenta[γ]-2-benzopyran).'' HHCB (CASRN 1222–05–5) is one of 83 chemicals identified for review and assessment in EPA's TSCA Work Plan, which were released on March 1, 2012, at *http://www.epa.gov/oppt/existingchemicals/pubs/workplans.html.*

This information is distributed solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This is an external peer review draft assessment and has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency determination or policy.

The draft HHCB TSCA risk assessment is being peer reviewed consistent with guidelines for the peer review of influential scientific information for scientific assessments. EPA asked a contractor, SCG, to assemble a panel of experts to evaluate the draft HHCB TSCA risk assessment report for specific uses of HHCB. SCG evaluated 4 candidates that were nominated as peer reviewers by the February 8, 2013 deadline established in the January 9, 2013 **Federal Register** document and evaluated over 70 additional experts before submitting the proposed peer review panel members. The proposed peer review panel was vetted by the contractor for conflict of interest and the appearance of bias according to Agency peer review guidance as detailed in the contract. This proposed peer review panel includes: Daniel Schlenk (chair), Tom Armstrong, Peter Chapman, William Doucette, Valerie Forbes, Robert W. Gensmer, Patrick Guiney, Duane Huggett, Shane Snyder, and Lawrence Whitehead.

The biographies for the proposed panel members are available in the docket (docket ID number EPA–HQ–OPPT–2012–0722). The public may provide comments to this docket on the appearance of a conflict of interest for any proposed peer review panel member. This comment period on the peer review panel membership closes on November 29, 2013. The final list of peer review panel members will be available on the SCG's Web site at *http://www.scgcorp.com* prior to the first meeting.

The peer review panel is responsible for the review of the scientific and technical merit of the draft HHCB TSCA risk assessment, which is available through *http://www.regulations.gov* and at *http://www.epa.gov/oppt/existingchemicals/pubs/workplans.html.* The peer review panel will not address potential policy implications or risk management options that may result from the draft HHCB TSCA risk assessment. Members of the public may register to attend any or all three meetings as observers and may also register to offer oral comments on each day of the meetings. A registered speaker is encouraged to focus on issues directly relevant to science-based aspects of the draft HHCB TSCA risk assessment.

The first peer review meeting on December 4, 2013, will be dedicated to hearing registered speakers' oral comments on the draft HHCB TSCA risk assessment and reviewing the charge to the peer reviewers. Each speaker is allowed between 3–5 minutes, depending on the number of registered speakers. Given time constraints, a maximum of 30 speakers will be allowed to offer comments. If more than 30 speakers register to provide oral comments, speakers will be selected by SCG in a manner designed to optimize representation from all organizations, affiliations, and present a balance of science issues relevant to the Agency's TSCA risk assessment. Peer review panel members will have access to written comments and materials and electronic materials submitted to the docket by January 16, 2014. Registered observers and speakers will not be allowed to distribute any written comments or materials or electronic materials directly to the peer review panel members. To submit written comments, please follow one of the methods outlined in **ADDRESSES**. The public comment period closes on January 16, 2014.

The second peer review panel meeting on January 9, 2014, will be devoted to deliberations of the draft HHCB TSCA risk assessment by the peer review panel, guided by the charge questions to the peer review panel.

The third and final peer review panel meeting on February 6, 2014, will focus on the peer review panel's discussion of its draft HHCB TSCA risk assessment recommendations to EPA, which will be posted on the contractor Web site prior to the final peer review meeting. The final peer review panel report will be prepared by SCG and made available to the public according to the Agency peer review guidance at *http://www.epa.gov/peerreview.* EPA will consider SCG's peer review panel report of the comments and recommendations from the three peer review meetings, as well as written comments and materials and electronic materials in the docket at *http://www.regulations.gov,* as it proceeds to finalize the HHCB TSCA risk assessment.

If potential risks are indicated in the revised TSCA risk assessment following peer review and public comment, the Agency will take the necessary risk

reduction efforts as warranted. If no risks are identified in the revised TSCA risk assessment following revision in response to peer review, the Agency may conclude its work on the chemical being assessed.

III. How can I request to participate in these meetings?

A. Registration

To attend the peer review meetings, you must register for the meeting no later than 11:59 p.m., EST, on November 29, 2013. To register for the meeting, go to *http://www.scgcorp.com/dcm-nmp2013/,* complete the online registration form, and submit the required information. You may also register through the U.S. Postal Service or by overnight/priority mail by sending the necessary registration information (see Unit III.B.) to the SCG Meeting Coordinator, Ms. Susie Warner. The U.S. Postal Service or overnight/priority mail address is: The Scientific Consulting Group, Inc., 656 Quince Orchard Rd., Suite 210, Gaithersburg, MD 20878–1409. For questions or additional information, contact Ms. Warner by: Telephone: (301) 670–4990, ext. 227; fax: (301) 670–3815; or email: *SWARNER@scgcorp.com.* Registrations sent via U.S. Postal Service or overnight/priority mail must be received no later than 11:59 p.m., EST, on November 29, 2013. There will be no on-site registration, so members of the public who do not register by 11:59 p.m., EST, on November 29, 2013, using one of the methods described in this unit, may not receive web access information in time to attend the first peer review meeting.

B. Required Registration Information

Members of the public may register to attend any or all three meetings as observers, or register to speak if planning to offer oral comments during the scheduled public comment session of a meeting. To register for the meetings online or by mail, you must provide your full name, organization or affiliation, and contact information. You must also indicate which meetings you plan to attend and if you would like to speak during the scheduled public comment session of a meeting. If you register to speak, you must also indicate if you have any special requirements related to your oral comments (e.g., translation).

If you indicate that you wish to speak, you will be asked to select one category most closely reflecting the content of your oral comments. The comment categories related to the charge questions are:

1. General comments on the risk assessment document;
2. Comments on the exposure assessment;
3. Comments on the hazard assessment;
4. Comments on the risk characterization; or
5. Other issues.

Should more than 30 speakers register for a single meeting, these categories will be used to ensure that a balance of substantive science issues relevant to the assessment is heard. Additional information on the selection of speakers and speaking times will be sent out by SCG 3 days prior to each peer review meeting to all individuals registered to speak.

To accommodate as many registered speakers as possible, registered speakers may present oral comments only, without visual aids or written material. Peer review panel members will have access to any written comments and materials and electronic materials previously submitted to the docket. Registered observers and speakers will not be allowed to distribute any written comments and materials or electronic materials directly to the peer review panel members.

C. Web Meeting Access

Each peer review meeting will be held via web connect and teleconferencing. SCG will provide all registered participants with information on how to participate in advance of the first peer review meeting.

List of Subjects

Environmental protection, Chemicals, Peer review, Risk assessments, HHCB, Fragrances.

Dated: October 31, 2013.

Jeff Morris,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26848 Filed 11–7–13; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Wednesday, November 13, 2013, 9:30 a.m. Eastern Time.

PLACE: Commission Meeting Room on the First Floor of the EEOC Office Building, 131 ''M'' Street NE., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Session:

1. Announcement of Notation Votes, and
2. National Origin Discrimination in Today's Workplace.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. Seating is limited and it is suggested that visitors arrive 30 minutes before the meeting in order to be processed through security and escorted to the meeting room. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its Web site, eeoc.gov., and provides a recorded announcement a week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation and Communication Access Realtime Translation (CART) services at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above.

CONTACT PERSON FOR MORE INFORMATION: Bernadette B. Wilson, Acting Executive Officer on (202) 663–4077.

Dated: November 6, 2013.

Bernadette B. Wilson,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 2013–26997 Filed 11–6–13; 4:15 pm]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK

[Public Notice 2013–0050]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP086418XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before December 3, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *www.regulations.gov.* To submit a comment, enter EIB–2013–0050 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0050 on any attached document.

Reference: AP086418XX.

Purpose and Use:

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured satellite as well as U.S. launch services and launch insurance.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used by a Bulgarian based company to finance the manufacture, launch, and insurance in support of a communication satellite. The satellite is expected to provide additional capacity to broadcasting and telecommunications companies in Central and Eastern Europe.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported [are not expected/may be used] to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: Space Systems/Loral, LLC of Palo Alto, California.

Obligor: Bulgaria Sat, AD of Sofia, Bulgaria.

Guarantor(s): NONE.

Description of Items Being Exported: To finance the construction of a communication satellite and associated U.S. launch services, and launch insurance.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Cristopolis Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2013–26776 Filed 11–7–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before January 7, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1021.

Title: Section 25.139, NGSO FCC Coordination and Information Sharing Between MVDDS Licensees in the 12.2 GHz to 12.7 GHz Band.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 6 respondents; 6 responses.

Estimated Time per Response: 6 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collections is contained in 47 U.S. C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j).

Total Annul Burden: 36 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 25.139, which the Commission adopted in the *2002 Order* in ET Docket No. 98–206, requires Non-Geostationary Satellite Orbit (NGSO) Fixed-Satellite Services (FSS) licensees to maintain a subscriber database in a format that can be readily shared to enable MVDDS licensees to determine whether a proposed Multichannel Video Distribution and Data Service (MVDDS) transmitting antenna meets the minimum spacing requirement relative to qualifying, existing NGSO FSS subscriber receivers (set forth in § 101.129, FCC Rules).

The Commission will use Section 25.139 to ensure that NGSO FSS licensees provide MVDDS licensees with the data needed to determine whether a proposed MVDDS transmitting site meets the minimum spacing requirement relative to certain NGSO FSS receivers.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–26811 Filed 11–7–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before January 7, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>,* and to *Cathy.Williams@fcc.gov< mailto:Cathy.Williams@fcc.gov>.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams at 202–418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-xxxx.

Title: Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 10–51 and 03–123; FCC 13–82.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institution; Federal Government.

Number of Respondents: 39 respondents; 9,876,603 responses.

Estimated Time per Response: .005 hours to 80 hours.

Frequency of Response: Annual, on-occasion, on-going, one-time, and quarterly reporting requirements; Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is Sec. 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the Americans with Disabilities Act of 1990 (ADA), Public Law 101–336, 104 Stat. 327, 366–69.

Total Annual Burden: 486,417 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: This information collection affects individuals or households. However, personally identifiable information (PII) is not being collected by, made available to, or made accessible by the Commission. Although TRS users are required to provide their personal information to register for using TRS service, such information is available only to a third-party independent vendor selected by the Commission's Managing Director. The third party vendor is required to maintain all registered information, including personal information, in the registration database confidential in accordance to the directives under contract with the Commission's Managing Director.

Nature and Extent of Confidentiality: Assurance of confidentiality is not offered because no personally identifying information (PII) will be transmitted to the Commission from the third party vendor.

Needs and Uses: On June 10, 2013, the Commission released the VRS Reform Order, FCC 13–82, published at 78 FR 40582, July 5, 2013, adopting further measures to improve the structure, efficiency, and quality of the VRS program, reducing the noted inefficiencies in the program, as well as reducing the risk of waste, fraud, and abuse, and ensuring that the program makes full use of advances in commercially-available technology. In this Order, the Commission takes the following actions by: (1) Setting up an arrangement with the National Science Foundation (NSF) to enable research designed to further the Commission's multiple goals of ensuring that TRS is functionally equivalent to voice telephone services and improving the efficiency and availability of TRS; (2) establishing a pilot iTRS National Outreach Program (iTRS–NOP) by selecting one or more independent iTRS Outreach Coordinators to conduct and coordinate IP Relay and VRS outreach nationwide under the Commission's (or the TRS Fund administrator's) supervision; (3) promoting the development and adoption of voluntary, consensus interoperability and portability standards, and facilitate compliance with those standards by directing the Managing Director to contract for the development and deployment of a VRS access technology reference platform; (4) establishing a central TRS user registration database (TRS–URD) which incorporates a centralized eligibility verification requirement to ensure accurate registration and verification of users, to achieve more effective fraud and abuse prevention; and (5) selecting a neutral party to build, operate, and maintain a neutral video communication service platform, which will allow eligible relay interpretation service providers to compete without having to build their own video communication service platforms.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–26841 Filed 11–7–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices

of the Board of Governors. Comments must be received not later than November 26, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Ben F. Easterlin, IV, and Tommye B. Easterlin,* both of Atlanta, Georgia; to retain voting shares of CBA Bankshares, Inc., and thereby indirectly retain voting shares of Citizens Bank of Americus, both in Americus, Georgia.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *George W. Cummings, III; Nanette Weaver Cummings; George W. Cummings, Jr.; Dewey F. Weaver Jr.; Colby Weaver, all of Monroe, Louisiana; Twist Family, LLP; Randall Twist, both of Dallas, Texas; and Dewey Weaver, III,* West Monroe, Louisiana; to retain voting shares of Progressive Bancorp, Inc., and thereby indirectly retain voting shares of Progressive Bank, both in Monroe, Louisiana.

Board of Governors of the Federal Reserve System, November 5, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–26819 Filed 11–7–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 2013.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Central Texas Financial Corp., Cameron, Texas; to engage *de novo* in lending activities, pursuant to section 225.28(b)(1).

Board of Governors of the Federal Reserve System, November 5, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–26818 Filed 11–7–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Senior Executive Service Performance Review Board

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service Performance Review Boards for the Federal Retirement Thrift Investment Board. The purpose of the Performance Review Boards is to view and make recommendations concerning proposed performance appraisals, ratings, and bonuses, and other appropriate personnel actions for members of the Senior Executive Service.

DATES: This notice is effective November 5, 2013.

FOR FURTHER INFORMATION CONTACT: Kelly Powell, HR Specialist, at 202–942–1681.

SUPPLEMENTARY INFORMATION: Title 5, U.S. Code, 4314(c)(4), requires that the appointment of Performance Review Board members be published in the **Federal Register** before Board service commences. The following persons will serve on the Federal Retirement Thrift Investment Board's Performance Review Boards which will oversee the evaluation of the performance appraisals of the Senior Executive Service members of the Federal Retirement Thrift Investment Board: Tracey A. Ray, Kimberly Weaver, Mark Walther, Jayant Ahuja, Susan Crowder and Gisile Goethe.

James B. Petrick,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2013–26808 Filed 11–7–13; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60–Day–14–0888]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Kimberly Lane, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed 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. Written comments should be received within 60 days of this notice.

Proposed Project

Persistence of Viable Influenza Virus in Aerosols (0920–0888, Expiration 05/31/2014)—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is authorized to conduct research to advance the health and safety of workers under Section 20(a)(1)

of the 1970 Occupational Safety and Health Act. Influenza continues to be a major public health concern because of the substantial health burden from seasonal influenza and the potential for a severe pandemic. Although influenza is known to be transmitted by infectious secretions, these secretions can be transferred from person to person in many different ways, and the relative importance of the different pathways is not known. The likelihood of the transmission of influenza virus by small infectious airborne particles produced during coughing and breathing is particularly unclear. The question of airborne transmission is especially important in healthcare facilities, where influenza patients tend to congregate during influenza season, because it directly impacts the infection control and personal protective measures that should be taken by healthcare workers. The purpose of this study is to measure the amount of viable influenza virus in airborne particles that are produced by patients when they cough, and the size and quantity of the particles carrying the virus. A better understanding of the amount of potentially infectious material released by patients and the size of the particles carrying the virus will assist in determining the possible role of airborne transmission in the spread of influenza and in devising measures to prevent it.

Volunteer adult participants will be recruited by a test coordinator using a poster and flyers describing the study. Interested potential participants will be screened verbally to verify that they have influenza-like symptoms and that they do not have any medical conditions that would preclude their participation. Qualified participants who agree to participate in the study will be asked to read and sign an informed consent form, and then to complete a short health questionnaire. After completing the forms, two nasopharyngeal swabs and one oropharyngeal swab will be collected from the participant. They then will be asked to cough repeatedly into an aerosol particle collection system, and the airborne particles produced by the participant during coughing will be collected and tested. The sounds produced during coughing will also be recorded for analysis and comparison to the amount of virus expelled. The study will require 60 volunteer test subjects each year for 3 years, for a total of 180 test participants.

The following revisions have been made to the previous approved information collection request:

(1) Initially, potential participants will be screened verbally rather than through the health questionnaire.

(2) The number of potential participants has been increased from 132 to 360. In a previous similar study, the number of potential participants who agree to join the study was 50%, which was lower than anticipated. The increase will allow the study to recruit 180 participants.

(3) The number of qualified participants has been increased from 120 to 180. This is necessary to provide a sufficient number of cough aerosol samples with detectable amounts of viable influenza and is based on a previous study, where 10% of aerosol samples had culturable virus.

(4) The Informed consent form has been substantially revised to make it easier to read and understand. As a result of the revisions, the burden per response for that form has been reduced from 20 to 15 minutes.

(5) Because of the increases in the number of potential and qualified participants, the total burden hours has increased from 51 to 78 hours.

(6) The title of the ICR has been changed to ''Factors Influencing the Transmission of Influenza'' in order to reflect the new focus of the project on influenza viability and to match the title of the human subjects protocol approved by the Institutional Review Board.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Potential participant	Initial verbal screening	360	1	3/60	18
Qualified participant	Informed consent form	180	1	15/60	45
Qualified participant	Health questionnaire	180	1	5/60	15
Total					78

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–26787 Filed 11–7–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–14–13AHA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, D.C. 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

World Trade Center Health Program Enrollment & Appeals—Pentagon & Shanksville, Pennsylvania Responders—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The James Zadroga 9/11 Health and Compensation Act of 2010 (Zadroga Act), promulgated on December 22,

2010, established a Federal program to support health monitoring and treatment for emergency responders; recovery and cleanup workers; and residents, building occupants, and area workers in New York City who were directly impacted and adversely affected by the terrorist attacks of September 11, 2001. Section 3311(a)(2)(C) of the PHS Act authorizes the WTC Program Administrator (Administrator) to develop eligibility criteria for enrollment of Shanksville, Pennsylvania and Pentagon responders. Pentagon and Shanksville responders who believe they may be eligible for enrollment in the Program must complete an enrollment form. The following information includes the definition of each population:

• A Pentagon responder is someone who was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Pentagon site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on November 19, 2001.

• A Shanksville responder is someone who was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Shanksville, Pennsylvania site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on October 3, 2001.

This information is being collected in order to determine the eligibility of Pentagon and Shanksville, Pennsylvania responders as well as to provide program participants with the opportunity to appeal. This includes individuals' names, mailing address, telephone number, date of birth, and gender.

The World Trade Center Health Program (WTCHP) expects to receive approximately 1,605 applications in the first year. The application is expected to take 30 minutes to complete. Of the 1,605 applications it is expected that that 10 percent of those individuals found ineligible (4 respondents) will appeal the decision. We also expect that program participants will request certification for 874 health conditions each year. Of those 874, it is expected that 1 percent (<1) will be denied certification by the WTC Program Administrator. We further expect that such a denial will be appealed 95 percent of the time.

Of the projected 454 enrollees who will receive medical care, it is estimated that 3 percent (14) will appeal a determination by the WTC Health Program that the treatment being sought is not medically necessary. We estimate that the appeals letter will take no more than 30 minutes to complete.

Pharmacies will electronically transmit reimbursement claims to the WTCHP. HHS estimates that 4 pharmacies will submit reimbursement claims for 1,058 prescriptions per year, or 265 per pharmacy; we estimate that each submission will take 1 minute.

WTC responders who travel more than 250 miles to a nationwide network provider for medically necessary treatment may be provided necessary and reasonable transportation and other expenses. These individuals may submit a travel refund request form, which should take respondents 10 minutes to complete.

There is no cost to respondents other than their time. The total estimated burden is 831 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Pentagon or Shanksville, Pennsylvania Responder.	World Trade Center Health Program Pentagon & Shanksville, Pennsylvania Responder Eligibility Application.	1,605	1	30/60
Pentagon or Shanksville, Pennsylvania Responder.	Appeals to Eligibility Denial	4	1	30/60
Pentagon or Shanksville, Pennsylvania Responder.	Appeals regarding certification of health conditions.	1	1	30/60
Pentagon or Shanksville, Pennsylvania Responder.	Appeals regarding treatment	14	1	30/60
Pharmacies	Outpatient prescription pharmaceuticals	4	265	1/60
Pentagon or Shanksville, Pennsylvania Responder.	WTC Health Program Medical Travel Refund Request.	1	1	10/60

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–26786 Filed 11–7–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–216]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our

burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 7, 2014:

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–216 Procedures for Advisory Opinions Concerning Physicians' Referrals and Supporting Regulations

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Procedures for Advisory Opinions Concerning Physicians' Referrals and Supporting Regulations; *Use:* The information collection requirements contained in 42 CFR 411.372 and 411.373 allow us to consider requests for advisory opinions and provide accurate and useful opinions. The information is read and analyzed to develop and issue an advisory opinion to the individual or entity that submitted the information. The primary office using the information is the Center for Medicare, which is responsible for the issuance of advisory opinions. *Form Number:* CMS–R–216 (OCN: 0938–0714); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 25; *Total Annual Responses:* 25; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Jacqueline Proctor at 410–786–0661).

Dated: November 5, 2013.

Martique Jones

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–26829 Filed 11–7–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10171, CMS–10207, CMS–10476, CMS–10497, CMS–10482, CMS–R–245 and CMS–10495]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by December 9, 2013.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974 *OR* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number,

and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Coordination of Benefits Between Part D Plans and Other Prescription Coverage Providers; *Use:* We will use the information along with Part D plans, other health insurers or payers, and pharmacies to coordinate prescription drug benefits provided to Medicare beneficiaries. *Form Number:* CMS–10171 (OCN: 0938–0978); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 57,116; *Total Annual Responses:* 2,402,582; *Total Annual Hours:* 5,205,128. (For policy questions regarding this collection contact Heather Rudo at 410–786–7627.)

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Physician Self-Referral Exceptions for Electronic Prescribing and Electronic Health Records; *Use:* The collected information would be used for enforcement purposes. Specifically, if we were investigating the financial relationships between donors and physicians to determine whether the provisions in the exceptions at 42 CFR 411.357 (v) and (w) were met, first, we would review the written agreements that indicate what items and services each entity intended to provide. *Form Number:* CMS–10207 (OCN: 0938–1009); *Frequency:* Monthly; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 9,409; *Total Annual Responses:* 17,744; *Total Annual Hours:* 1,896. (For policy questions regarding this collection contact Michael Zleit at 410–786–2050.)

3. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Medical Loss Ratio (MLR) Report for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* We will use the data collection of annual reports provided by plan sponsors for each contract to ensure that beneficiaries are receiving value for their premium dollar by calculating each contract's medical loss ratio (MLR) and any remittances due for the respective MLR reporting year. The recordkeeping requirements will be used to determine plan sponsors' compliance with the MLR requirements, including compliance with how plan sponsors' experience is to be reported, and how their MLR and any remittances are calculated. *Form Number:* CMS–10476 (OCN: 0938–New); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 616; *Total Annual Responses:* 616; *Total Annual Hours:* 130,004. (For policy questions regarding this collection contact Ilina Chaudhuri at 410–786–8628.)

4. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Evaluation of the Medicare Health Care Quality (MHCQ) Demonstration Evaluation: Focus Group and Interview Protocols; *Use:* The Medicare Health Care Quality (MHCQ) Demonstration was developed to address concerns about the U.S. health care system, which typically fragments care while also encouraging both omissions in and duplication of care. To rectify this situation, Congress has directed us to test major changes to the delivery and payment systems to improve the quality of care while also increasing efficiency across the health care system. This would be achieved through several types of interventions: adoption and use of information technology and decision support tools by physicians and their patients, such as evidence-based medicine guidelines, best practice guidelines, and shared decision-making programs; reform of payment methodologies; improved coordination of care among payers and providers serving defined communities; measurement of outcomes; and enhanced cultural competence in the delivery of care.

The MHCQ Demonstration programs are designed to examine the extent to which major, multifaceted changes to traditional Medicare's health delivery and financing systems lead to improvements in the quality of care provided to Medicare beneficiaries without increasing total program expenditures. Each demonstration site uses a different approach for changing health delivery and financing systems, but all share the goal of improving the quality and efficiency of medical care provided to Medicare beneficiaries. Focus groups and individual interviews will be conducted at 2 demonstration sites that are active in the demonstration: Gundersen Health System (GHS) and Meridian Health System (MHS).

This MHCQ Demonstration evaluation will include analysis of both quantitative and qualitative sources of information. This multifaceted approach will enable this evaluation to consider a broad variety of evidence for evaluating the nature and impact of each site's interventions. We are seeking approval to conduct in-person focus groups and individual interviews with beneficiaries and their caregivers to inform our evaluation of the MHCQ Demonstration at the GHS and MHS demonstration sites. *Form Number:* CMS–10497 (OCN: 0938–New); *Frequency:* Occasionally; *Affected Public:* Individuals or households; *Number of Respondents:* 36; *Total Annual Responses:* 36; *Total Annual Hours:* 108. (For policy questions regarding this collection contact Normandy Brangan at 410–786–6640.)

5. *Type of Information Collection Request:* New Collection (Request for a new OMB control number); *Title of Information Collection:* Evaluation of the Physician Quality Reporting System (PQRS) and Electronic Prescribing (eRx) Incentive Program; *Use:* The Physician Quality Reporting System (PQRS) was first implemented in 2007 as an incentive for voluntary reporting of quality measures in accordance with a section of the Tax Relief and Health Care Act of 2006. The PQRS was further extended and enhanced by legislation such as the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Extension Act of 2007 (MMSEA) and the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA). A number of changes have been made to the PQRS, including group measures, the group reporting option, and

additional measures. The PQRS was extended further with the enactment of MMSEA. The MMSEA provided professionals greater flexibility for participating in the PQRS for 2008 and 2009 by authorizing us to establish alternative reporting criteria and alternative reporting periods for the reporting measures groups and for the submission of data on the PQRS quality measures through clinical data registries. The MIPPA, enacted in July 2008, made the PQRS program permanent, further enhanced the PQRS, and established a new standalone incentive program for successful electronic prescribers.

The eRx Incentive Program, the other program being evaluated in this project, was first implemented in 2009. The eRx is another incentive reporting program that uses a combination of incentive payments and payment adjustments to encourage eRx by eligible professionals. The program provides an incentive payment to practices with eligible professionals who successfully e-prescribe for covered Physician Fee Schedule services furnished to Medicare Part B Fee-For-Service (FFS) beneficiaries. Eligible professionals do not need to participate in PQRS to participate in the eRx Incentive Program.

In support of an evaluation the PQRS and the eRx Incentive Program, we will conduct three surveys. The surveys will include: Medicare beneficiaries, eligible professionals, and administrators. This evaluation is designed to determine how well the PQRS and the eRx Incentive Program are contributing to better and affordable health care for Medicare beneficiaries. The PQRS is a voluntary reporting program that provides an incentive payment to eligible professionals who satisfactorily report data on quality measures. We use quality measures to promote improvements in care delivery and payment and to increase transparency. The PQRS program rewards eligible professionals based on a percentage of the estimated Medicare Physician Fee Schedule of their allowed Part B charges if they meet the defined reporting requirements. The PQRS was initially referred to as the Physician Quality Reporting Initiative (PQRI).

Subsequent to the publication of the 60-day **Federal Register** notice (78 FR 35936), there has been an increase in burden due to the increase in the sample size of eligible professionals and administrators. Also, the surveys have been changed by revising lists of specialties and revising questions. *Form Number:* CMS–10482 (OCN: 0938–NEW); *Frequency:* Yearly; *Affected Public:* Individuals and households, Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 12,650; *Total Annual Responses:* 12,650; *Total Annual Hours:* 3,805. (For policy questions regarding this collection contact Lauren Fuentes at 410–786–2290.)

6. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* OASIS Collection Requirements as Part of the CoPs for HHAs and Supporting Regulations; *Use:* The Outcome and Assessment Information Set (OASIS) is currently mandated for use by Home Health Agencies (HHAs) as a condition of participation (CoP) in the Medicare program. Since 1999, the Medicare CoPs have mandated that HHAs use the OASIS data set when evaluating adult non-maternity patients receiving skilled services. The OASIS is a core standard assessment data set that agencies integrate into their own patient-specific, comprehensive assessment to identify each patient's need for home care that meets the patient's medical, nursing, rehabilitative, social, and discharge planning needs. Subsequent to the publication of the 60-day **Federal Register** notice (78 FR 37542), the data set was revised by rewording the text. *Form Number:* CMS–R–245 (OCN: 0938–0760); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 12,014; *Total Annual Responses:* 17,268,890; *Total Annual Hours:* 15,305,484. (For policy questions regarding this collection contact Robin Dowell at 410–786–0060.)

7. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Registration, Attestation, Dispute & Resolution, Assumptions Document and Data Retention Requirements for Open Payments; *Use:* Section 6002 of the Affordable Care Act added section 1128G to the Social Security Act (Act), which requires applicable manufacturers and applicable group purchasing organizations (GPOs) of covered drugs, devices, biologicals, or medical supplies to report annually to CMS certain payments or other transfers of value to physicians and teaching hospitals, as well as, certain information regarding the ownership or investment interests held by physicians or their immediate family members in applicable manufacturers or applicable GPOs.

Specifically, applicable manufacturers of covered drugs, devices, biologicals, and medical supplies are required to submit on an annual basis the information required in section 1128G(a)(1) of the Act about certain payments or other transfers of value made to physicians and teaching hospitals (collectively called covered recipients) during the course of the preceding calendar year. Similarly, section 1128G(a)(2) of the Act requires applicable manufacturers and applicable GPOs to disclose any ownership or investment interests in such entities held by physicians or their immediate family members, as well as information on any payments or other transfers of value provided to such physician owners or investors. Applicable manufacturers must report the required payment and other transfer of value information annually to CMS in an electronic format. The statute also provides that applicable manufacturers and applicable GPOs must report annually to CMS the required information about physician ownership and investment interests, including information on any payments or other transfers of value provided to physician owners or investors, in an electronic format by the same date. Applicable manufacturers and applicable GPOs are subject to civil monetary penalties (CMPs) for failing to comply with the reporting requirements of the statute. We are required by statute to publish the reported data on a public Web site. The data must be downloadable, easily searchable, and aggregated. In addition, we must submit annual reports to the Congress and each state summarizing the data reported. Finally, section 1128G of the Act generally preempts state laws that require disclosure of the same type of information by manufacturers.

We published a final rule in 2013 to implement this program, which included several information collections subject to the Paperwork Reduction Act. This information collection request is to inform the public about information collected that is necessary for registration, attestation, dispute resolution and corrections, record retention, and submitting an assumptions document within Open Payments. *Form Number:* CMS–10495 (OCN: 0938-New); *Frequency:* Once; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 451,582; *Total Annual Responses:* 451,582; *Total Annual Hours:* 949,005. (For policy questions regarding this collection contact Melissa Heesters at 410–786–0618.)

Dated: November 5, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–26822 Filed 11–7–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9081–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—July Through September 2013

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from July through September 2013, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone Number
I CMS Manual Instructions	Ismael Torres	(410) 786-1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786-4481
III CMS Rulings	Tiffany Lafferty	(410)786-7548
IV Medicare National Coverage Determinations	Wanda Belle	(410) 786-7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786-6877
VI Collections of Information	Mitch Bryman	(410) 786-5258
VII Medicare –Approved Carotid Stent Facilities	Lori Ashby	(410) 786-6322
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	Marie Casey, BSN, MPH	(410) 786-7861
IX Medicare's Active Coverage-Related Guidance Documents	Lori Ashby	(410) 786-6322
X One-time Notices Regarding National Coverage Provisions	Lori Ashby	(410) 786-6322
XI National Oncologic Positron Emission Tomography Registry Sites	Stuart Caplan, RN, MAS	(410) 786-8564
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	Marie Casey, BSN, MPH	(410) 786-7861
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	Marie Casey, BSN, MPH	(410) 786-7861
XIV Medicare-Approved Bariatric Surgery Facilities	Kate Tillman, RN, MAS	(410) 786-9252
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	Stuart Caplan, RN, MAS	(410) 786-8564
All Other Information	Annette Brewer	(410) 786-6580

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Revised Format for the Quarterly Issuance Notices

While we are publishing the quarterly notice required by section 1871(c) of the Act, we will no longer republish duplicative information that is available to the public elsewhere. We believe this approach is in alignment with CMS' commitment to the general principles of the President's Executive Order 13563 released January 2011entitled ''Improving Regulation and Regulatory Review,'' which promotes modifying and streamlining an agency's regulatory program to be more effective in achieving regulatory objectives. Section 6 of Executive Order 13563 requires agencies to identify regulations that may be ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand or repeal them in accordance with what has been learned.'' This approach is also in alignment with the President's Open Government and Transparency Initiative that establishes a system of transparency, public participation, and collaboration.

Therefore, this quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS Web site or the appropriate data registries that are used as our resources. This information is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the Web site list provides more timely access for beneficiaries, providers, and suppliers. We also believe the Web site offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the Web sites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the Web site. These listservs avoid the need to check the Web site, as notification of

updates is automatic and sent to the subscriber as they occur. If assessing a Web site proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals.*

Authority: (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: November 1, 2013.

Kathleen Cantwell,

Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: August 17, 2012 (77 FR 49799), November 9, 2012 (77 FR 67368), May 3, 2013 (78 FR 26038) and July 26, 2013 (78 FR 45233). For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (July through September 2013)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare National Coverage Determination publication titled Positron Emission Tomography (PET) Scans use CMS-Pub. 100-03, Transmittal No. 156.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual. For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
Medicare General Information (CMS-Pub. 100-01)	
00	None
Medicare Benefit Policy (CMS-Pub. 100-02)	
00	None
Medicare National Coverage Determination (CMS-Pub. 100-03)	
156	Positron Emission Tomography (PET) Scans
Medicare Claims Processing (CMS-Pub. 100-04)	
2737	National Coverage Determination (NCD) for Transcatheter Aortic Valve Replacement (TAVR) – Implementation of Mandatory Reporting of Clinical Trial Number Claims Processing Requirements for TAVR Services on Professional Claims Claims Processing Requirements for TAVR Services on Inpatient Hospital Claims
2738	Type of Service (TOS) Corrections 2013 Type of Service
2739	New Claim Adjustment Reason Code (CARC) to Identify a Reduction in Payment Due to Sequestration Competitive Bidding Durable Medical

	Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Single Payment Amounts
2740	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2741	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2742	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
2743	Coding Changes to Ultrasound Diagnostic Procedures for Transesophageal Doppler Monitoring Transeophageal Doppler Used for Cardiac Monitoring Coding Requirements for Transesophageal Doppler Cardiac Monitoring Furnished Before January 1, 2013 Coding Requirements for Transesophageal Doppler Cardiac Monitoring Furnished On or After January 1, 2013 Coding Requirements for Transesophageal Doppler Cardiac Monitoring Furnished On or After January 1, 2013
2744	Type of Service (TOS) Corrections 2013 Type of Service
2745	New Waived Tests
2746	Revision to the ViPS Medicare System Diagnosis Code Editing on the CMS-1500
2747	Additional Data Reporting Requirements for Hospice Claims
2748	Demand Billing of Hospice General Inpatient Level of Care
2749	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2750	Positron Emission Tomography Local Coverage Determination for PET Using New, Proprietary Radiopharmaceuticals for their FDA-Approved Labeled Indications for Oncologic Imaging Only
2751	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2752	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2753	Instructions for Downloading the Medicare ZIP Code File for January 2014
2754	October Update to the CY 2013 Medicare Physician Fee Schedule Database (MPFSDB)
2755	Additional States Requiring Payment Edits for DMEPOS Suppliers of Prosthetics and Certain Custom-Fabricated Orthotics. Update to CR 3959
2756	Revision to the ViPS Medicare System Diagnosis Code Editing on the CMS-1500
2757	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2758	Mandatory Reporting of an 8-Digit Clinical Trial Number on Claims-General Billing Requirements for Providers Billing Routine Costs of Clinical Trials Involving a Category A IDE Billing Requirements for Providers Billing Routine Costs of Clinical Trials Involving a Category B IDE Payment for Qualifying Clinical Trial Services Billing Requirements-General

	Requirements for Billing Routine Costs of Clinical Trials
2759	Update to the Claims Processing Internet-Only Manual (IOM) to Add the National Uniform Billing Committee (NUBC) Payer Only Codes Payer Only Codes Utilized by Medicare
2760	Annual Clotting Factor Furnishing Fee Update 2014
2761	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2762	Annual Clotting Factor Furnishing Fee Update 2014
2763	October 2013 Integrated Outpatient Code Editor (I/OCE) Specifications Version 14.3
2764	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2765	Diagnosis Code Reporting on Religious Nonmedical Health Care Institution Claims
2766	Update to Hospice Payment Rates, Hospice Cap, Hospice Wage Index, Quality Reporting Program and the Hospice Pricer for FY 2014 Carrier Specific Requirements for Certain Specialties/Services
2767	Handling of Incomplete or Invalid Claims once the Phase 2 Ordering and Referring Edits are Implemented Handling Incomplete or Invalid Claims
2768	Update-Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS) Fiscal Year (FY) 2014 Annual Update
2769	Inpatient Rehabilitation Facility (IRF) Annual Update: Prospective Payment System (PPS) Pricer Changes for FY 2014 Payment Provisions Under IRF PPS Quality Reporting Program
2770	October 2013 Update of the Ambulatory Surgery Center (ASC) Payment System
2771	Introduction to Electronic Data Interchange (EDI) for Medicare Fee For Services Requirement for EDI Audience for this Chapter Scope of this Chapter Acronyms and Definitions General EDI Legislative Background The America Reinvestment and Recovery Act (ARRA) HIPAA and ARRA on Security and Privacy Administrative Simplification and Compliance Act (ASCA) EDI Enrollment and Registration (AKA Trading Partner Agreements) EDI Enrollment New Enrollments and Maintenance of Existing Enrollments Submitter Number Network Service Vendor (NSV) Agreement Electronic Remittance Advice (ERA) Enrollment Form Centers for Medicare and Medicaid Services – Medicare Fee-For-Service HIPAA Transaction Standards as Designated by CMS Transactions Used in the Acknowledgment of Receipt of Inbound Claims Change Request (CR) to Communicate Policy Medicare FFS Contractors (A/B MAC, DME MAC, CEDI)/Test Program and Annual Recertification Activities

	Security Requirements A/B MACs, DME MACs, and CEDI Data Security and Confidentiality Requirements MAC, DME MACs and CEDI Audit Trails Security-Related Requirements for A/B MACs, and CEDI Arrangements With Clearinghouses and Billing Services Release of Medicare Data EDI Enrollment and EDI Claim Record Retention General EDI Outreach Activities MAC and DME MACMAC Analysis of Internal Information Contact With New Providers Production and Distribution of Information to Increase Use of EDI Production and Distribution of Material to Market EDI User Guidelines Technical Assistance to EDI Trading Partners Training Content and Frequency Prohibition Against Requiring Use of Proprietary Software or DDE Free Claim Submission Software Newsletters/Bulletin Board/Internet Publication of EDI Information Provider Guidelines for Choosing a Vendor Vendor Selection Provision of EDI User Guidelines Provision and Maintenance of a Directory of Billing Software Vendors and Clearinghouses Operating Rules for Electronic Transactions Telecommunications, Internet and Dial-up Media Telecommunications and Transmission Protocols Translators Common Edits and Enhancements Module (CEM) – General Description Across All Versions Claim Numbering Receipt Control and Balancing Acknowledgements Outbound File Compliance Check Common Edits and Enhancement Module (CEM) Code Sets Requirements Handling of Poorly Formed/Invalid Flat Files for a 277CA Unique Specifications for DME CEDI Claim Numbering Receipt Control and Balancing CEDI Acknowledgments for ASC X12 5010 and NCPDP D.O. Transactions EDI Testing Accuracy Limitation on Testing of Multiple Providers that Use the Same Clearinghouse, Billing Service, or Vendor Software/EDI Receiver Testing by A/B MACs and CEDI Changes in Provider's System or Vendor's Software and Use of Additional EDI Formats Delimiters Nulls Direct Data Entry (DDE) Screens PWK Background PWK Workflow

	Provider Responsibility Contractor Responsibility A/B MACs, and CEDI Edit Requirements Key Shop and Optical Character Recognition Claim Key Shop and Optical Character Recognition (OCR)/Image Character Recognition (ICR) Mapping to ASC X12N Based Flat File Key Shop and Image Processing Institutional Implementation Guide and Direct Data Entry Edits Supplemental FI-Specific Shared System Edit Requirements Trading Partner and Contractor Crossover Claim Requirements Professional Implementation Guide (IG) Edits National Council for Prescription Drug Program (NCPDP) Implementation Remittance Advice and Standard Paper Remittances Claim Key Shop and Optical Character Recognition (OCR)/Image Character Recognition (ICR) Mapping to X12N Based Flat File Key Shop and Image Processing Payments Payment Floor Requirement Alternative to EFT Electronic Funds Transfer (EFT) Tri-Partite Bank Agreement Health Care Provider Taxonomy Code (HPTC) Requirements Payments Payment Floor Requirement Alternative to EFT Electronic Funds Transfer (EFT) Tri-Partite Bank Agreement Health Care Provider Taxonomy Code (HPTC) Requirements General HIPAA EDI Requirements National Council for Prescription Drug Program (NCPDP) Claim Requirements Contractor Reporting of Operational and Workload (CROWD) Reporting Common Edits and Enhancement Module (CEM) Reporting Mandatory Electronic Submission of Medicare Claims Small Providers and Full-Time Equivalent Employee Self-Assessments Exceptions Unusual Circumstance" Waivers Unusual Circumstance Waivers Subject to Provider Self-Assessment Unusual Circumstance Waivers Subject to Evaluation and CMS Decision Unusual Circumstance Waivers Subject to Contractor Evaluation and CMS Decision Electronic and Paper Claims Implications of Mandatory Electronic Submission Enforcement Fiscal Intermediary Shared System (FISS) Role in ASCA Enforcement MCS & VMS Roles in ASCA Enforcement Contractor Roles in ASCA Reviews Application of Electronic Data Interchange Enrollment Information and ASCA Enforcement Review Decisions from Other Medicare Contractors to the Same Providers When They Bill the Railroad Medicare Carrier Retirement Board Specialty MAC (SMAC) Selection of Providers to be Sent Initial Letters for the RMC to Begin an

	ASCA Enforcement Review Subsequent Reversal of Decision that a Provider is Not Eligible to Submit Paper Claims by a Non-RR Medicare Contractor Number of ASCA Enforcement Reviews to be Conducted by the RMC RMC Information in ASCA Enforcement Review Letters RMC Costs Related to Use of ASCA Review Information in SuperPES Files
2772	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2773	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2774	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2775	October 2013 Update of the Hospital Outpatient Prospective Payment System (OPPS)
2776	Remittance Advice Remark and Claims Adjustment Reason Code and Medicare Remit Easy Print and PC Print Update
2777	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
2778	Fiscal Year (FY) 2014 Inpatient Prospective Payment System (IPPS) and Long Term Care Hospital (LTCH) PPS Changes
2779	New Waived Tests
2780	January 2014 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
2781	Home Health Change of Care Notice (HHCCN), Form CMS-10280, Manual Instructions - This CR rescinds and fully replaces CR 7323.
2782	Advance Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131
Medicare Secondary Payer (CMS-Pub. 100-05)	
95	Update the Common Working File (CWF) to not Allow Certain Diagnosis Codes on No-Fault Medicare Secondary Payer (MSP) Records Certain Diagnosis Codes not Allowed on No-Fault Medicare Secondary Payer (MSP) Records
96	ECRS Batch File Layout Changes for ICD-10 Codes COBC Electronic Correspondence Referral System (ECRS)
97	Prevent Electronic Correspondence Referral System (ECRS) Inquiries from being submitted with Insurance types other than A, J, K, R, S, or Blank Spaces COBC Electronic Correspondence Referral System (ECRS)
Medicare Financial Management (CMS-Pub. 100-06)	
223	Notice of New Interest Rate for Medicare Overpayments and Underpayments -4th qtr Notification for FY 2013
224	Overpayment (Section 50.3); Chapter 4, Debt Collection (Section 50 - 50.6 and 100.6.4) Related to Extended Repayment Schedules (ERS) Establishing an Extended Repayment Schedule (ERS) – (formerly known as an Extended Repayment Plan (ERP) ERS Required Documentation – Physician is a Sole Proprietor ERS Required Documentation – Provider is an Entity Other than a Sole Proprietor ERS Approval Process Sending the ERS Request to the Regional Office (RO)
	Monitoring an Approved Extended Repayment Schedule (ERS) and Reporting Requirements Requests From Terminated Providers or Debts that are Pending Referral to Department of Treasury Extended Repayment Schedule (ERS) Requests Received on a RAC Initiated Overpayment
225	Removal of POR and PSOR Instructions and the Glossary of Acronyms from the Internet Only Manual, Publication 100.06, Chapter 3
226	Recovery Audit Program Tracking Appeals and Reopenings Tracking Appeals and Reopenings
227	Removal of POR and PSOR Instructions and the Glossary of Acronyms from the Internet Only Manual, Publication 100.06, Chapter 3 Bankruptcy Bankruptcy Forms Recoupment of the Accelerated Payment Reserved
Medicare State Operations Manual (CMS-Pub. 100-07)	
85	Federally Qualified Health Center (FQHC) Medicare participation Description Request to Participate Processing Requests Effective Date
86	Revisions to State Operations Manual (SOM) Chapter 5
87	Revised Appendix A, Interpretive Guidelines for Hospitals, Condition of Participation: Discharge Planning
88	Revisions to State Operations Manual (SOM) Chapter 5 Post-Survey Procedures Substantial Compliance Condition-Level, IJ Condition-Level, Non-IJ Full Survey after Complaint Survey with Condition-level Deficiencies, When Authorized by the RO Deemed Provider/ Supplier Refusal of Complaint Investigation Surveys Complaints Involving HIV-Infected Individuals (previously Section 5150) Investigating Complaints Involving ESRD Services Provided by Deemed Hospitals or CAHs (previously Section 5160) Investigating Complaints Against ESRD Suppliers (previously Section 5170) Hospital Restraints/Seclusion Death Reporting and Investigation (previously Section 5140) Background Responsibilities Process DUA Multi-Signature Addendum Release of Hospital Restraint/Seclusion Death Reports to Protection and Advocacy
Medicare Program Integrity (CMS-Pub. 100-08)	
474	DUA Multi-Signature Addendum Release of Hospital Restraint/Seclusion Death Reports to Protection and Advocacy
475	PIM Chapter 6 MR Guidelines 6.54-6.5.7 Update

	Review of Procedures Affecting the DRG Reserved for Future Use Circumvention of PPS Referrals to the Quality Improvement Organization (QIO)
476	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
477	Tracking Medicare Contractors' Postpayment Reviews
478	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
479	Enrollment Denials When an Existing or Delinquent Overpayment Exists Delinquent Overpayments Denial Example #6 – Delinquent Overpayments
480	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
481	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
482	Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
483	Reassignment to Part A Critical Access Hospitals (CAHs), Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs)
484	OMB Collection Number Requesting Additional Documentation During Prepayment and Postpayment Review
485	Program Safeguard Contractor (PSC) and Zone Program Integrity Contractor (ZPIC) Provider Notification Provider Notification
486	Complex Medical Review
487	Tracking Medicare Contractors' Postpayment Reviews
488	Acceptable Submission Methods for Responses to ADRs
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
00	None
Medicare Programs of All-Inclusive Care for the Elderly (CMS-Pub. 100-11)	
3	PACE Marketing Guidelines
4	PACE Marketing Guidelines
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
00	None
Medicare Managed Care (CMS-Pub. 100-16)	
108	This is the initial release of New Chapter 21, Compliance Program Guidelines
109	This is the initial release of New Chapter 21, Compliance Program Guidelines All Sections/Compliance Program Guidelines
110	Compliance Guidelines Program Compliance Officer
111	Employer/Union-Sponsored Group Health Plans
112	Adding MSP Validity Indicator to the CWF to MBD Feed Working Aged Adjustment
113	Chapter 12-Effect of Change of Ownership Entire Chapter
114	Chapter 7-Risk Adjustment
115	Chapter 4-Benefits and Beneficiary Protections
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
00	None

Demonstrations (CMS-Pub. 100-19)	
00	None
One Time Notification (CMS-Pub. 100-20)	
1252	Standardizing the Standard - Phase I
1253	Change in Creation Date for CMS Standard Edit/Audit/Reason Code Reports
1254	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1255	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1256	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1257	Medicare Appeals System (MAS) Level 1 Implementation
1258	Redaction of Health Insurance Claim Numbers (HICNs) in Medicare Redetermination Notices (MRNs).
1259	HIPAA 5010 and D.0 2013 Annual Recertification
1260	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1261	Fee for Service Beneficiary Data Streamlining (FFS BDS) Local Beneficiary File Analysis
1262	Informational Unsolicited Response (IUR) or Reject for Add-On Codes billed without respective Primary Codes
1263	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1264	Addition of the End Stage Renal Disease (ESRD) Facilities Located in the Pacific Rim to the ESRD Prospective Payment System (PPS)
1265	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1266	Common Working File (CWF) Informational Unsolicited Response (IUR) and Reject for Hospital to Hospital Transfers.
1267	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1268	Update to Post Acute Transfer Edit 7272 to Extend Home Health Agency CMS Certification Number (CCN) Range and Add Bypass
1269	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1270	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1271	Health Insurance Portability and Accountability Act (HIPAA) EDI Front End Updates for January 2014
1272	CEDI Removal of 4010A1 Jobs and Processes
1273	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1274	The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Fiscal Year 2011 for Inpatient Prospective Payment System (IPPS), Hospitals, Inpatient Rehabilitation Facilities (IRFs), and Long Term Care Hospitals (LTCH)
1275	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction

1276	Revision to the CWF Edit for Technical Component (TC) of Pathology Services Occurring on the Same Day as an Outpatient Hospital Visit
1277	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1278	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1279	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1280	Ambulatory Surgical Center Quality Reporting (ASCQR) Program Payment Reduction (MIEA-TRCHA, 2006) – Implementation
1281	Implement Operating Rules - Phase III ERA EFT: CORE 360 Uniform Use of Claim Adjustment Reason Codes (CARC) and Remittance Advice Remark Codes (RARC) Rule - Update from CAQH CORE
1282	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1283	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1284	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1285	Further Instruction to Use Non-Alert Remittance Advice Remark Codes (RARCs)
1286	Handling Bankrupt Suppliers within VMS
1287	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1288	Health Insurance Portability and Accountability Act (HIPAA) EDI Front End Updates for January 2014
1289	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1290	MCS Prepayment Review Report
1291	Standardizing the standard - Operating Rules for code usage in Remittance Advice
1292	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1293	Display of ICD-10 Local Coverage Determinations (LCDs) on the Medicare Coverage Database (MCD)
1294	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1295	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
1296	Redaction of Health Insurance Claim Numbers (HICNs) in Medicare Redetermination Notices (MRNs).
1297	VMS Prepayment Review Report
1298	CWF Editing for Vaccines Furnished at Hospice
1299	MCS Prepayment Review Report
1300	Issued to a specific, audience not posted to Internet/Intranet due to Sensitivity of Instruction
Medicare Quality Reporting Incentive Programs (CMS-Pub. 100-22)	
16	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
17	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction

Addendum II: Regulation Documents Published in the Federal Register (July through September 2013)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following website http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our website at: http://www.cms.gov/quarterlyproviderupdates/downloads/Regs-3Q13QPU.pdf

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (July through September 2013)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the

title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS website. For the purposes of this quarterly notice, we list only the specific updates that have occurred in the 3-month period. This information is available at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle (410-786-7491).

Title	NCDM Section	Transmittal Number	Issue Date	Effective Date
PET for Cancers	NCD220.6.17	TR156	08/02/2013	03/07/2013
Ultrasound Diagnostic Procedures Coding	NCD220.5	TN2743	07/25/2013	01/01/2013

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (July through September2013)

Addendum V includes listings of the FDA-approved investigational device exemption (IDE) numbers that the FDA assigns. The listings are organized according to the categories to which the devices are assigned (that is, Category A or Category B), and identified by the IDE number. For the purposes of this quarterly notice, we list only the specific updates to the Category B IDEs as of the ending date of the period covered by this notice and a contact person for questions or additional information. For questions or additional information, contact John Manlove (410-786-6877).

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved investigational device exemption (IDE). Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the notice published in the April 21, 1997 **Federal Register** (62 FR 19328).

IDE	Device	Start Date
G120087	Optiflow Anastonomic Connector	07/05/2013
G130135	Ulthera System Model 8850-0001	07/10/2013
G130136	Valiant PS-IDE Stent Graft System With The Captivia Delivery System	07/10/2013
G130059	Exablate 2100 Magnetic Resonance Guided Focused Ultrasound Surgery System	07/19/2013
G130145	ALCON Capsulotomy Device	07/19/2013
G130146	MONARCH External Trigeminal Nerve Stimulation (STNS) System	07/19/2013
G130153	Dako pd-I1 22c3 pharmdx kit	07/25/2013
G120184	Alcath LT Gold/ Alcath Flux Extra Gold Catheter	07/25/2013
G130150	G7 Ceramic-on-Ceramic Acetabular System	07/26/2013
G130151	Endostim Lower Esophageal Sphincter (LES) Stimulation System	07/26/2013
G130158	Ventana Anti-Total C-Met (SP44) Rabbit Monoclonal Primary Antibody Assay	07/30/2013
G130157	MCI Risk Assignment Algorithm Companion Diagnostic (CDX) System	07/30/21013
G130149	Toray Satake Baloon Thermal Ablation System (TSB)	07/31/2013
G130160	Roche Cobas EGFR Mutation Test	08/01/2013
BB15646	Celution One Device (ATHENA-II)	08/01/2013
G130164	Fast Visible Flourescent Injectate and Fast Measured Glomerular Filtration Rate Test	08/05/2013
G130161	Ventralight, Strattice	08/06/2013
G130162	Wearable Cardioverter Defibrillator (WCD)	08/07/2013
G130159	Pantheris System	08/08/2013
G130167	Autoric Automated Remote Ischemic Conditioning (RIC) Device; Control Unit; Small Application Cuff; Medium Applicator Cuff	08/09/2013
G130169	Prodigy System (Models 3799, 3855, 3730, and 3835)	08/15/2013
G110165	Med-El Maestro Cochlear Implant System	08/15/2013
G130129	Optical Renal Function Monitor - ORFM	08/15/2013
G120174	Gambro Prismaflex HF20	08/22/2013
G130133	Prostate Artery Embolization	08/23/2013
G130177	Zeltiq System	08/28/2013
G130018	Accel Absorbable Hemostat	08/28/2013
G130019	Transmedics Organ Care System (OCS)-Lung	08/29/2013
G130106	Artefill	08/29/2013
G130171	Gammacore Device	08/30/2013
G130180	DLBCL Classification IHC Pharmdx Assay	08/30/2013
G130025	IRINOTECAN Drug-Eluting Bead (DEBIRI) Therapy for Patients with Liver Metastases Colorectal Cancer	08/30/2013
G130085	Propulse 1	08/30/2013
G130128	Aegea Vapor System	09/04/2013
G130057	Doxorubicin-Eluting LC Bead M1 For Patients With Hepatocellular Carcinoma	09/05/2013
G130184	SINOPSYS Lacrimal Stent	09/11/2013

G120283	Medtronic Active PC+S Implantable Pulse Generator & Sensing Programmer	09/13/2013
G130187	COBAS KRAS Mutation Test	09/17/2013
G130174	Maestro Cochlear Implant	09/18/2013
G130189	Short-Term Use Wearable Defibrillator (SWD)	09/18/2013
G130193	Branched and Fenestrated Stent Graft Device for Treatment of Thoracoabdominal Aortic Aneurysms	09/25/2013
G130198	Ulthera System	09/25/2013
G130140	Serenity System	09/25/2013
G130197	Implant, Dermal, for Aesthetic	09/26/2013
G130163	G-Cath EZ Suture Anchor Delivery Catheter	09/27/2013
G130138	Leadless Cardiac Pacemaker and Delivery Catheter Model SIDLCP, Communications Link Model SILKINK	09/27/2013

Addendum VI: Approval Numbers for Collections of Information (July through September 2013)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact Mitch Bryman (410-786-5258).

Addendum VII: Medicare-Approved Carotid Stent Facilities, (July through September 2013)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage For questions or additional information, contact Lori Ashby (410-786-6322).

Facility	Provider Number	Effective Date	State
The following facility is a new listing for this quarter.			
Florida Hospital Wesley Chapel 2600 Bruce B. Downs Boulevard Wesley Chapel, FL 33544	100319	07/18/2013	FL
Editorial changes (shown in bold) were made to the facilities listed below.			
FROM: Washoe Medical Center **TO: Renown Regional Medical Center Facility** 1155 Mill Street Reno, NV 89502	29001	04/27/2005	NV
FROM: Medical College of Ohio **TO: Medical University of Ohio at Toledo** 3000 Arlington Avenue Toledo, OH 43614	360048	04/27/2005	OH
FROM: MeritCare Hospital **TO: Sanford Medical Center-Fargo, ND** 801 Broadway North Fargo, ND 58122	35001	10/04/2005	ND
FROM: St. Francis Hospital & Health Centers **TO: Franciscan St. Francis Health – Indianapolis** 1600 Albany Street Beech Grove, IN 46107	15003	04/01/2005	IN
FROM: Lancaster Community Hospital **TO: Palmdale Regional Medical Center** 43830 10th Street West Lancaster, CA 93534	050204	08/22/2005	CA
Rush University Medical Center **1653 W Congress Parkway Chicago, IL 60612**	140119	04/20/2005	IL
FROM: Gaston Memorial Hospital **TO: CaroMont Regional Medical Center** 2525 Court Drive Gastonia, NC 28054	340032	12/12/2005	NC
FROM: St. Francis Hospital and Health Center **TO: MetroSouth Medical Center** 12935 S. Gregory Street Blue Island, IL 60406	140118	05/11/2005	IL
FROM: North Shore Medical Center - FMC Campus **TO: FLORIDA MEDICAL CENTER – A CAMPUS OF NORTH SHORE** 5000 West Oakland Park Boulevard Ft. Lauderdale, FL 33313	10002900	02/06/2006	FL

Addendum VIII: American College of Cardiology's National Cardiovascular Data Registry Sites (July through September 2013)

Addendum VIII includes a list of the American College of Cardiology's National Cardiovascular Data Registry Sites. We cover implantable cardioverter defibrillators (ICDs) for certain clinical indications, as long as information about the procedures is reported to a central registry. Detailed descriptions of the covered indications are available in the NCD. In January 2005, CMS established the ICD

Abstraction Tool through the Quality Network Exchange (QNet) as a temporary data collection mechanism. On October 27, 2005, CMS announced that the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD Registry satisfies the data reporting requirements in the NCD. Hospitals needed to transition to the ACC-NCDR ICD Registry by April 2006.

Effective January 27, 2005, to obtain reimbursement, Medicare NCD policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare NCD Manual, which is on the CMS website at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the ACC-NCDR ICD registry. Therefore, for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry. The entire list of facilities that participate in the ACC-NCDR ICD registry can be found at www.ncdr.com/webncdr/common

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available by accessing our website and clicking on the link for the American College of Cardiology's National Cardiovascular Data Registry at: www.ncdr.com/webncdr/common. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Facility	City	State
The following facilities are new listings for this quarter.		
Children's Hospital Colorado	Aurora	CO
NorthCrest Medical Center	Springfield	TN
Augusta Health	Fisherville	VA
St. Joseph Regional Medical Center	Lewiston	ID
Midtown Surgery Center	New York	NY
Doctors Community Hospital	Lanham	MD
Redlands Community Hospital	Redlands	CA
St. Lucie Medical Center	Port St. Lucie	FL
Fleming County Hospital	Flemingsburg	KY
St. Claire Regional Medical Center	Morehead	KY

Addendum IX: Active CMS Coverage-Related Guidance Documents (July through September 2013)

There are no CMS coverage-related guidance documents published in the July through September 2013 quarter. To obtain the document, visit the CMS coverage website at http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=23. For questions or additional information, contact Lori Ashby (410-786-6322).

Addendum X:
List of Special One-Time Notices Regarding National Coverage Provisions (July through September 2013)

There were no special one-time notices regarding national coverage provisions published in the July through September 2013 quarter. This information is available at www.cms.hhs.gov/coverage. For questions or additional information, contact Lori Ashby (410-786-6322).

Addendum XI: National Oncologic PET Registry (NOPR) (July through September 2013)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no updates to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the July through September 2013 quarter. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564)

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (July through September 2013)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred to the list of Medicare-approved facilities that meet our standards in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Facility	Provider Number	Date Approved	State
The following facilities are new listings for this quarter.			
The Indiana Heart Hospital 8075 N Shadeland Avenue Indianapolis, IN 46250	150154	07/03/2013	IN
Rush University Medical Center 1653 West Congress Parkway Chicago, IL 60612	140119	07/19/2013	IL
Christiana Care – Christiana Hospital 4755 Ogletown-Stanton Road Newark, DE 19718	08-0001	07/26/2013	DE

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (July through September 2013)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There is one addition to the listing of facilities for lung volume reduction surgery published in the July through September 2013 quarter. This information is available at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact Marie Casey, BSN, MPH (410-786-7861).

Facility	Provider Number	Date Approved	State
The following facility is a new listing for this quarter.			
Northwestern Memorial Hospital 251 E. Huron Street Chicago, IL 60611	14-0281	08/10//2013	IL

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (July through September 2013)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

For the purposes of this quarterly notice, we list only the specific updates to Medicare-approved facilities that meet CMS's minimum facility standards for bariatric surgery and have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Kate Tillman, RN, MAS (410-786-9252).

Facility	Provider Number	Date Approved	State
The following facilities are new listings for this quarter.			
UC Irvine Healthcare 101 The City Drive South Orange, CA 92868	050348	05/25/2013	CA
Kaiser Foundation Hospitals 3288 Moanalua Road Honolulu, HI 96819	NPI#120011	05/20/2013	HI
Bayshore Community Hospital 727 North Beers Street Holmdel, NJ 07733	1831197508	01/15/2013	NJ
Virtua Memorial Hospital 175 Madison Avenue Mt Holly, NJ 08060	1134125016	05/01/2013	NJ
West Houston Medical Center 12141 Richmond Avenue Houston, TX 77082	1275580938	04/19/2013	TX
Guthrie Weight Loss Center (Robert Packer Hospital) 1 Guthrie Square Sayre, PA 18840	1982816427	07/11/2013	PA
Sebastian River Medical Center U.S. 1 Sebastian, FL 32958	12386123	07/25/2013	FL
Southern Regional Medical Center 11 Upper Riverdale Road Riverdale, GA 30274	1831190958	05/21/2013	GA
Carle Foundation Hospital 611 West Park Street Urbana, IL 61801	1013071653	04/03/2013	IL
Monmouth Medical Center 300 2nd Avenue Long Branch, NJ 07740	1609983790	06/25/2013	NJ
Chesapeake Regional Medical Center 736 Battlefield Boulevard Chesapeake, VA 23320	1700896354	08/02/2013	VA
Covenant Healthcare 1447 North Harrison Road Saginaw, MI 48602	1588656946	08/02/2013	MI
Editorial changes (shown in bold) were made to the facilities listed below.			
FROM: Central Baptist Hospital/BPSC **TO: Baptist Health Lexington** 1740 Nicholasville Road Lexington, KY 40503	180103	11/17/2009	KY
Carolinas Medical Center Mercy **2001 Vail Avenue Charlotte, NC 28207**	NPI#1376985135	04/01/2013	NC
Saint Mary's Regional Medical Center 235 W 6th Street Reno, NV 89503 **ACS**; Krystal Flaniken - 775-770-3223	29-0009	05/29/2012	
Northside Hospital 1000 Johnson Ferry Road, NE Atlanta, GA 30342	1457396079	**07/01/2013**	GA
Lehigh Valley Hospital and Health Network Cedar Crest & I-78 P.O. Box 689 Allentown, PA 18105-1556 ACS; **Suzanne Smith - (610) 402-2490**	390133;1164400131	**05/29/2013**	PA
Grinnell Regional Medical Center 210 Fourth Avenue Grinnell, IA 50112	1669420501	**10/20/2006**	IA
Baystate Medical Center 759 Chestnut Street Springfield, MA 01199 ACS; **Janet Adeletti - 413-794-3175**	220077	03/13/2007	MA
Upstate Medical University 750 E. Adams Street, University Hospital Syracuse, NY 13210	NPI#1578554630	03/27/2012	NY
Steward Norwood Hospital 3 Edgewater Drive, Suite 102 Norwood, MA 02602 ACS; **Dr. Adam Glasgow - (508) 668-4400**	1952613416	06/27/2010	MA
St. Vincent Charity Hospital **2351 East 22nd Street** Cleveland, OH 44115-3111	# UH3600371, NPI 1710951801	01/20/2006	OH
Huntington Hospital 270 Park Avenue Huntington, NY 11743	1508845322	**10/04/2012**	NY
Princeton HealthCare System - University Medical Center of Princeton at Plainsboro One Plainsboro Road Plainsboro, NJ 08536	310010	02/24/2006	NJ
FROM: Middle Tennessee Medical Center **TO: Saint Thomas Rutherford Hospital** 1700 Medical Center Parkway Murfreesboro, TN 37129	44-0053	11/17/2009	TN
Pikeville Medical Center 911 S Bypass Road Pikeville, KY 41501	1285621623;**180044**	01/25/2013	KY
The following facilities are removed as of this quarter.			
DeTar Hospital 506 E San Antonio Victoria, TX 77902	45-0147	03/07/2012	TX
Robert Wood Johnson University Hospital Hamilton 1 Hamilton Health Place Hamilton, NJ 08690	310110	02/12/2010	NJ
Minimally Invasive Surgery Hospital 11217 Lakeview Avenue Lenexa, KS 66219	170199	06/25/2007	KS

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (July through September 2013)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the July through September 2013 quarter.

This information is available on our website at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

[FR Doc. 2013–26758 Filed 11–7–13; 8:45 am]

BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0764]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Draft Animal Feed Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 9, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910-New and title ''Draft Animal Feed Regulatory Program Standards.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: *With regard to the information collection:* FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

With regard to the draft feed program standards: Beverly Kent, Office of Partnerships, Food and Drug Administration, 716–714–9503, *Beverly.kent@fda.hhs.gov*, or Jenny Murphy, Center for Veterinary Medicine, Food and Drug Administration, 240–453–6845, *Jenny.murphy@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Draft Animal Feed Regulatory Program Standards—(OMB Control Number 0910—New)

I. Background

In the United States, Federal and State government Agencies ensure the safety of animal feed. FDA is responsible for ensuring that all food and feed moving in interstate commerce, except those under the U.S. Department of Agriculture jurisdiction, are safe, wholesome, and labeled properly. States are responsible for conducting inspections and regulatory activities that help ensure food and feed produced, processed, and distributed within their jurisdictions are safe and in compliance with State laws and regulations. States primarily perform inspections under their own regulatory authority. Some States conduct inspections of feed facilities under contract with the FDA. Because jurisdictions may overlap, FDA and States collaborate and share resources to protect animal feed.

The FDA Food Safety Modernization Act passed on January 4, 2011, calls for enhanced partnerships and provides a legal mandate for developing an Integrated Food Safety System (IFSS). FDA is committed to implementing an IFSS thereby optimizing coordination of food and feed safety efforts with Federal, State, local, tribal, and territorial regulatory and public health agencies. Model standards provide a consistent, underlying foundation that is critical for uniformity across State and Federal Agencies to ensure credibility of food and feed programs within the IFSS.

At this time, model regulatory program standards exist for human food, but do not exist for animal feed. The draft Animal Feed Regulatory Program Standards (AFRPS or draft feed standards) are a major step in a long-term process of collaboration to achieve uniformity and consistency in feed safety across the nation while acknowledging State responsibilities and authorities.

II. Significance of Feed Program Standards

The AFRPS provide a uniform and consistent approach to feed regulation in the United States. Implementation of the draft feed program standards would be voluntary. States implementing the standards will identify and maintain program improvements that will strengthen the safety and integrity of the U.S. animal feed supply.

Description: These draft feed standards are the framework that each State should use to design, manage, and improve its feed program. Eleven standards describing regulatory foundation, training, inspection program, auditing, feed-related illness or death and emergency response, enforcement program, outreach activities, budget and planning, laboratory services, sampling program, and assessment and improvement of standard implementation are the basis for the draft feed standards.

Each standard has a purpose statement, requirement summary, description of program elements, projected outcomes, and a list of required documentation. When a State program voluntarily agrees to implement the draft feed standards, it must fully implement and maintain the individual program elements and documentation requirements in each standard in order to fully implement the standard. The State program must fully implement the 11 standards to achieve full implementation of the AFRPS. The draft feed standards are not intended to address the performance appraisal processes that a State agency may use to evaluate individual employee performance.

The draft feed standards have forms, worksheets, and templates to help the State program assess and meet the program elements in the standard. State programs are not obligated to use the forms, worksheets, and templates provided with the draft feed standards. Other manual or automated forms, worksheets, and templates may be used as long as the pertinent data elements are present. Records and other documents specified in the draft feed standards must be maintained in good order by the State program and must be available to verify the implementation of each standard.

In the first year of implementation, the State program uses the self-assessment worksheets to determine if the requirements for each standard are fully met, partially met, or not met. The self-assessments are used to develop an improvement plan for fully implementing the requirements of the 11 standards.

Although FDA plans to provide financial support to State programs that implement the draft feed standards, funding opportunities are contingent upon the availability of funds. Funding opportunities may be only available to State feed regulatory programs that currently have an FDA feed inspection contract. State programs receiving financial support to implement the feed standards will be audited by FDA.

III. Electronic Access

Persons with access to the Internet may submit email requests for a single copy of the draft feed standards to *OP-ORA@fda.hhs.gov.*

In the **Federal Register** of July 10, 2013 (78 FR 41401), FDA published a 60-day notice requesting public comment on the proposed collection of

information. Four comments were received. Three comments pertain to the information collection. One comment addressed an issue unrelated to the proposed collection of information, such as pet food safety; therefore, we do not address this issue in this document.

One comment expressed concern that the estimated hours to collect the information required to implement and maintain the requirements in the draft feed standards is low. Two comments expressed concern that implementing and maintaining the draft feed standards would require more State program employees and financial support from FDA.

Regarding the comment asserting that the total estimated hours reported in Table 1 is low; we recognize the number of hours needed to implement and maintain the draft feed standards will vary among States depending on the size of the State's feed program, the number of staff, and the State's short and long term goals for implementing the draft feed standards. The burden estimates are reasonable given the variation among State programs and their current ability to implement the draft feed standards.

Regarding the comment expressing concern that the State feed programs would need additional employees and funding from FDA to implement and maintain the requirements in the draft feed standards; FDA recognizes that State feed programs may need additional resources to implement and maintain the draft feed standards. Therefore, FDA will pursue funding for the draft feed standards; however, the level of funding may vary each year and is contingent on budget approval.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Respondent	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per record-keeping	Total hours
State Feed Regulatory Programs in the United States	50	1	50	3,000	150,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden has been calculated to 3,000 hours per respondent. The estimate includes time for reviewing the draft feed standards, gathering and maintaining the data and documents for each standard, and completing and reviewing the data and documents that would be spent to fully implement the 11 standards. FDA recognizes that full use and implementation of the draft feed standards by State feed programs will occur over many years and the number of years to fully implement the draft feed standards will vary among States. This burden was determined by averaging the burden estimates received from five respondents. The five respondents are representative of the State feed programs in the United States.

Dated: November 4, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26778 Filed 11–7–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Sixth Annual Sentinel Initiative; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Sixth Annual Sentinel Initiative.'' Convened by the Engelberg Center for Health Care Reform at the Brookings Institution and supported by a cooperative agreement with FDA, this 1-day workshop will bring the stakeholder community together to discuss a variety of topics on active medical product surveillance. Topics will include an overview of the status of FDA's Sentinel Initiative and future plans, highlights from key Mini-Sentinel and related activities, and an update on active surveillance collaborations and program extensions. In addition, this workshop will engage stakeholders to discuss current and emerging Sentinel projects and facilitate stakeholder feedback and input on Sentinel projects that would be appropriate to determine the feasibility of using Sentinel to evaluate drug safety issues that may require regulatory action (e.g., labeling changes, postmarketing requirements (PMRs), or postmarketing commitments (PMCs)). This workshop satisfies an FDA commitment that is part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V).

Date and Time: The public workshop will be held on January 14, 2014, from 9 a.m. to 4 p.m.

Location: The public workshop will be held at the Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20001. For additional travel and hotel information, please refer to *http://www.cvent.com/d/jcqhyy.* (FDA has verified the Web site addresses throughout this notice, but FDA is not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**).

Contact Person: Carlos Bell, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6358, Silver Spring, MD 20993, 301–796–3714, FAX: 301–847–3529, email: *SentinelInitiative@fda.hhs.gov.*

Registration: To attend the public workshop, you must register before January 14, 2014, by visiting *http://www.cvent.com/d/jcqhyy.* Early registration is recommended. There will be no onsite registration. When registering, please provide the following information: Your name, title, company or organization (if applicable), postal address, telephone number, and email address. There is no registration fee for the public workshop; but because seating is limited, registration will be on a first-come, first-served basis. A 1-hour lunch break is scheduled; however, food will not be provided. There are multiple restaurants within walking distance of the hotel.

If you need special accommodations due to a disability, please contact Joanna Klatzman at the Brookings Institution (email: *jKlatzman@brookings.edu*) at least 7 days in advance.

Meeting Materials: All event materials will be available to registered attendees via email prior to the workshop and will be posted after the event on the

Brookings Institution event Web site at *http://www.brookings.edu//health/events.*

Transcripts: Please be advised that transcripts will not be available.

SUPPLEMENTARY INFORMATION: On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). Title I of FDASIA reauthorizes PDUFA and provides FDA with the user fee resources necessary to maintain an efficient review process for human drug and biological products. The reauthorization of PDUFA includes performance goals and procedures for the Agency that represent FDA's commitments during fiscal years 2013–2017 (PDUFA V). These commitments are fully described in the document entitled ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 Through 2017'' (PDUFA Goals Letter), available on FDA's Web site at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.* Section XI of the PDUFA Goals Letter, entitled ''Enhancement and Modernization of the FDA Drug Safety System,'' includes Sentinel as a tool for evaluating drug safety issues that may require regulatory action. As part of this enhancement, FDA committed to hold a public meeting to engage stakeholders in a discussion of current and emerging Sentinel projects and facilitate stakeholder feedback and input to determine the feasibility of using Sentinel to evaluate drug safety issues that may require regulatory action, e.g., labeling changes, PMRs, or PMCs. The public workshop announced by this notice will fulfill this commitment.

Dated: November 5, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26855 Filed 11–7–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1317]

Tentative Determination Regarding Partially Hydrogenated Oils; Request for Comments and for Scientific Data and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments and for scientific data and information.

SUMMARY: Based on new scientific evidence and the findings of expert scientific panels, the Food and Drug Administration (FDA) has tentatively determined that partially hydrogenated oils (PHOs), which are the primary dietary source of industrially-produced *trans* fatty acids, or *trans* fat, are not generally recognized as safe (GRAS) for any use in food based on current scientific evidence establishing the health risks associated with the consumption of *trans* fat, and therefore that PHOs are food additives. Although FDA has not listed the most commonly used PHOs, they have been used in food for many years based on self-determinations by industry that such use is GRAS. If finalized, this would mean that food manufacturers would no longer be permitted to sell PHOs, either directly or as ingredients in another food product, without prior FDA approval for use as a food additive.

DATES: Submit either electronic or written comments and scientific data and information by January 7, 2014.

ADDRESSES: Submit electronic comments and scientific data and information to *http://www.regulations.gov.* Submit written comments and scientific data and information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All submissions must include the Agency name and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Mical Honigfort, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1278, FAX: 301–436–2972, email: *mical.honigfort@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

In accordance with the process set out in § 170.38(b)(1) (21 CFR 170.38(b)(1)), we are issuing this document announcing our tentative determination that PHOs are no longer GRAS under any condition of use in food and therefore are food additives subject to section 409 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348). If finalized, this would mean that food manufacturers would no longer be permitted to sell PHOs, either directly or as ingredients in another food product, without prior FDA approval for use as a food additive.

FDA's evaluation of the GRAS status of PHOs is centered on the *trans* fatty acid (also referred to as ''*trans* fat'') component of these oils. This document addresses PHOs because they are the primary dietary source of industrially-produced *trans* fat (Ref. 1). Although all refined edible oils contain some *trans* fat as an unintentional byproduct of their manufacturing process, *trans* fats are an integral component of PHOs and are purposely produced in these oils to affect the properties of the oil and the characteristics of the food to which they are added.

The current scientific evidence, which is discussed in section IV of this document, identifies significant health risks caused by the consumption of *trans* fat. This evidence includes the opinions of expert panels and the 2005 recommendation of the Institute of Medicine (IOM) to limit *trans* fat consumption as much as possible while consuming a nutritionally adequate diet, recognizing that *trans* fat occurs naturally in meat and dairy products from ruminant animals and that naturally-occurring *trans* fat is unavoidable in ordinary, nonvegan diets without significant dietary adjustments that may introduce undesirable effects (Ref. 2). In addition, according to the Centers for Disease Control and Prevention (CDC), elimination of PHOs from the food supply could prevent 10,000 to 20,000 coronary events and 3,000 to 7,000 coronary deaths annually, if the marginal benefits of continuing to remove trans fats from food items remain constant (Ref. 3). (See accompanying economic analysis for more information on this estimate.) Given this evidence, we have tentatively determined that there is no longer a consensus among qualified scientific experts that PHOs, the primary dietary source of industrially-produced *trans* fatty acids, are safe for human consumption, either directly or as ingredients in other food products.

II. Background

A. Hydrogenation Process and Trans Fatty Acids

Chemical hydrogenation is the process by which hydrogen atoms are added to unsaturated sites on the carbon chains of fatty acids, in the presence of catalysts, thereby reducing the number of double bonds. ''Partial hydrogenation'' describes an incomplete saturation of the double bonds, in which some double bonds remain but may shift to a different position along the carbon chain and alter their configuration from *cis* to *trans.* The *trans* arrangement of hydrogen atoms results in a relatively straight configuration of the fatty acids and increases the melting point, shelf life,

and flavor stability of the hydrogenated oil. Because of these technical properties, PHOs have been used by the food industry in such products as margarine, shortening, and baked goods. The hydrogenation process can be controlled to meet the physical or chemical properties needed for a specific product application (Ref. 4). If an oil is allowed to hydrogenate completely, the carbon-carbon double bonds are mostly eliminated, resulting in a ''fully hydrogenated oil.'' The *trans* fatty acid content of PHOs can vary from approximately 10 to 60 percent of the oil, depending on how the oil is manufactured, with an average *trans* fatty acid content of 25 to 45 percent of the oil (Ref. 1). Changes in the pressure, temperature, amount of agitation in the reaction vessel, type and concentration of catalyst, reaction time, and fat source will affect the production of *trans* fatty acid isomers in PHOs.

As noted, *trans* fatty acids are also formed during the production of non-hydrogenated refined oils (i.e., soybean and cottonseed oils) as a result of the *cis* to *trans* isomerization induced by high temperatures used during processing, such as deodorization (Ref. 5). The concentration of *trans* fatty acids in non-hydrogenated refined oils is typically below 2 percent (Ref. 6). Low levels (below 2 percent) of *trans* fatty acids may also be found in fully hydrogenated oils due to incomplete hydrogenation (Ref. 7). Theoretically, a fully hydrogenated oil would be fully saturated and would not contain any *trans* fatty acids. However, no hydrogenation process is 100 percent efficient. In addition, the *trans* fatty isomer content of an edible oil can be controlled by blending different oils or through processing of mixed fatty acids (Ref. 4).[1]

B. The GRAS Standard

Section 409 of the FD&C Act provides that a food additive is unsafe unless it is used in accordance with certain conditions set forth in that section. ''Food additive'' is defined by section 201(s) of the FD&C Act (21 U.S.C. 321(s)) as any substance the intended use of which results or may reasonably be expected to result in its becoming a component or otherwise affecting the characteristics of any food, if such substance is not GRAS.[2] A substance is GRAS if it is generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use. However, history of use prior to 1958 is not sufficient to support continued GRAS status if new evidence demonstrates that there is no longer a consensus that an ingredient is safe.

FDA has defined safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use'' (21 CFR 170.3(i)), and general recognition of safety must be based only on the views of qualified experts (21 CFR 170.30(a)). To establish such recognition, there must be a consensus of expert opinion regarding the safety of the use of the substance. (See, e.g., *United States* v. *Western Serum Co., Inc.,* 666 F.2d 335, 338 (9th Cir. 1982) (citing *Weinberger* v. *Hynson, Westcott & Dunning,* 412 U.S. 609, 629–32 (1973)). Unanimity among experts regarding safety of a substance is not required. (See, e.g., *United States* v. *Articles of Drug * * * 5,906 boxes,* 745 F.2d 105, 119 n. 22 (1st Cir. 1984); *United States* v. *Articles of Food and Drug (Coli-Trol 80),* 518 F.2d 743, 746 (5th Cir. 1975) (''What is required is not unanimous recognition but general recognition.'')). However, the existence of a severe conflict among experts regarding the safety of the use of a substance precludes a finding of general recognition (See, e.g., *Premo Pharmaceutical Laboratories* v. *United States,* 629 F.2d 795, 803 (2d Cir. 1980)).

Importantly, the GRAS status of a specific use of a particular substance in food is time-dependent. That is, as new scientific data and information develop about a substance or the understanding of the consequences of consumption of a substance evolves, expert opinion regarding the safety of a substance for a particular use may change such that there is no longer a consensus that the specific use is safe. The fact that the status of a substance under section 201(s) of the FD&C Act may evolve over time is the underlying basis for FDA's regulation at § 170.38, which provides in part that FDA may, on its own initiative, propose to determine that a substance is not GRAS. (See generally 36 FR 12093 (June 25, 1971) (issuance of 21 CFR 121.3, the predecessor of § 170.38)). Further, as stated previously, history of the safe use of a substance in food prior to 1958 is not sufficient to support continued GRAS status if new evidence demonstrates that there is no longer expert consensus that an ingredient is safe.

As noted previously, under section 201(s) of the FD&C Act, a substance that is GRAS for a particular use in food is not a food additive, and may lawfully be utilized for that use without Agency review and approval. Currently, a GRAS determination is made when the manufacturer or user of a food substance evaluates the safety of the substance and the views of qualified experts and concludes that the use of the substance is GRAS. This approach is commonly referred to as ''GRAS self-determination.'' Substances that have been self-determined as GRAS are not comprehensively listed or otherwise publicly identified.

Other substances that are GRAS may be identified in FDA regulations in one of two ways. Following the passage of the 1958 Food Additives Amendment, FDA established in its regulations a list of food substances that, when used as indicated, are considered GRAS. This list (commonly referred to as the ''GRAS list'') now appears at 21 CFR part 182. Thereafter, in 1972, we established the GRAS affirmation process through which we affirmed, through notice and comment rulemaking, the GRAS status of particular uses of certain substances in food.[3] Regulations affirming the GRAS status of certain substances appear at 21 CFR parts 184 and 186.[4]

C. Status of PHOs

PHOs, which are the primary dietary source of industrially-produced *trans* fat (Ref. 1), have a long history of use as food ingredients. The partial hydrogenation process was developed in the 1930s and has been in widespread commercial use since the 1940s. Two common PHOs currently used by the food industry are partially

[1] Hydrogenation also occurs in the digestive tract of ruminant animals and results in the formation of some *trans* isomers in the fat components of dairy and meat products from these animals. These isomers usually make up only a small percent (typically around 3 percent) of the total fatty acids of such products (Ref. 5). This document is limited to PHOs and does not address the *trans* fat component of meat and dairy products from ruminant animals.

[2] Certain other substances that may become components of food are also excluded from the statutory definition of food additive, including pesticide chemicals and their residues, new animal drugs, color additives, and dietary ingredients in dietary supplements (21 U.S.C. 321(s)(1) through (s)(6)).

[3] As a general matter, FDA no longer lists GRAS substances in its regulations because, in April 1997, we proposed to establish a voluntary notification program for GRAS, which does not involve rulemaking (62 FR 18938, April 17, 1997). At the time of the proposal, FDA initiated a pilot of the GRAS notification program, which continues to function. A firm may voluntarily submit information on a GRAS self-determination to FDA for review through the GRAS notification program, but is not required to do so.

[4] For a more detailed discussion of the history of GRAS, see 62 FR 18938 at 18939 and 18940.

hydrogenated soybean oil and partially hydrogenated cottonseed oil, neither of which is listed as GRAS in FDA's regulations. However, these and other commonly used PHOs (e.g., partially hydrogenated coconut oil and palm oil) have been considered GRAS (through a GRAS self-determination) by the food industry for use in food at levels consistent with good manufacturing practice based on a history of use prior to 1958. We are not aware that either FDA or the United States Department of Agriculture (USDA) granted any explicit prior sanction or approval for any use of PHOs in food prior to the 1958 Food Additives Amendment to the FD&C Act.

In contrast, the partially hydrogenated versions of low erucic acid rapeseed oil (LEAR oil; 21 CFR 184.1555(c)(2)) and menhaden oil (21 CFR 184.1472(b)) are affirmed by regulation as GRAS for use in food. Partially hydrogenated LEAR oil was affirmed as GRAS for use in food (50 FR 3745; January 28, 1985) through scientific procedures. Partially hydrogenated menhaden oil was affirmed as GRAS for use in food (54 FR 38219; September 15, 1989) on the basis that the oil is chemically and biologically comparable to commonly used partially hydrogenated vegetable oils such as corn and soybean oils. Partially hydrogenated LEAR and menhaden oils are not currently widely used by the food industry.[5]

Although none of the food standards of identity in FDA's regulations explicitly refers to PHOs, the nature of some of the products for which there are standards of identity is such that PHOs historically have been used in their manufacture in conformance with those standards (e.g., shortening in bread, rolls, and buns (21 CFR 136.110(c)(5)), French dressing (21 CFR 169.115), mayonnaise (21 CFR 169.140), and margarine (21 CFR 166.110)). However, no food standard of identity requires the use of PHOs and, therefore, industry's ability to comply with any standard would not be prevented by a change in the regulatory status of PHOs.

D. Labeling of Trans Fat

As an initial step to address the negative health effects of *trans* fat consumption in the United States, we issued a proposed rule in the **Federal Register** of November 17, 1999 (64 FR 62746) entitled ''Food Labeling: *Trans* Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims'' (the November 1999 proposal), in which we proposed that *trans* fat content be provided in nutrition labeling to help consumers determine how each food product contributes to their overall dietary intake of *trans* fat. Our proposal was supported by findings from intervention and observational studies that evaluated the evidence that dietary *trans* fatty acids influence blood lipid levels in humans and increase their risk of coronary heart disease (CHD) (64 FR 62746 at 62750). In the November 1999 proposal, we discussed research that showed that diets containing *trans* fatty acids resulted in increased serum low-density lipoprotein cholesterol (LDL–C), a major risk factor for CHD (64 FR at 62746 at 62749 through 62754). In the **Federal Register** of July 11, 2003 (68 FR 41434), we issued a final rule (the July 2003 final rule) amending our nutrition labeling regulations to require declaration of the *trans* fatty acid content of food in the nutrition label of conventional foods and dietary supplements (21 CFR 101.9(c)(2)(ii)). This requirement was effective January 1, 2006.[6] In the July 2003 final rule (68 FR 41434 at 41457), the Agency noted that the IOM/National Academy of Sciences (IOM/NAS) report about *trans* fat (Ref. 2) did not make quantitative recommendations for establishing a Daily Reference Value (DRV) for *trans* fat. The IOM/NAS report recommended that the intake of *trans* fat be as low as possible while maintaining a nutritionally balanced diet and did not provide a daily reference intake (DRI) for *trans* fat or information that the Agency needs to establish a DRV for nutrition labeling purposes. Therefore, in the absence of a scientific basis or recommendation for *trans* fat consumption by an authoritative body, FDA did not establish a DRV for *trans* fat, and therefore, the July 2003 final rule did not require listing of Percent of Daily Value (% DV) for *trans* fat on product labels.

III. Current Dietary Intake of *Trans* Fat From PHOs

In the July 2003 final rule, we estimated that mean adult (aged 20 years or more) intake of *trans* fat from products containing PHOs was 4.6 grams per day (g/d) (2.0 percent of energy based on a 2,000 calorie diet) (68 FR 41434 at 41470).[7] We also estimated that total *trans* fat intake from products containing PHOs and from animal products containing *trans* fat (1.2 g/d) was 5.8 g/d for adults (2.6 percent of caloric energy). Based on food composition data collected in 2009 and 2010, we updated our intake estimate of *trans* fat from products containing PHOs. Our analysis showed that many food products have been reformulated to eliminate or to substantially reduce the amount of industrially-produced *trans* fatty acids (Ref. 8). However, as discussed further in this section, certain population groups still consume high levels of *trans* fatty acids, primarily through consumption of food products containing PHOs.

In 2010, we prepared an estimate of the intake of industrially-produced *trans* fat using available food consumption data (2003–2006 National Health and Nutrition Examination Survey (NHANES)), market share information, and *trans* fat levels based on label declaration data and analytical data for products that were identified as containing PHOs (Ref. 8). We estimated the 2010 mean *trans* fat intake for the U.S. population aged 2 years or more[8] who consumed one or more of the processed foods identified as containing PHOs[9] to be 1.3 grams per person per day (g/p/d) (0.6 percent of caloric energy). For high-level consumers (represented by the 90th percentile), we estimated the intake to be 2.6 g/p/d (1.2 percent of caloric energy) for the U.S. population aged 2 years or more. Based on this estimate, the mean dietary intake of industrially-produced *trans* fat has decreased significantly since our estimate in the July 2003 final rule.

[5] The non-hydrogenated version of LEAR oil (also known as canola oil) is widely used in foods, and non-hydrogenated menhaden oil is currently used in a limited number of products, primarily to increase the omega-3 fatty acid content of the food. Like other non-hydrogenated refined oils, non-hydrogenated LEAR and menhaden oils, which are also affirmed by FDA as GRAS for use in food, are not significant dietary sources of *trans* fat.

[6] The regulation requires the declaration of the amount of *trans* fat in a product, on a separate line directly below the statement for saturated fat; the declaration must express the amount of *trans* fat as grams per serving to the nearest 0.5 g increment below 5 g and to the nearest gram increment above 5 g. If a serving contains less than 0.5 g, the *trans* fat content may be declared as zero. The regulation also provides that, in certain circumstances, the statement ''Not a significant source of *trans* fat'' may be used instead of a declaration of *trans* fat content. The regulation defines the number of grams of *trans* fat in a serving as the sum of all unsaturated fatty acids that contain one or more isolated (i.e., nonconjugated) double bonds in a trans configuration. If FDA makes a final determination that PHOs are not GRAS, no amount of PHOs would be permitted in food products without prior FDA approval for use as a food additive.

[7] $(4.6\ g//d \times 9\ kcal/g \times 100)/2{,}000\ kcal/d = 2.0\%$ of energy.

[8] While we did not calculate a mean intake for ages 20 years or more, based on the similarity in the intakes calculated for children aged 2–5 years, teenage boys, and persons aged 2 years or more (Ref. 8), we believe there would not be a significant difference between the intake estimated for persons ages 2 years or more and that for persons ages 20 years or more.

[9] The current estimate indicated that approximately 100 percent of the population consumed one or more of the foods under consideration. This is due to the wide variety of foods that contain *trans* fat from PHOs.

Additionally, scientists at the CDC recently studied the change in levels of four major *trans* fatty acids in the blood of U.S. non-Hispanic white adults from 2000 to 2009, and reported a 58 percent average decrease during that timeframe (Ref. 9).

The data that we collected show that many foods (e.g., frozen potato products, most frozen breaded products) have been reformulated to remove PHOs. However, a number of foods made with PHOs remain on the market. These products fall into one of two categories: Foods for which consumers have alternatives containing lower levels of *trans* fat (e.g., cookies, baked goods, microwave popcorn, frozen pizza, frozen pies, shortening) and foods for which consumers have limited or no choice of an alternative containing a lower level of *trans* fat (e.g., ready-to-use frostings, stick margarine).

In 2010, we also prepared an estimate for a high-intake scenario by assuming that *trans* fat was present at the highest level observed for all foods within a particular food category based on label surveys or analytical data. For this scenario, we estimated the mean intake to be 2.7 g/p/d (1.2 percent of energy) and the 90th percentile intake to be 5.4 g/p/d (2.4 percent of energy) for the U.S. population aged 2 years or more.

In 2012, using label survey data, we updated the 2010 intake estimate of *trans* fats from PHOs for those food categories that were identified as major contributors to the dietary intake of *trans* fat, as well as for those categories where we have noted progress in reformulation. For this most recent estimate, we calculated the mean intake to be 1.0 g/p/d (0.5 percent of energy) and the 90th percentile intake to be 2.0 g/p/d (1.0 percent of energy) for the U.S. population aged 2 years or more (Ref. 10). We also prepared an estimate for a high-intake scenario by assuming that *trans* fat was present at the highest level observed for all foods within a particular food category based on the label survey. For this scenario, we estimated the mean intake to be 2.1 g/p/d (1.0 percent of energy) and the 90th percentile intake to be 4.2 g/p/d (1.9 percent of energy) for the U.S. population aged 2 years or more.

We do not consider this to be a significant change in the overall dietary intake of *trans* fat since 2010. However, it suggests a continued downward trend in the dietary intake of *trans* fat. Specifically, there was a decrease observed in the intake of *trans* fat in the refrigerated dough, savory snacks, and frozen pizza categories, consistent with the lower levels of *trans* fat observed in our label survey.

Although *trans* fat intake has decreased overall since our 2003 *trans* fat intake estimate, individuals with certain dietary habits may still consume high levels of *trans* fat from certain brands or certain types of food products (e.g., refrigerated biscuits, ready-to-use frostings, certain brands of frozen pizzas, and certain brands of microwave popcorn), which could contain several grams *trans* fat per serving. As noted previously, for those consumers who consistently choose these products, the daily intake of added *trans* fat is approximately twice as high as that for the consumer who does not choose only the foods containing the highest levels of *trans* fat within a particular category (2.1 g/p/d vs. 1.0 g/p/d).

IV. Safety

In the November 1999 proposed rule, we concluded that dietary *trans* fatty acids have adverse effects on blood cholesterol measures that are predictive of CHD risk, specifically LDL–C levels (64 FR 62746 at 62754). We took final action in the July 2003 final rule based on our evaluation of comments received and on scientific evidence demonstrating that the consumption of *trans* fatty acids increases LDL–C, one of the major risk factors for CHD. The July 2003 final rule cited authoritative reports that recommended limiting intake of *trans* fat to reduce CHD risk, such as the *Dietary Guidelines for Americans,* 2000 (Ref. 11), the American Heart Association Guidelines (Ref. 12), the 2002 IOM/NAS report (Ref. 2), as well as additional studies that had been published since the November 1999 proposal (68 FR 41434 at 41444). In particular, the 2002 IOM/NAS report recognized the positive linear trend between *trans* fat intake, LDL–C concentration, and heart disease, concluded that ''*trans* fatty acids are not essential and provide no known benefit to human health,'' and recommended that ''*trans* fatty acid consumption be kept as low as possible while consuming a nutritionally adequate diet.'' The report did not recommend an upper limit for *trans* fat because it concluded that any incremental increase in *trans* fat consumption increases the risk of CHD.

FDA has summarized findings reported in the literature since the publication of the July 2003 final rule (Refs. 13, 14). Since 2003, both controlled trials and observational human studies published on *trans* fatty acid consumption have consistently confirmed the adverse effects of *trans* fatty acid consumption on intermediary risk factors (e.g., serum lipoproteins) and the increased risk of CHD (Ref. 13). Expert review panels from the IOM/NAS in 2005 (Ref. 2), the American Heart Association (Refs. 15, 16), the American Dietetic Association (Ref. 17), the World Health Organization (Ref. 18), the Dietary Guidelines Advisory Committee (Refs. 19, 20), and the FDA Food Advisory Committee Nutrition Subcommittee (Ref. 21) agree that *trans* fat-mediated changes in lipid metabolism, pro-inflammatory effects, and endothelial dysfunction lead to dose-dependent increases in CHD events in humans. These expert panels all concluded that there is no threshold intake level for industrially-produced *trans* fat that would not increase an individual's risk of CHD, or adverse effects on risk factors for CHD. Moreover, the panels also agree that *trans* fatty acids have a stronger effect on the risk of CHD than saturated fatty acids.

This significant recent evidence demonstrating the increased risk of CHD from consumption of any amount of *trans* fat means that consumption of PHOs, the primary dietary source of *trans* fat, also leads to increased LDL–C levels and an increased risk of CHD. These demonstrated effects support a determination that the consumption of PHOs could be harmful (i.e., increased risk for CHD) under any condition of use in food. Accordingly, we tentatively determine that this evidence erodes any basis to support the GRAS status of these oils, and therefore that there is no longer a consensus among qualified scientific experts that PHOs, the primary dietary source of industrially-produced *trans* fatty acids, are safe under any condition of use in food.

We note that, in addition to an increased risk of CHD, *trans* fat consumption (and, accordingly, consumption of food products containing PHOs) has also been connected to a number of other adverse effects on health. Some studies suggest that *trans* fat consumption may worsen insulin resistance, especially in those who are predisposed to the condition (e.g., preexisting insulin resistance, greater adiposity, or lower physical activity levels) (Refs. 22, 23). *Trans* fat may also increase diabetes risk (Refs. 22–26) although this association requires further confirmation. In addition, there is some evidence that fetuses and breastfeeding infants of mothers who regularly consume *trans* fat may be at higher risk for impaired growth (which may be due to inhibition of the synthesis of essential polyunsaturated fatty acids that are needed for their growth and development) (Refs. 27–31). Scientific evidence also shows that, in addition to

increasing LDL–C, *trans* fat intake lowers serum high-density lipoprotein cholesterol (HDL–C), a protective form of serum cholesterol (Refs. 32–39).

V. Other Activities Relating to PHO Consumption

Over the past 5 years, several municipalities, states, and other countries have taken action to reduce the use of PHOs in food. While these actions pertain generally to all products containing *trans* fat, because PHOs are the primary dietary source of *trans* fat, their immediate effect is primarily on food products containing PHOs. For example, the Danish government passed legislation in 2003 that restricted the use of industrially-produced *trans* fat to a maximum of 2 percent of fats and oils used in all processed food products. These required limitations on dietary *trans* fat have nearly eliminated *trans* fat from commercial sources such that industrially-produced *trans* fat is no longer a significant source of intake of *trans* fat in Denmark (Refs. 40–42). Also, in 2007, Canada set voluntary *trans* fat reduction targets of no more than 2 percent *trans* fat in the fat content of vegetable oils and spreadable margarine and no more than 5 percent in all other foods (Ref. 43). Health Canada monitored the industry's actions by analyzing products and reviewing nutrition labels. Canada's monitoring data showed that nutrition labeling regulations are an effective motivator for industry and that many manufacturers reduced the *trans* fat content of foods to meet the voluntary limit of 5 percent total fat as *trans* fat, especially because the monitoring data were posted on Health Canada's Web site. However, Health Canada noted that some sectors (i.e., bakery products, desserts, and cookies) face challenges in reducing the *trans* fat content of their products (Ref. 44).

In the United States, some jurisdictions such as the State of California (California Health and Safety Code, Section 114377), New York City (New York City Health Code, Section 81.08), the City of Baltimore (Baltimore City Health Code Section 6–507), and Montgomery County, MD (County Council for Montgomery County Maryland, Resolution No. 16–134, 2007) have imposed restrictions on the use of *trans* fat ingredients in food service establishments. Generally, these regulations do not permit food service establishments to sell or distribute foods, and in some cases, use ingredients, containing greater than 0.5 g *trans* fat per serving. In New York City, by 2008 an estimated 98 percent of restaurants were not using ingredients containing industrially-produced *trans* fat, compared with 50 percent in 2005 (Ref. 45).

We have also received two citizen petitions regarding the safety of PHOs. In 2004, FDA received a citizen petition from the Center for Science in the Public Interest (CSPI) requesting that we revoke the GRAS status of PHOs, and consequently declare that all of these oils are food additives. The petition also asks FDA to revoke the safe conditions of use for partially hydrogenated products that are currently considered food additives,[10] to prohibit the use of partially hydrogenated vegetable oils that are prior sanctioned (FDA is not aware of any), and to initiate a program to encourage manufacturers and restaurants to switch to more healthy oils. The petition excluded *trans* fat that occurs naturally in meat from ruminant animals and dairy fats, and that forms during the production of non-hydrogenated oils. It also does not include fully hydrogenated oils, which contain negligible amounts of *trans* fat, and PHOs that may be produced by new technologies that result in negligible amounts of *trans* fat in the final product. CSPI's petition states that *trans* fat promotes CHD by increasing LDL–C and also by lowering HDL–C, and therefore has greater adverse effects on serum lipids (and possibly CHD) than saturated fats. CSPI also states that, beyond its adverse effects on serum lipids, *trans* fat may promote heart disease in additional ways. Based on these findings, CSPI asserts that PHOs can no longer be considered GRAS.[11]

In 2009, we received a citizen petition from Dr. Fred Kummerow requesting that we ban partially hydrogenated fat from the American diet. Dr. Kummerow cited studies linking the intake of industrially-produced *trans* fatty acids to the prevalence of CHD in the United States. The petition also asserts that *trans* fat may be passed to infants via breast milk and that the daily intake of *trans* fat related to the health of children has been ignored since children do not exhibit overt heart disease. Dr. Kummerow further states that inflammation in the arteries is believed to be a risk factor in CHD and studies have shown that *trans* fatty acids elicit an inflammatory response.[12]

VI. Tentative Determination

As discussed previously, for a substance to be GRAS, there must be a consensus among qualified experts that the substance is safe under the intended conditions of use. In accordance with the process in FDA's regulations in § 170.38, the Agency on its own initiative or on the petition of any interested person, under 21 CFR part 10, may publish a notice in the **Federal Register** determining that a substance is not GRAS and is a food additive subject to section 409 of the FD&C Act. In accordance with this process, we will normally allow a period of 60 days during which any interested person may file comments, and we will evaluate all comments received (§ 170.38(b)). If we conclude that there is a lack of convincing evidence that the substance is GRAS or is otherwise exempt from the definition of a food additive in section 201(s) of the FD&C Act, we will publish a notice thereof in the **Federal Register**.

Based on current scientific evidence discussed in section IV of this document regarding the health risks associated with the consumption of *trans* fat, opinions of expert panels, as well as the IOM's recommendation to limit *trans* fat consumption as much as possible, we have tentatively determined that there is not a consensus that PHOs, the primary dietary source of industrially-produced *trans* fatty acids, are safe for use in food. The fact that a substance was commonly used in food prior to 1958 is not sufficient to support continued GRAS status if there is no longer a scientific consensus that the substance is safe for the intended use in food.

FDA has prepared a memorandum attempting to estimate the potential costs and benefits associated with removing PHOs from the food supply (Ref. 46). Where possible we have used publicly available information to make these estimates; however, in many cases we have very limited data to support our rough estimates. We estimate the initial costs of removing PHOs from the food supply to be about $8 billion, although those costs may not be borne all in one year if FDA provides a multi-year compliance period; we seek comment on that idea as part of this notice. We estimate the 20-year net present value of costs to be between $12 and $14 billion, where the upper and lower estimates are calculated at 3 and

[10] The petition from CSPI provided, as an example, partially hydrogenated methyl ester of rosin, which is approved as a food additive for use as a synthetic flavoring substance (32 FR 7946, June 2, 1967; 21 CFR 172.515) and as a masticatory substance in chewing gum base (29 FR 13894, October 8, 1964; 21 CFR 172.615). Partially hydrogenated methyl ester of rosin is not a PHO; accordingly, this document does not address this substance.

[11] The CSPI petition may be accessed at *http://www.regulations.gov* and is identified as Docket No. FDA–2004–P–0279.

[12] The petition from Dr. Kummerow may be accessed at *http://www.regulations.gov* and is identified as Docket No. FDA–2009–P–0382.

7 percent discount rates. Using the same method, we estimate benefits between $117 and $242 billion. Our memorandum is part of the administrative record and can be found on *http://www.regulations.gov* as Reference 46 to this document. As discussed in the memorandum, our analysis focused on processed foods and food prepared at home. There may, however, be additional costs to small businesses associated with removing PHOs from food. Our intent is not to create an undue burden on these entities. Therefore, we are specifically requesting comment on the costs to small businesses and any special considerations that might be made in order to minimize the burden on these entities. We request comment on what types of special considerations for small business would be possible if FDA makes a final determination that PHOs are not GRAS.

VII. Request for Comments and for Scientific Data and Information

We are seeking comments and additional scientific data and information related to this action and, in particular, we request comment on the following:

1. Should FDA finalize its tentative determination that PHOs are no longer GRAS?

2. Are there data to support other possible approaches to addressing the use of PHOs in food, such as by setting a specification for *trans* fat levels in food?

3. How long would it take producers to reformulate food products to eliminate PHOs from the food supply? Are there likely to be differences in reformulation time for certain foods or for certain types of businesses?

4. If FDA makes a final determination that PHOs are not GRAS and does not otherwise authorize their use in food, FDA intends to provide for a compliance date that would be adequate for producers to reformulate any products as necessary and that would minimize market disruption. We welcome comments on what would be an adequate time period for compliance.

5. Are there any special considerations that could be made to reduce the burden on small businesses that would result from removal of PHOs from foods, such as additional time for reformulation? Would those considerations be consistent with a final determination that PHOs are not GRAS?

6. Are there other challenges regarding the removal of PHOs from foods? Are there products that may not be able to be reformulated? If so, what sorts of products and what challenges are faced?

7. Is there any knowledge of an applicable prior sanction for the use of PHOs in food?

We anticipate that some interested persons may wish to provide FDA with certain comments, research, data, and information that they consider to be trade secret or confidential commercial information (CCI) that would be exempt under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552). You may claim information that you submit to FDA as CCI or trade secret by clearly marking both the document and the specific information as ''confidential.'' Information so marked will not be disclosed except in accordance with the Freedom of Information Act and FDA's disclosure regulations (21 CFR part 20). For electronic submissions to *http://www.regulations.gov* indicate in the ''comments'' box of the appropriate docket that your submission contains confidential information. You must also submit a copy of the comment that does not contain the information claimed as confidential for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice.

VIII. Comments

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

IX. References

We have placed the following references on display in the Division of Dockets Management (see **ADDRESSES**). You may see them between 9 a.m. and 4 p.m., Monday through Friday. FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

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Dated: November 5, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

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BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: Incident HIV/Hepatitis B Virus Infections in South African Blood Donors: Behavioral Risk Factors, Genotypes and Biological Characterization of Early Infection

Summary: In compliance with the requirement of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call 301–435–0065, or Email your request, including your address to: *glynnsa@nhlbi.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

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: Incident HIV/ Hepatitis B virus (HBV) infections in South African blood donors: Behavioral risk factors, genotypes and biological

characterization of early infection, 0925-New, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH).

Need and Use of Information Collection: South Africa has one of the highest burdens for HIV infection in the world. The HIV epidemic in South Africa is largely heterosexual, but risk factors for infections can change and so identifying factors that contribute to the recent spread of HIV in a broad cross-section of the otherwise unselected general population, such as blood donors, is highly important for obtaining a complete picture of the epidemiology of HIV infection in Africa. Small previous studies suggest that the risk factors for HIV among more recently acquired (incident) infections in blood donors may differ from those of more distant (prevalent) infections. Similarly risk factors for recently acquired HBV may be different than for prevalent HBV infections. The demographic and behavioral risks associated with incident HIV and incident HBV infection have, as yet, not been formally assessed in South African blood donors using analytical study designs. Due to the high rates of HIV and HBV infection in South African blood donors, a better understanding of these risk factors can be used to modify donor screening questionnaires so as to more accurately exclude high-risk blood donors and contribute to transfusion safety. Risk factor data from this research may also provide critical information for blood banking screening strategies in other countries.

This study which provides a contemporary understanding of the current risk profiles for HIV and separately for HBV will also prospectively monitor genetic characteristics of recently acquired infections through genotyping and drug resistance profile testing, thus serving a US, South African, and global public health imperative to monitor the genotypes of HIV and HBV that have recently been transmitted. For HIV, the additional monitoring of drug resistance patterns in newly acquired infection is critical to determine if currently available antiretroviral medicines are capable of combating infection. Because the pace of globalization means these infections can cross borders easily, these study objectives have direct relevance for HIV and HBV control in the U.S. and globally. Further, the ability to identify recent HIV infections provides a unique opportunity to study the biology, host response and evolution of HIV disease at time points proximate to virus acquisition. Genotyping and host response information is scientifically important not only to South Africa, but to the U.S. and other nations since it will provide a broader global understanding of how to most effectively manage and potentially prevent HIV (e.g. through vaccine development). Efforts to develop vaccines funded by the National Institutes of Health and other US-based organizations may directly benefit from the findings of this study.

The South African National Blood Service (SANBS) uses both individual donation Nucleic Acid Testing (ID–NAT) and serology tests (either antibody or antigen detection tests) to screen blood donors for HIV and Hepatitis-B Virus (HBV), among other infections. A positive NAT test precedes HIV antibody detection or HBV surface antigen detection by days to weeks in newly acquired HIV and HBV infections. A combined testing strategy using NAT and serology tests therefore confers the ability to detect most acute infections and discriminate between recent (incident) and more remotely acquired (prevalent) infection. Additional tests that exploit antibody maturation kinetics such as the HIV Limiting Antigen Avidity assay (LAg Avidity) can further assist to classify persons with an HIV antibody positive test as having a recently acquired (incident) or longer-term (prevalent) infection. Hepatitis B core antibody (anti-HBc) testing of NAT-positive and NAT and Hepatitis B Virus Surface Antigen (HBsAg) positive HBV infections allows classification of HBV infections as recently acquired or prevalent infections. Infections that are anti-HBc negative are recently acquired (incident).

Leveraging this ability to classify HIV and HBV infections as incident or prevalent leads to three study objectives:

1. Objective 1 consists of evaluating the risk factors associated with having an incident HIV or HBV infection. To that end, a frequency matched case-control study will be conducted with two case groups: incident HIV infected blood donors and incident HBV infected blood donors, respectively. Risk factors in these two case groups will be compared to the risk factors provided by a group of controls (blood donors whose infectious tests are all negative). Cases and controls will be accrued from a geographically diverse donor pool.

2. Objective 2 consists of characterizing HIV clade and drug resistance profiles and determining viral loads in all cases of incident HIV infection, as well as characterizing HBV genotype and viral load in all incident HBV infections.

3. Objective 3 consists of following persons with incident and ''elite controller'' HIV infections prospectively for three additional visits at 2, 3, and 6 months following the index positive test(s). The term ''elite controllers'' refers to those who are HIV antibody positive, but with undetectable viral RNA (NAT negative) who are believed to have a natural ability to control viral replication without therapy. These studies will be useful in identifying appropriate HIV drug therapy regimens for this condition, as well as strategies for producing an effective HIV vaccine, which has eluded 30 years of HIV research.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden for Objectives 1 and 2 will be 395 hours for 483 subjects. The total estimated annualized burden for Objective 3 will be 32 hours for 35 respondents.

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Objectives 1 and 2 consent form	Adult Donors	483	1	15/60	121
Objectives 1 and 2—ACASI Questionnaire	Adult Donors	483	1	34/60	274
Objective 3 consent form*—Year 1	Adult Donors	35	1	15/60	9
Objective 3—Clinical Follow-up Questionnaire—Year 1*.	Adult Donors	35	4	10/60	23
Objective 3 consent form*—Year 2	Adult Donors	35	1	15/60	9
Objective 3—Clinical Follow-up Questionnaire—Year 2*.	Adult Donors	35	4	10/60	23

*The Objective 3 respondents are a subset of the respondents included in Objectives 1 and 2.

Dated: October 23, 2013.

Keith Hoots,

Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH.

Dated: October 24, 2013.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2013–26807 Filed 11–7–13; 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; Molecular Genetics B (MGB).

Date: November 25, 2013.

Time: 3:00 p.m. to 4:30 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: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: International Research Ethics Education and Curriculum Development.

Date: December 9, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Macromolecular Structure and Function D.

Date: December 9, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: James W. Mack, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 4, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26754 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Member Conflict.

Date: December 18, 2013.

Time: 2:00 p.m. to 3:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Scientific Review Branch, National Institute On Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 4, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26750 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biomedical Imaging Technology A Study Section, October 07, 2013, 08:00 a.m. to October 08, 2013, 05:00 p.m., Hilton Alexandria Mark Center, 5000 Seminary Road, Alexandria, VA, 22311 which was published in the **Federal Register** on September 10, 2013, 78 FR 175 Pgs. 55268–55270.

The meeting will be held at the Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20852. The meeting will start on December 10, 2013 at 6:00 p.m. and end December 11, 2013 at 5:00 p.m. The meeting is closed to the public.

Dated: November 1, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26753 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Review of Neuroscience AREA Grant Applications, October 24, 2013, 08:00 a.m. to October 25, 2013, 12:00 p.m., St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036, which was published in the **Federal Register** on October 01, 2013, 78 FR 60298.

The meeting will be held on December 9, 2013 to December 10, 2013. The meeting location and time remain the same. The meeting is closed to the public.

Dated: November 1, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26751 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Member Conflict: Alcohol and Glucose, October 16, 2013, 01:00 p.m. to October 16, 2013, 03:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on October 01, 2013, 78 FR 60297.

The meeting will be held on December 5, 2013 from 11:00 a.m. to 1:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: November 1, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26752 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review, Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biomaterials and Biointerfaces Study Section, October 03, 2013, 08:00 a.m. to October 04, 2013, 04:00 p.m., Residence Inn Arlington Capitol View, 2850 South Potomac Avenue, Arlington, VA 22202 which was published in the **Federal Register** on September 09, 2013, 78 FR 174 Pgs. 55086–55087.

The meeting will be held at the Westin St. Francis Union Square, 335 Powell Street, San Francisco, CA 94102. The meeting will start on December 13, 2013 at 7:00 p.m. and end December 14, 2013 at 5:00 p.m. The meeting is closed to the public.

Dated: November 1, 2013.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26766 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel RFA–DE–14–005 FaceBase 2 Hub Application Review.

Date: December 5, 2013.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel RFA DE–14–004 FaceBase 2 Spoke Application Review.

Date: December 5–6, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: November 5, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26902 Filed 11–7–13; 8:45 am]

BILLING CODE 4140–01–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation quarterly business meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will hold its next quarterly meeting on Thursday, November 14, 2013. The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC, starting at 8:30 a.m.

DATES: The quarterly meeting will take place on Thursday, November 14, 2013, starting at 8:30 a.m. EST.

ADDRESSES: The quarterly meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Bienvenue, 202–606–8521, *cbienvenue@achp.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and productive use of our nation's historic resources, and advises the President and Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements. For more information on the ACHP, please visit our Web site at *www.achp.gov.*

The agenda for the upcoming quarterly meeting of the ACHP is the following:

Call to Order—8:30 a.m.

I. Chairman's Welcome

II. Swearing In Ceremony

III. Chairman's Award

IV. Chairman's Report

V. Historic Preservation Policy and Programs

A. Building a More Inclusive Preservation Program

1. Session at Congressional Black Caucus Foundation Annual Conference

B. Working with Indian Tribes

1. White House Tribal Nations Conference

2. White House Council on Native American Affairs

C. Preserve America at 10: Future Directions

D. Planning for 50th Anniversary of the National Historic Preservation Act

E. Rightsizing Task Force Report

F. Sustainability and Department of Defense Historic Buildings

G. ACHP Legislative Agenda

1. Amendments to the National Historic Preservation Act

2. Recent Legislation Related to Historic Preservation

VI. Section 106 Issues

A. Hardest Hit Fund and Historic Preservation

B. The ACHP and the Federal Real Property Council

C. Presidential Memoranda on Infrastructure Permitting and Transmission

D. Proposed Northern Plains Energy Summit

E. Federal Communications Commission Program Alternative

VII. ACHP Management Issues

A. ACHP FY 2014 and 2015 Budget

B. Alumni Foundation Report

C. ACHP Office Relocation Update

VIII. New Business

A. District of Columbia Height Master Plan

IX. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact Cindy Bienvenue, 202–606–8521, prior to the meeting.

Authority: 16 U.S.C. 470j.

Dated: November 5, 2013.

Javier E. Marques,

Associate General Counsel.

[FR Doc. 2013–26887 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5685–N–04]

60 Day Notice of Proposed Extension of a Currently Approved Information Collection: Housing Discrimination Information Form HUD–903.1, HUD 903.1A, HUD–903–1B, HUD–903.1F, HUD–903.1KOR, HUD–903.1C, HUD–903.1CAM, HUD–903.1RUS, 903–1_Somali

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for an extension of the currently approved information collection for Housing Discrimination Information Forms HUD 903.1, HUD 903.1A, HUD–903–1B, HUD–903.1F, HUD–903.1KOR, HUD–903.1C, HUD–903.1CAM, HUD–903.1RUS, and HUD–903–1_Somali. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed extension of this information collection. The purpose of this Notice is to allow for 60 days of public comment.

DATES: Comments Due Date: January 7, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number, and should be sent to Colette Pollard, Reports Management Officer, QDAM, U.S. Department of Housing and Urban Development, 451 7th Street SW., Room 4186, Washington, DC, 20410–2000; telephone number (202) 402–3400 (this is not a toll-free number), or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Turner Russell, U.S. Department of Housing and Urban Development, 451 7th Street SW., Room 5214, Washington, DC, 20410–2000; telephone number (202) 402–6995 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD is proposing this extension of a currently approved information collection to the OMB for review, as required by the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35, as amended].

A. Overview of Information Collection

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed extension of the collection of information regarding alleged discriminatory housing practices under the Fair Housing Act [42 U.S.C. 3601 et seq.]. The Fair Housing Act prohibits discrimination in the sale, rental, occupancy, advertising, and insuring of residential dwellings; and in residential real estate-related transactions; and in the provision of brokerage services, based on race, color, religion, sex, handicap [disability], familial status, or national origin.

Any person who claims to have been injured by a discriminatory housing practice, or who believes that he or she will be injured by a discriminatory housing practice that is about to occur, may file a complaint with HUD not later than one year after the alleged discriminatory housing practice occurred or terminated. Form HUD–903.1 was developed in order to promote consistency in the documents that, by statute, must be provided to persons against whom complaints are filed, and for the convenience of the general public. Section 103.25 of HUD's Fair Housing Act regulation describes the information that must be included in each complaint filed with HUD. For purposes of meeting the Act's one-year time limitation for filing complaints with HUD, complaints need not be initially submitted on the Form that HUD provides. Housing Discrimination Information Form HUD–903.1 (English language), HUD–903.1A (Spanish language), HUD–903–1B (Chinese language), HUD–903.1F (Vietnamese language), HUD–903.1KOR (Korean language), HUD–903.1C (Arabic language), HUD–903.1CAM (Cambodian language), HUD–903.1RUS (Russian language), and HUD–903–1_(Somali language) may be submitted to HUD by mail, in person, by facsimile, or via the Internet to HUD's Office of Fair Housing and Equal Opportunity (FHEO). FHEO staff uses the information provided on the Form to verify HUD's authority to investigate the aggrieved person's allegations under the Fair Housing Act.

Title of Information Collection: Housing Discrimination Information Form.

OMB Control Number: 2529–0011.

Type of Request: Extension of a currently approved information collection.

Form Number: HUD–903.1.

Description of the need for the information and proposed use: HUD uses the Housing Discrimination Information Form HUD–903.1 (Form) to collect pertinent information from persons wishing to file housing discrimination complaints with HUD under the Fair Housing Act. The Fair Housing Act makes it unlawful to discriminate in the sale, rental, occupancy, advertising, or insuring of residential dwellings; or to discriminate in residential real estate-related transactions; or in the provision of brokerage services, based on race, color, religion, sex, handicap [disability], familial status, or national origin.

Any person who claims to have been injured by a discriminatory housing practice, or any person who believes that he or she will be injured by a discriminatory housing practice that is about to occur, may file a complaint with HUD not later than one year after the alleged discriminatory housing practice occurs or terminates. The Form promotes consistency in the collection of information necessary to contact persons who file housing discrimination complaints with HUD. It also aids in the collection of information necessary for initial assessments of HUD's authority to investigate alleged discriminatory housing practices under the Fair Housing Act.

This information may subsequently be provided to persons against whom complaints are filed [''respondents''], as required under section 810(a)(1)(B)(ii) of the Fair Housing Act.

Agency form number: Form HUD–903.1 (English), Form HUD–903.1A (Spanish), Form HUD–903–1B (Chinese), Form HUD–903.1F (Vietnamese), Form HUD–903.1K (Korean), Form HUD–903.1AR (Arabic), Form HUD–903.1CAM (Cambodian), Form HUD–903.1R (Russian), and Form HUD–903–1_(Somali).

Members of affected public: Individuals or households; businesses or other for-profit, not-for-profit institutions; State, Local, or Tribal Governments.

Estimation of the total number of hours needed to prepare the information collection, including the number of respondents, frequency of response, and hours of responses: During FY 2012, HUD staff received approximately 15,688 information submissions from persons wishing to file housing discrimination complaints with HUD. Telephone contacts accounted for 3,694 of this total. The remaining 11,994 complaint submissions were transmitted to HUD by mail, in-person, and via the Internet. HUD estimates that an aggrieved person requires approximately 45 minutes in which to complete this Form. The Form is completed once by each aggrieved person. Therefore, the total number of annual burden hours for this Form is 8,996 hours.

11,994 x 1 (frequency) x .45 minutes (.75 hours) = 8,996 hours.

Annualized cost burden to complainants: HUD does not provide postage-paid mailers for this information collection. Accordingly, persons who choose to submit this Form to HUD by mail must pay the prevailing cost of First Class Postage. As of the date of this Notice, the annualized cost burden per person, based on a one-time submission of this Form to HUD via First Class Postage, is Forty-Six Cents ($0.46) per person. During FY 2012, FHEO staff received approximately 4,875 submissions of potential complaint information by mail. Based on this number, HUD estimates that the total annualized cost burden for aggrieved persons who submit this Form to HUD by mail is $2,242.50. Aggrieved persons also may submit this Form to HUD in person, by facsimile, or electronically via the Internet.

Status of the proposed information collection: Renewal of a currently approved collection of pertinent information from persons wishing to file Fair Housing Act complaints with HUD.

B. Solicitation of Public Comment

This Notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 31, 2013.

Lynn Grosso,

Director, Office of Enforcement, FHEO.

[FR Doc. 2013–26871 Filed 11–7–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–43]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the

homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Office of Enterprise Support Programs, Program Support Center, HHS, room 12–07, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202)–720–8873; *Air Force:* Mr. Robert Moore, Air Force Real Property Agency, 2261 Hughes Avenue, Suite 156, Lackland AFB, TX, 78236–9852, (210) 395–9512; *Army:* Ms. Veronica Rines, Office of the Assistant Chief of Staff for Installation Management, Department of Army, Room 5A128, 600 Army Pentagon, Washington, DC 20310, (571)–256–8145; *Coast Guard:* Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2100 Second St. SW., Stop 7901, Washington, DC 20593–0001; (202) 475–5609; *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202)–501–0084; *Interior:* Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, MS–4262, 1849 C Street, Washington, DC, 20240, (202)–513–0795; *Navy:* Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202)–685–9426; (These are not toll-free numbers).

Dated: October 31, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/08/2013

Suitable/Available Properties

Building

Illinois

Nematology HH/GH 194
1105 S. Dorner Dr.
Urbana IL
Landholding Agency: Agriculture
Property Number: 15201330014
Status: Unutilized
Directions: ARS Inventory No 361100B194 and RPUID 03.51582
Comments: 3,582 sf.; greenhouse; 15+ months vacant; repairs needed; transferee will need to negotiate a lease w/State University (who owns land the bldg. sits on); contact Agriculture for more info.

Minnesota

Marcell Nursery Stock Storage
49554 Hwy 38
Marcell MN 56657
Landholding Agency: Agriculture
Property Number: 15201320029
Status: Unutilized
Comments: 140 sf.; cooler; 120+ yrs. vacant; need major repairs; contact the USDA Forest Service for more info.

New York

Housing Units
USCG Ft. Wadsworth Hsg. Site
Staten Island NY 10305
Landholding Agency: Coast Guard
Property Number: 88201340002
Status: Excess
Directions: 444(15,786 sq. ft.); 439 (15,661 sq. ft.); 433 (14,400 sq. ft.); 435 (11,480 sq. ft.)
Comments: Off-site removal only; sq. ft. varies (see above); deteriorated; secured area; contact Coast Guard for more info. re: accessibility & info. on a specific property

Oklahoma

Building 183
Altus AFB AGGN
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201340001
Status: Unutilized
Comments: 167 sq. ft.; no bathroom; secured area; escort required each time to access property; asbestos; contact Air Force for more info.

Washington

Former Seattle Branch of the Federal Reserve Bank
1015 Second Ave.
Seattle WA 98104
Landholding Agency: GSA
Property Number: 54201340001
Status: Excess
GSA Number: 9–G–WA–1259
Directions: Previously reported as suitable/unavailable under 54201220007
Comments: 85,873 sq. ft.; 67+ months vacant; extensive repairs/remediation needed to occupy; asbestos/lead; historic property; any renov. will need prior approval; contact GSA for more info.
Henke Triple Wide Mobile Home
10466 Idano Rd.
Moses Lake WA
Landholding Agency: Interior
Property Number: 61201340001
Status: Excess
Comments: Off-site removal only; 2,555 sq. ft.; residential; 3+ months vacant; good condition; contact Interior for more info.
Henke Garage-Columbia Basin Project
10466 Idano Rd.
Moses Lake WA
Landholding Agency: Interior
Property Number: 61201340002
Status: Excess
Comments: Off-site removal only; 720 sq. ft.; garage/shop/well house; 3+ months vacant; good condition; contact Interior for more info.

West Virginia

Appalachian Farming System
Research Ctr. Main Lab
1224 Airport Rd.
Beaver WV 25813
Landholding Agency: GSA
Property Number: 54201340002
Status: Excess
GSA Number: 4–A–WV–559AA
Directions: Landholding Agency- US Forest Service
Disposal Agency- GSA

Comments: 4 buildings totaling 44,052 sq. ft.; USDA research facility; 12= months vacant; good condition; some water damage; contact GSA for more info. on a specific property

Land

West Virginia

Appalachian Farming System
Research Ctr. Peters Farms
227 Peters Ct.
Cool Ridge WV 25825
Landholding Agency: GSA
Property Number: 54201340003
Status: Excess
GSA Number: 4–A–WV–559AD
Directions: Landholding Agency- US Forest Service
Disposal Agency- GSA
Comments: 53.6 acres; agricultural/research; possible wetlands near property; contact GSA for more info.
Appalachian Farming System
Research School House Farm
4362 Pluto Rd.
Shady Springs WV 25918
Landholding Agency: GSA
Property Number: 54201340004
Status: Excess
GSA Number: 4–A–WV–559AC
Directions: Landholding Agency- US Forest Service
Disposal Agency- GSA
Comments: 54.8 acres; agricultural/research; Sec. 106 Nat'l Historic review required to transfer out of federal ownership; contact GSA for more info.
Appalachian Farming System
Research Ctr. Reba Plumley Farm
898 Country Rte. 27
Shady Springs WV 25918
Landholding Agency: GSA
Property Number: 54201340005
Status: Excess
GSA Number: 4–A–WV–559AB
Directions: Landholding Agency- US Forest Service
Disposal Agency- GSA
Comments: 126.6 acres; agricultural/research; Sec. 106 Nat'l Historic review required to transfer out of federal ownership; contact GSA for more info.

Unsuitable Properties

Building

California

Building PM2–806
Naval Base Ventura Co.,
311 Main Rd.
Point Mugu CA 93043
Landholding Agency: Navy
Property Number: 77201340002
Status: Underutilized
Comments: w/in a controlled perimeter of a DoD installation; public access denied & no alternative method to gain access w/out compromising national security
Reasons: Secured Area

Maryland

Sandblast Shed (58) [68056]
US Coast Guard Yard
Baltimore MD 21226
Landholding Agency: Coast Guard
Property Number: 88201340001
Status: Excess
Comments: Public access denied and no alternative method to gain access w/out compromising national security
Reasons: Secured Area

Mississippi

4 Buildings
Rosenbaum Ave.
Meridian MS
Landholding Agency: Navy
Property Number: 77201340003
Status: Excess
Directions: 203,210,315,366
Comments: Public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

New York

U.S. Coast Guard Sector
Buffalo
1 Futhrmann Blvd.
Buffalo NY 14203
Landholding Agency: Coast Guard
Property Number: 88201340003
Status: Excess
Comments: active government facility; public access denied and no alternative method to gain access without compromising national security
Reasons: Secured Area

Tennessee

6 Bldgs.
Fort Campbell Military Installation
Fort Campbell TN 42223
Landholding Agency: Army
Property Number: 21201210075
Status: Unutilized
Directions:
6844, 7502, 7503,7605,7606,7608
Comments: Nat'l security concerns; restricted access and no alternative method of access; CORRECTION: building 7605 was erroneously left off listing; 20-day holding from 11/08/13 will only apply to this bldg.
Reasons: Secured Area
Building 1514
Naval Support Activity Mid-South
Millington TN
Landholding Agency: Navy
Property Number: 77201340001
Status: Unutilized
Comments: Public access denied and no alternative method to gain access w/out compromising national security
Reasons: Secured Area

[FR Doc. 2013–26477 Filed 11–7–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–FA–28]

Announcement of Funding Awards for the Section 811 Project Rental Assistance Demonstration Program Fiscal Year 2012

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Section 811 Project Rental Assistance Demonstration Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Brennan, Director, Office of Housing Assistance and Grant Administration, 451 7th Street SW., Washington, DC 20410; telephone (202) 708–3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339. For general information on this and other HUD programs, visit the HUD Web site at *http://www.hud.gov.*

SUPPLEMENTARY INFORMATION: The Section 811 Project Rental Assistance Demonstration Program is authorized by The Frank Melville Supportive Housing Investment Act of 2010 (Pub. L. 11–374; approved January 4, 2011).

The NOFA was published on Grants.gov on May 15, 2012. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.181.

Under this program, HUD provides project based rental assistance funds to state housing finance agencies to award and administer to multifamily rental properties.

A total of $97,849,801 was awarded to 13 states to assist 3501 housing units nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the awardees and amounts of the awards in Appendix A of this document.

Dated: October 29, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

APPENDIX A—FY 2012 SECTION 811 PROJECT RENTAL ASSISTANCE DEMONSTRATION PROGRAM AWARDS

Grantee	Units	Amount Funded
California Housing Finance Agency	335	$11,870,256
Delaware State Housing Authority	170	5,100,753
Georgia Housing and Finance Authority	150	4,160,771
Illinois Housing Development Authority	826	11,982,009
Louisiana Housing Corporation	200	8,254,097
Maryland Dept. of Housing and Community Development	150	10,917,383
Massachusetts Dept. of Housing and Community Development	100	5,276,452
Minnesota Housing Finance Agency	95	3,000,000
Montana Department of Commerce	82	2,000,000
North Carolina Housing Finance Agency	533	12,000,000
Pennsylvania Housing Finance Agency	200	5,707,800
Texas Department of Housing and Community Affairs	385	12,000,000
Washington State Department of Commerce	275	5,580,280
Total	3,501	97,849,801

[FR Doc. 2013–26873 Filed 11–7–13; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2013–N244; FXMB12310900WH0–134–91200 FF09M26000]

Proposed Information Collection; Migratory Bird Harvest Information Program and Migratory Bird Surveys

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on April 30, 2014. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by January 7, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0023'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Migratory Bird Treaty Act (16 U.S.C. 703–711) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for (1) the wise management of migratory bird populations frequenting the United States, and (2) setting hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well-being. These responsibilities dictate that we gather accurate data on various characteristics of migratory bird harvest. Based on information from harvest surveys, we can adjust hunting regulations as needed to optimize harvests at levels that provide a maximum of hunting recreation while keeping populations at desired levels.

Under 50 CFR 20.20, migratory bird hunters must register for the Migratory Bird Harvest Information Program (HIP) in each State in which they hunt each year. State natural resource agencies must send names and addresses of all migratory bird hunters to us annually.

The Migratory Bird Hunter Survey is based on the Migratory Bird Harvest Information Program. We randomly select migratory bird hunters and ask them to report their harvest. The resulting estimates of harvest per hunter are combined with the complete list of migratory bird hunters to provide estimates of the total harvest for the species surveyed.

The Parts Collection Survey estimates the species, sex, and age composition of the harvest, and the geographic and temporal distribution of the harvest. Randomly selected successful hunters who responded to the Migratory Bird Hunter Survey the previous year are asked to complete and return a form if they are willing to participate in the Parts Collection Survey. We provide postage–paid envelopes to respondents before the hunting season and ask them to send in a wing or the tail feathers from each duck or goose that they harvest, or a wing from each mourning dove, woodcock, band-tailed pigeon, snipe, rail, or gallinule that they harvest. We use the wings and tail feathers to identify the species, sex, and age of the harvested sample. We also ask respondents to report on the envelope the date and location of harvest for each bird. We combine the results of this survey with the harvest estimates obtained from the Migratory Bird Hunter Survey to provide species–specific national harvest estimates.

The combined results of these surveys enable us to evaluate the effects of season length, season dates, and bag limits on the harvest of each species, and thus help us determine appropriate hunting regulations.

The Sandhill Crane Harvest Survey is an annual questionnaire survey of people who obtained a sandhill crane hunting permit. At the end of the hunting season, we randomly select a sample of permit holders and ask them to report the date, location, and number of birds harvested for each of their sandhill crane hunts. Their responses provide estimates of the temporal and geographic distribution of the harvest as well as the average harvest per hunter, which, combined with the total number of permits issued, enables us to estimate the total harvest of sandhill cranes. Based on information from this survey, we adjust hunting regulations as needed.

II. Data

OMB Control Number: 1018–0023.

Title: Migratory Bird Information Program and Migratory Bird Surveys, 50 CFR 20.20.

Service Form Number: 3–165, 3–165A through E, 3–2056J through N.

Type of Request: Extension of a currently approved collection.

Description of Respondents: States and migratory game bird hunters.

Respondent's Obligation: Mandatory for HIP registration information; voluntary for participation in the surveys.

Frequency of Collection: Annually or on occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Migratory Bird Harvest Information Program	49	686	185 hours	126,910
Migratory Bird Hunter Survey:				
Form 3–2056J	37,100	37,100	5 minutes	3,092
Form 3–2056K	23,100	23,100	4 minutes	1,540
Form 3–2056L	11,700	11,700	4 minutes	780
Form 3–2056M	12,300	12,300	3 minutes	615
Parts Collection Survey:				
Form 3–165	6,500	117,000	5 minutes	9,750
Form 3–165A	6,000	6,000	1 minute	100
Form 3–165B	3,000	4,500	5 minutes	375
Form 3–165C	400	400	1 minute	7
Form 3–165D	2,600	2,600	1 minute	43
Form 3–165E	2,600	3,900	5 minutes	325
Sandhill Crane Harvest Survey:				
Form 3–2056N	8,300	8,300	3.5 minutes	484
Total	113,649	227,586		144,021

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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: November 5, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26801 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–MM–2013–N249; FF07CAMM00.FX.FR133707MT000]

Proposed Information Collection; Marine Mammal Marking, Tagging, and Reporting Certificates, and Registration of Certain Dead Marine Mammal Hard Parts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on May 31, 2014. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by January 7, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0066'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

Under section 101(b) of the Marine Mammal Protection Act of 1972 (MMPA), as amended (16 U.S.C. 1361–1407), Alaska Natives residing in Alaska and dwelling on the coast of the North Pacific or Arctic Oceans may harvest polar bears, northern sea otters, and Pacific walrus for subsistence or handicraft purposes. Section 109(i) of the MMPA authorizes the Secretary of the Interior to prescribe marking, tagging, and reporting regulations applicable to the Alaska Native subsistence and handicraft take.

On behalf of the Secretary, we implemented regulations at 50 CFR 18.23(f) for Alaska Natives harvesting polar bear, northern sea otter, and Pacific walrus. These regulations enable us to gather data on the Alaska Native subsistence and handicraft harvest and on the biology of polar bear, northern sea otter, and Pacific walrus in Alaska to determine what effect such take may be having on these populations. The regulations also provide us with a means of monitoring the disposition of the harvest to ensure that any commercial use of products created from these species meets the criteria set

forth in section 101(b) of the MMPA. We use three forms to collect the information: FWS Form 3–2414 (Polar Bear Tagging Certificates), FWS Form 3–2415 (Walrus Tagging Certificates), and FWS Form 3–2416 (Sea Otter Tagging Certificates). The information we collect includes, but is not limited to:

- Date of kill.
- Sex of the animal.
- Kill location.
- Age of the animal (i.e., adult, subadult, cub, or pup).
- Form of transportation used to make the kill of polar bears.
- Amount of time (i.e., hours/days hunted) spent hunting polar bears.
- Type of take (live-killed or beach-found) for walrus.
- Number of otters present in and number of otters harvested from pod.
- Condition of the bear and whether or not polar bear cubs were present.
- Name of the hunter or possessor of the specified parts at the time of marking, tagging, and reporting.

We are proposing to use FWS Form 3–2406 (Registration of Certain Dead Marine Mammal Hard Parts) to record the collection of bones, teeth, or ivory of dead marine mammals by non-Native and Natives not eligible to harvest marine mammals under the MMPA. It is legal to collect such parts from a beach or from land within ¼ of a mile of the ocean (50 CFR 18.26). The information we collect will include, but is not limited to:

- Date found.
- Sex of the animal.
- Location found.
- Age of the animal (i.e., adult, subadult).
- Name of the collector of the specified parts.
- Address of collector.
- Phone number.
- Date of birth.
- Signature of collector.

II. Data

OMB Control Number: 1018–0066.

Title: Marine Mammal Marking, Tagging, and Reporting Certificates, and Registration of Certain Dead Marine Mammal Hard Parts, 50 CFR 18.23(f) and 50 CFR 18.26.

Service Form Number(s): 3–2406, 3–2414, 3–2415, and 3–2416.

Type of Request: Revision of a currently approved collection.

Description of Respondents: Individuals and households.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
3–2414 (polar bear)	25	60	15 minutes	15
3–2415 (walrus)	100	500	15 minutes	125
3–2416 (sea otter)	75	1,280	15 minutes	320
3–2406 (beach found)	300	300	15 minutes	75
Totals	500	2,140		535

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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: November 5, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26804 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2013–N245; FXES11130900000–134–FF09E32000]

Proposed Information Collection; Endangered and Threatened Wildlife, Experimental Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on May 31, 2014. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by January 7, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0095'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 10(j) of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.), authorizes the Secretary of the Interior to establish experimental populations of endangered or threatened species. Because individuals of experimental populations are categorically protected under the

ESA, the information we collect is important for monitoring the success of reintroduction efforts and recovery efforts in general. This is a nonform collection. Information collection requirements for experimental populations of endangered and threatened species are in 50 CFR 17.84. We collect three categories of information:

(1) General take or removal. Relates to human-related mortality including unintentional taking incidental to otherwise lawful activities (e.g., highway mortalities); animal husbandry actions authorized to manage the population (e.g., translocation or providing aid to sick, injured, or orphaned individuals); take in defense of human life; take related to defense of property (if authorized); or take in the form of authorized harassment.

(2) Depredation-related take. Involves take for management purposes where livestock depredation is documented, and may include authorized harassment or authorized lethal take of experimental population animals in the act of attacking livestock.

(3) Specimen collection, recovery, or reporting of dead individuals. This information documents incidental or authorized scientific collection. Most of the contacts with the public deal primarily with the reporting of sightings of experimental population animals or the inadvertent discovery of an injured or dead individual.

The information that we collect includes:

- Name, address, and phone number of reporting party.
- Species involved.
- Type of incident.
- Take (quantity).
- Location and time of the reported incident.
- Description of the circumstances related to the incident.

This information helps us to assess the effectiveness of control activities and to develop better means to reduce problems with livestock for those species where depredation is a problem. Service recovery specialists use the information to determine the success of reintroductions in relation to established recovery plan goals for the threatened and endangered species involved.

II. Data

OMB Control Number: 1018–0095.

Title: Endangered and Threatened Wildlife, Experimental Populations, 50 CFR 17.84.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals and households, private sector, and State/local/tribal governments.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Estimated Annual Number of Respondents: 101.

Estimated Annual Number of Responses: 101.

Completion Time Per Response: 15 minutes.

Total Annual Burden Hours: 27 (rounded).

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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: November 5, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26803 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTL06000 L11100000.DS0000 LXSISGST0000]

Notice of Availability of the Lewistown Field Office Greater Sage-Grouse Draft Land Use Plan Amendments and Draft Environmental Impact Statement, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Lewistown Field Office (LFO) Greater Sage-Grouse (GRSG) Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for the LFO and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment/Draft EIS within 90 days following the date the Environmental Protection Agency publishes notice of the Draft RMP Amendment/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the LFO GRSG Draft RMP Amendment/Draft EIS by any of the following methods:

- *Web site: https://www.blm.gov/epl-front-office/eplanning/lup/lup_register.do*
- *Email: blm_mt_lfo_sage_grouse@blm.gov*
- *Fax:* 406–538–1904
- *Mail:* BLM—Greater Sage-Grouse EIS, 920 Northeast Main St., Lewistown, MT 59457

Copies of the LFO GRSG Draft RMP Amendment/Draft EIS are available at the LFO at the above address or on the Web site at: *http://blm.gov/f9kd.*

FOR FURTHER INFORMATION CONTACT: Adam Carr, Project Lead, telephone 406–538–1913; see address above; email *acarr@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is

available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM prepared the LFO GRSG Draft RMP Amendment/Draft EIS to address a range of alternatives focused on specific conservation measures across the LFO range of the GRSG. This Draft RMP Amendment/Draft EIS is one of 15 separate planning efforts undertaken as part of the BLM's and United States Forest Service's (USFS) National Greater Sage-Grouse Planning Strategy. The Draft RMP Amendment/Draft EIS proposes to amend the RMPs for the LFO. The current management decisions for resources are described in the following RMPs:

- Judith RMP (1994)
- Headwaters RMP (1984)

The planning area includes approximately 7.3 million acres of BLM, USFS, State, local, and private lands located in central Montana, in five counties (Petroleum, Fergus, Judith Basin, Chouteau and Meagher). Within the planning area, the BLM administers approximately 593,995 surface acres and 1,113,841 acres of Federal mineral (subsurface) estate. Management decisions made as a result of this Draft RMP Amendment/Draft EIS will apply only to the BLM-administered lands and Federal mineral estate within two categories of habitat identified in cooperation with Montana Fish, Wildlife and Parks:

- Preliminary Priority Habitat (PPH)—Areas identified as having the highest conservation value to maintaining sustainable GRSG populations; include breeding, late brood-rearing and winter concentration areas (233,219 surface acres; 281,748 acres of Federal mineral estate).
- Preliminary General Habitat (PGH)—Areas of seasonal or year-round habitat outside of priority habitat (112,341 surface acres; 175,848 acres of Federal mineral estate).

The formal public scoping process for the RMP Amendment/EIS began on December 9, 2011, with the publication of a Notice of Intent in the **Federal Register** (76 FR 77008). Another notice was published in the **Federal Register** to extend the scoping period until March 19, 2012. The BLM held a scoping open house on January 10, 2012. The BLM used public scoping comments to help identify planning issues that directed the formulation of alternatives and framed the scope of analysis in the Draft RMP Amendment/Draft EIS. The scoping process was also used to introduce the public to preliminary planning criteria, which set limits on the scope of the Draft RMP Amendment/Draft EIS.

Issues considered in the Draft RMP Amendment/Draft EIS include GRSG habitat, energy and mineral development, recreation, travel management, rights-of-way including transmission, livestock grazing, wildland fire management, vegetation management, drought and climate change, special designations, fish and wildlife, socioeconomics and environmental justice, and agricultural conversion.

The Draft RMP Amendment/Draft EIS evaluates four alternatives in detail, including the No Action Alternative (Alternative A) and three action alternatives (Alternatives B, C and D). The BLM identified Alternative D as the preferred alternative. Identification of this alternative, however, does not represent final agency direction, and the Proposed RMP Amendment may reflect changes or adjustments based on information received during the public comment period, from new information, or from changes in BLM policies or priorities. The Proposed RMP Amendment may include objectives and actions described in the other analyzed alternatives or otherwise within the spectrum of alternatives analyzed.

Alternative A would retain the current management goals, objectives, and direction specified in the current RMPs for the LFO. Alternative B includes conservation measures from the Sage-Grouse National Technical Team Report. Alternative C includes conservation measures various conservation groups submitted to the BLM. Alternative D includes conservation measures the BLM developed with the cooperating agencies.

Pursuant to 43 CFR 1610.7–2(b), this notice announces a concurrent public comment period on proposed Areas of Critical Environmental Concern (ACEC). One ACEC is proposed in Alternative C. The Sage-Grouse Habitat ACEC (approximately 96,000 acres) would include the following resource use limitations if it were formally designated:

Designate as a Right-of-Way exclusion area; close to livestock grazing; allow vegetation treatments only for the benefit of GRSG; and recommend for withdrawal from mineral entry.

Please note that public comments and information submitted including names, street addresses and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Katherine P. Kitchell,

Acting State Director.

[FR Doc. 2013–26867 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–MWR–OZAR–13117; PX.P0097321D.00.1]

Notice of Availability of the Draft General Management Plan/Wilderness Study/Environmental Impact Statement for the Ozark National Scenic Riverways, Missouri

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Draft General Management Plan/Wilderness Study/Environmental Impact Statement (GMP/WS/EIS) for the Ozark National Scenic Riverways (Riverways) in Missouri.

DATES: The Draft GMP/WS/EIS will remain available for public review and comment for 60 days following the publishing of the Notice of Availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Copies of the Draft GMP/WS/EIS will be available to the public by request by writing to the Superintendent, Ozark National Scenic Riverways, 404 Watercress Drive, PO Box 490, Van Buren, MO 63965. The document is available on the Internet at the NPS Planning, Environment, and Public Comment Web site (PEPC) at *http://www.parkplanning.nps.gov/ozar.*

FOR FURTHER INFORMATION CONTACT: Superintendent Bill Black, at the address above, or by telephone at 573–323–4236.

SUPPLEMENTARY INFORMATION: We, the NPS, announce the availability of the Draft GMP/WS/EIS for the Riverways.

This plan will guide the management of the Riverways for the next 15 to 20 years. The GMP/WS/EIS considers and describes four draft conceptual alternatives—a no-action and three action alternatives, including the NPS preferred alternative. The anticipated environmental impacts of these alternatives are also analyzed.

The no-action alternative would extend existing conditions and management trends into the future. This no-action alternative serves as a basis of comparison for evaluating the action alternatives. The NPS would maintain the Big Spring Wilderness Study Area's primitive, natural character to maintain its wilderness eligibility.

Alternative A would focus on creating visitor experiences and providing resource conditions that help visitors better understand the riverways of the past, including traditional river recreation activities reminiscent of those that occurred when the Riverways was established. Management would emphasize greater opportunities for traditional, non-mechanized forms of recreation and visitor experiences that are quieter, less crowded, and slower paced. Management would also focus on protecting natural resources and systems. Under this alternative, most of the Big Spring Wilderness Study Area would be recommended for wilderness designation.

Alternative B, the NPS preferred alternative, would enhance opportunities for visitors to discover and learn about the natural wonders and Ozark heritage of the Riverways, while maintaining a mix of traditional recreational and commercial activities. Emphasis would be placed on increasing opportunities for visitor education and connections to natural resources and cultural landscapes. Most of the Big Spring Wilderness Study Area would be recommended for wilderness designation.

Alternative C would seek to provide a diversity of outdoor recreational opportunities and experiences while maintaining the highly scenic natural setting and cultural resources. The Riverways would be managed to support higher levels and diverse types of recreational opportunities, with a focus on more intensive management to ensure that excessive impacts on resources or public safety would not occur. In addition, land-based recreational opportunities would be increased under this alternative. Approximately half of the Big Spring Wilderness Study Area would be recommended for wilderness designation.

The Draft GMP/WS/EIS focuses on key natural and cultural resources, visitor uses and experiences, soundscapes, park operations, and socioeconomic characteristics that have the potential to be affected if any of the alternatives were implemented.

If you wish to comment, you may submit your comment by any one of several methods. You are encouraged to submit comments via the PEPC Web site at the address above. You may mail comments to the National Park Service, Chris Church, Project Manager, Denver Service Center Planning Division, P.O. Box 25287, Denver, CO 80225. Finally, you may mail comments to the Superintendent at the address above. 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. We will make all submissions from organizations or businesses, from individuals identifying themselves as representatives or officials, of organizations or businesses, available for public inspection in their entirety.

Dated: May 16, 2013.

Michael T. Reynolds,

Regional Director, Midwest Region.

[FR Doc. 2013–26872 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–MA–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0001; DS63610300 DR2PS0000.CH7000 134D0102R2]

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Office of the Secretary, Office of Natural Resources Revenue (ONRR).

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1012–0010).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Office of Natural Resources Revenue (ONRR) is notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), parts 1202, 1206, 1210, 1212, 1217, and 1218. This ICR pertains to royalty and production reporting on solid minerals and geothermal leases on Federal and Indian lands. There are three forms associated with this information collection: ONRR–4430, ONRR–4292, and ONRR–4293. This notice also provides the public with a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: OMB has up to 60 days to approve or disapprove the information collection request but may respond after 30 days; therefore, you should submit your public comments to OMB by December 9, 2013 for the assurance of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of Interior (1012–0010), by telefax at (202) 395–5806 or via email to *OIRA_Submission@omb.eop.gov.* Also, please send a copy of your comments to Armand Southall, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61030A, Denver, Colorado 80225. Please reference ''ICR 1012–0010'' in your comments.

FOR FURTHER INFORMATION CONTACT: Armand Southall, Regulatory Specialist, email *Armand.Southall@onrr.gov.* You may also contact Mr. Southall to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require us to collect the information. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov/public/PRAMain* and select ''Information Collection Review,'' then select ''Department of the Interior'' in the drop-down box under ''Currently Under Review.''

SUPPLEMENTARY INFORMATION:

Title: Solid Minerals and Geothermal Collections–30 CFR Parts 1202, 1206, 1210, 1212, 1217, and 1218.

OMB Control Number: 1012–0010.

Bureau Form Number: Forms ONRR–4430, ONRR–4292, and ONRR–4293.

Abstract: The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary's responsibility, according to various laws, is to (1) manage mineral resource production from Federal and Indian lands and the OCS, (2) collect the royalties and other mineral revenues due, and (3) distribute the funds collected under those laws. We have posted the laws pertaining to

mineral leases on Federal and Indian lands and the OCS at *http://www.onrr.gov/Laws_R_D/PublicLawsAMR.htm.*

The Secretary also has a trust responsibility to manage Indian lands and to seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

I. General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in a value of production from the leased lands. The lessee, or designee, must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals.

II. Information Collections

ONRR, acting for the Secretary, uses the information that we collect to ensure that lessees accurately value and appropriately pay all royalties based on the correct product valuation. ONRR and other Federal Government entities, including the Bureau of Safety and Environmental Enforcement, the Bureau of Land Management, the Bureau of Indian Affairs, and State and Tribal governmental entities, use the information for audit purposes and for evaluating the reasonableness of product valuation or allowance claims that lessees submit. Please refer to the burden hour chart for all reporting requirements and associated burden hours.

A. Solid Minerals

Producers of coal and other solid minerals from any Federal or Indian lease must submit current Form ONRR–4430, Solid Minerals Production and Royalty Report, and other associated data formats. These companies also report certain data on Form ONRR–2014, Report of Sales and Royalty Remittance (OMB Control Number 1012–0004). Producers of coal from any Indian lease must also submit Form ONRR–4292, Coal Washing Allowance Report, and Form ONRR–4293, Coal Transportation Allowance Report, if they wish to claim allowances on Form ONRR–4430. The information that ONRR requests is the minimum necessary to carry out our mission and places the least possible burden on respondents.

B. Geothermal Resources

This ICR also covers some of the information collections for geothermal resources, which ONRR groups by usage (electrical generation, direct use, and byproduct recover), and by disposition of the resources (arm's-length (unaffiliated) contract sales, non-arm's-length contract sales, and no contract sales) within each use group. ONRR relies primarily on data that payors report on Form ONRR–2014 for the majority of our business processes, including geothermal information. In addition to using the data to account for royalties that payors report, ONRR uses the data for monthly distribution of mineral revenues and for audit and compliance reviews.

III. OMB Approval

We will request OMB approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and may also result in the loss of royalty payments. We protect the proprietary information that ONRR receives and do not collect items of a sensitive nature. Reporters must submit Form ONRR–4430. Also, ONRR requires that reporters submit Forms ONRR–4292 and ONRR–4293 to claim allowances on Form ONRR–4430.

Frequency: Monthly, annually, and on occasion.

Estimated Number of Respondents: 100 reporters.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 3,434 hours.

We have not included in our estimates certain requirements that companies perform in the normal course of business, and that ONRR considers usual and customary. We display the estimated annual burden hours by CFR section and paragraph in the following chart.

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Part 1202—Royalties Subpart H—Geothermal Resources				
1202.351(b)(3)	Pay royalties on used, sold, or otherwise finally disposed of byproducts.	Hour burden covered under OMB Control Number 1012–0004.		
1202.353(a), (b), (c), and (d)	Report on Form ONRR–2014, royalties or direct use fee due for geothermal resources, byproduct quantity, and commercially demineralized water quantity.	Hour burden covered under OMB Control Number 1012–0004. See § 1210.52.		
1202.353(e)	Maintain quality measurements for audits	AUDIT PROCESS (See Note).		
Part 1206—Product Valuation Subpart F—Federal Coal				
1206.253(c); 1206.254; and 1206.257(d)(1).	Maintain accurate records for Federal lease coal and all data relevant to the royalty value determination; report the coal quantity information on appropriate forms under 30 CFR part 1210.	0.4166	816	340
1206.257(b)(1), (b)(3), (b)(4), and (d)(2).	Demonstrate and certify your arm's-length contract provisions including all consideration paid by buyer, directly or indirectly, for coal production; provide written information of reported arm's-length coal sales value and quantity data.	AUDIT PROCESS (See Note).		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1206.257(d)(3)	Submit a one-time notification when first reporting royalties on Form ONRR–4430 and for a change in method.	2	3	6
1206.257(f)	Submit all available data relevant to the value determination proposal.	5	2	10
1206.257(i)	Write and sign contract revisions or amendments by all parties to an arm's-length contract, and retroactively apply revisions or amendments to royalty value for a period not to exceed two years.	2	3	6
1206.259(a)(1) and (a)(3)	Demonstrate that your contract is arm's-length; provide written information justifying the lessee's washing costs.	AUDIT PROCESS (See Note).		
1206.259(a)(1)	Report actual washing allowance on Form ONRR–4430 for arm's-length sales.	0.34	12	4
1206.259(b)(1)	Report actual washing allowance on Form ONRR–4430 for non-arm's-length or no contract sales.	0.75	48	36
1206.259(b)(2)(iv)	Report washing allowance on Form ONRR–4430 after lessee elects either method for a wash plant.	1	3	3
1206.259(b)(2)(iv)(A)	Report washing allowance on Form ONRR–4430 for depreciation—use either straight-line, or a unit of production method.	1	3	3
1206.259(c)(1)(ii) and (c)(2)(iii)	Submit arm's-length and non-arm's-length washing contracts and related documents to ONRR.	AUDIT PROCESS (See Note).		
1206.262(a)(1)	Report transportation allowance on Form ONRR–4430	0.333	240	80
1206.262(a)(1) and (a)(3)	Demonstrate that your contract is arm's-length; provide written information justifying your transportation costs when ONRR determines the costs are unreasonable.	AUDIT PROCESS (See Note).		
1206.262(b)(1)	Report actual transportation allowance on Form ONRR–4430 for non-arm's-length or no contract sales.	0.75	24	18
1206.262(b)(2)(iv)	Report transportation allowance on Form ONRR–4430 after lessee elects either method for a transportation system.	1	3	3
1206.262(b)(2)(iv)(A)	Report transportation allowance on Form ONRR–4430 for depreciation—use either straight-line, or a unit of production method.	1	3	3
1206.262(b)(3)	Apply to ONRR for exception from the requirement of computing actual costs.	1	3	3
1206.262(c)(1)(ii) and (c)(2)(iii)	Submit all arm's-length transportation contracts, production agreements, operating agreements, and related documents to ONRR.	AUDIT PROCESS (See Note).		
1206.264	Propose the value of coal for royalty purposes to ONRR for an ad valorem Federal coal lease.	1	1	1
1206.265	Notify ONRR if, prior to use, sale, or other disposition, you enhanced the value of coal.	1	1	1
Subpart H—Geothermal Resources				
1206.352(b)(1)(ii)	Determine the royalty on produced geothermal resources, used in your power plant for generation and sale of electricity, for Class I leases, as approved by ONRR.	Hour burden covered under OMB Control Number 1012–0004.		
1206.353(c)(2)(i)(A), (d)(9), and (e)(4).	Include a return on capital you invested when the purchase of real estate for transmission facilities is necessary; allowable operating and maintenance expenses include other directly allocable and attributable operating and maintenance expenses that you can document.	AUDIT PROCESS (See Note).		
1206.353(g)	Request change to other depreciation alternative method with ONRR approval.	1	1	1

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1206.353(h)(1) and (m)(2)	Use a straight-line depreciation method, but not below salvage value, for equipment. Amend your prior estimated Form ONRR–2014 reports to reflect actual transmission cost deductions, and pay any additional royalties due plus interest.	Hour burden covered under OMB Control Number 1012–0004.		
1206.353(n)	Submit all arm's-length transmission contracts, production and operating agreements and related documents, and other data for calculating the deduction.	AUDIT PROCESS (See Note).		
1206.354(b)(1)(ii)	Redetermine your generating cost rate annually and request ONRR approval to use a different deduction period.	1	1	1
1206.354(c)(2)(i)(A), (d)(9), and (e)(4).	Include a return on capital you invested when the purchase of real estate for a power plant site is necessary; allowable operating and maintenance expenses include other directly allocable and attributable operating and maintenance expenses that you can document.	AUDIT PROCESS (See Note).		
1206.354(g)	Request change to other depreciation alternative method with ONRR approval.	1	1	1
1206.354(h) and (m)(2)	Use a straight-line depreciation method, but not below the salvage value, for equipment. Amend your prior estimated Form ONRR–2014 reports to reflect actual generating cost deductions and pay any additional royalties due plus interest.	Hour burden covered under OMB Control Number 1012–0004.		
1206.354(n)	Submit all arm's-length power plant contracts, production and operating agreements and related documents, and other data for calculating the deduction.	AUDIT PROCESS (See Note).		
1206.356(a)(1) and (a)(2)	Determine the royalty on produced significant geothermal resource quantities, for Class I leases, with the weighted average of the arm's-length gross proceeds used to operate the same direct-use facility. For Class I leases, the efficiency factor of the alternative energy source will be 0.7 for coal and 0.8 for oil, natural gas, and other fuels derived from oil and natural gas, or an efficiency factor proposed by the lessee and approved by ONRR.	Hour burden covered under OMB Control Number 1012–0004.		
1206.356(a)(3)	For Class I leases, a royalty determined by any other reasonable method approved by ONRR.	1	40	40
1206.356(b)(3)	Provide ONRR data showing the geothermal production amount, in pounds or gallons of geothermal fluid, to input into the fee schedule for Class III leases.	Hour burden covered under OMB Control Number 1012–0004.		
1206.356(c)	ONRR will determine fees on a case-by-case basis for geothermal resources other than hot water.	1	1	1
1206.357(b)(3); and 1206.358(d)	Determine the royalty due on byproducts by any other reasonable valuation method approved by ONRR. Use a discrete field on Form ONRR–2014 to notify ONRR of a transportation allowance.	Hour burden covered under OMB Control Number 1012–0004.		
1206.358(d)(2) and (e); 1206.359(a)(1), (a)(2), (c)(2)(i)(A), (d)(9), and (e)(4).	Submit arm's-length transportation contracts for reviews and audits, if ONRR requires. Pay any additional royalties due plus interest, if you have improperly determined a byproduct transportation allowance. Provide written information justifying your transportation costs if ONRR requires you to determine the byproduct transportation allowance; include a return on capital if the purchase was necessary; allowable operating and maintenance expenses include any other directly allocable and attributable operating and maintenance expenses that you can document.	AUDIT PROCESS (See Note).		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1206.359(g)	The lessee may not later elect to change to the other alternative without ONRR approval to compute costs associated with capital investment.	1	1	1
1206.359(h)(1) and (l)(2)	You must use a straight-line depreciation method based on the life of either equipment, or geothermal project. You must amend your prior Form ONRR–2014 reports to reflect actual byproduct transportation cost deductions and pay any additional royalties due plus interest.	Hour burden covered under OMB Control Number 1012–0004.		
1206.360(a)(1), (a)(2), and (b); 1206.361(a)(1).	Retain all data relevant to the royalty value, or fee you paid. Show how you calculated then submit all data to ONRR upon request. ONRR may review and audit your data and will direct you to use a different measure, if royalty value, gross proceeds, or fee is inconsistent with subpart.	AUDIT PROCESS (See Note).		
1206.361(a)(2)	Pay either royalties or fees due plus interest if ONRR directs you to use a different royalty value, measure of gross proceeds, or fee.	Hour burden covered under OMB Control Number 1012–0004.		
1206.361(b), (c), and (d)	ONRR may require you to: increase the gross proceeds to reflect any additional consideration; use another valuation method; provide written information justifying your gross proceeds; demonstrate that your contract is arm's length; and certify that the provisions in your sales contract include all of the consideration the buyer paid you.	AUDIT PROCESS (See Note).		
1206.361(f)(2)	Write and sign contract revisions or amendments by all parties to the contract.	AUDIT PROCESS (See Note).		
1206.364(a)(1)	Request a value determination from ONRR in writing	12	1	12
1206.364(c)(2)	Make any adjustments in royalty payments, if you owe additional royalties, and pay the royalties owed plus interest after the Assistant Secretary issues a determination.	Hour burden covered under OMB Control Number 1012–0004.		
1206.364(d)(2)	You may appeal an order requiring you to pay royalty under the determination.	Hour burden covered under OMB Control Number 1012–0006.		
1206.366	State, tribal, or local government lessee must pay a nominal fee, if uses a geothermal resource.	Hour burden covered under OMB Control Number 1012–0004.		
Subpart J—Indian Coal				
1206.456(b)(1), (b)(3), and (b)(4)	Demonstrate that your contract is arm's-length; provide written information justifying the reported coal value; and certify that your arm's-length contract provisions include all direct or indirect consideration paid by buyer for the coal production.	AUDIT PROCESS (See Note).		
1206.456(d)(1); 1206.452(c); 1206.453.	Retain all data relevant to the determination of royalty value to which individual Indian lease coal should be allocated; report coal quantity information on Form ONRR–4430, Solid Minerals Production and Royalty Report, as required under 30 CFR part 1210.	0.42	48	20
1206.456(d)(2)	An Indian lessee will make available arm's-length sales and sales quantity data for like-quality coal sold, purchased, or otherwise obtained from the area when requested by an authorized ONRR or Indian representative, or the Inspector General of the Department of the Interior or other persons authorized to receive such information.	AUDIT PROCESS (See Note).		
1206.456(d)(3)	Notify ONRR by letter identifying the valuation method used and procedure followed; this is a one-time notification due no later than the month the lessee first report royalties on the Form ONRR–4430.	1	1	1

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1206.456(f)	Propose a value determination method to ONRR; submit all available data relevant to method; and use that method until ONRR decides.	1	1	1
1206.456(i)	Write and sign contract revisions or amendments by all parties to an arm's-length contract.	1	1	1
1206.458(a)(1), (b)(1), (c)(1)(i), (c)(1)(iii), (c)(2)(i), and (c)(2)(iii).	Deduct the reasonable actual coal washing allowance costs incurred under an arm's-length contract, and allowance based upon their reasonable actual costs under a non-arm's-length or no contract, after submitting a completed page one of Form ONRR–4292, Coal Washing Allowance Report, containing the actual costs for the previous reporting period, within three months after the end of the calendar year after the initial and for succeeding reporting periods, and report deduction on Form ONRR–4430 for an arm's-length, or a non-arm's-length, or no contract.	2	1	2
1206.458(a)(3)	Provide written information justifying your washing costs when ONRR determines your washing value unreasonable.	AUDIT PROCESS (See Note).		
1206.458(b)(2)(iv)	The lessee may not later elect to change to the other alternative without ONRR approval.	1	1	1
1206.458(b)(2)(iv)(A)	Elect either a straight-line depreciation method based on the life of equipment or reserves, or a unit of production method.	1	1	1
1206.458(c)(1)(iv) and (c)(2)(vi)	Submit arm's-length washing contracts and all related data used on Form ONRR–4292.	AUDIT PROCESS (See Note)		
1206.461(a)(1), (b)(1), (c)(1)(i), (c)(1)(iii), (c)(2)(i), and (c)(2)(iii).	Submit a completed page one of Form ONRR–4293, Coal Transportation Allowance Report, of reasonable, actual transportation allowance costs incurred by the lessee for transporting the coal under an arm's-length contract, in which you may claim a transportation allowance retroactively for a period of not more than three months prior to the first day of the month that you filed the form with ONRR, unless ONRR approves a longer period upon a showing of good cause by the lessee; also submit a completed Form ONRR–4293 based upon the lessee's reasonable actual costs under a non-arm's-length or no contract (Emphasis added).	2	1	2
1206.461(a)(3)	Provide written information justifying your transportation costs when ONRR determines your transportation value unreasonable.	AUDIT PROCESS (See Note).		
1206.461(b)(2)(iv)	Submit completed Form ONRR–4293 after a lessee has elected to use either method for a transportation system.	1	1	1
1206.461(b)(2)(iv)(A)	Submit completed Form ONRR–4293 to compute depreciation for election to use either a straight-line depreciation, or unit-of-production method.	1	1	1
1206.461(b)(3)	Submit completed Form ONRR–4293 for exception from the requirement of computing actual costs.	1	1	1
1206.461(c)(1)(iv) and (c)(2)(vi)	Submit arm's-length transportation contracts, production and operating agreements, and related documents used on Form ONRR–4293.	AUDIT PROCESS (See Note).		
1206.463	Propose the value of coal for royalty purposes to ONRR for an ad valorem Federal coal lease.	1	1	1
1206.464	Notify ONRR if, prior to use, sale, or other disposition, you enhance the value of coal.	1	1	1

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Part 1210—Forms and Reports Subpart E—Solid Minerals, General				
1210.201(a)(1); 1206.259(c)(1)(i), (c)(2), (e)(2); 1206.262(c)(1), (c)(2)(i), (e)(2); 1206.458(c)(4), (e)(2); 1206.461(c)(4), (e)(2).	Submit a completed Form ONRR–4430; report washing and transportation allowances as a separate line on Form ONRR–4430 for arm's-length, non-arm's-length, or no contract sales, unless ONRR approves a different reporting procedure; submit also a corrected Form ONRR–4430 to reflect actual costs, together with any payment, in accordance with instructions provided by ONRR.	0.75	1,668	1,251
1210.202(a)(1) and (c)(1)	Submit sales summaries via electronic mail where possible for all coal and other solid minerals produced from Federal and Indian leases and for any remote storage site.	0.50	900	450
1210.203(a)	Submit sales contracts, agreements, and contract amendments for sale of all coal and other solid minerals produced from Federal and Indian leases with ad valorem royalty terms.	1	30	30
1210.204(a)(1)	Submit facility data if you operate a wash plant, refining, ore concentration, or other processing facility for any coal, sodium, potassium, metals, or other solid minerals produced from Federal or Indian leases with ad valorem royalty terms.	0.5	130	65
1210.205(a) and (b)	Submit detailed statements, documents, or other evidence necessary to verify compliance, as requested.	AUDIT PROCESS (See Note).		
Subpart H—Geothermal Resources				
1210.351	Maintain geothermal records on microfilm, microfiche, or other recorded media.	Hour burden covered under OMB Control Number 1012–0004.		
1210.352	Submit additional geothermal information on special forms or reports.	1	1	1
1210.353	Submit completed Form ONRR–2014 monthly once sales or utilization of geothermal production occur.	Hour burden covered under OMB Control Number 1012–0004.		
Part 1212—Records and Forms Maintenance Subpart E—Solid Minerals—General				
1212.200(a)	Maintain all records pertaining to Federal and Indian solid minerals leases for six years after records are generated unless the record holder is notified, in writing.	0.25	4,064	1,016
Subpart H—Geothermal Resources				
1212.351(a) and (b)	Retain accurate and complete records necessary to demonstrate that payments of royalties, rentals, and other amounts due under Federal geothermal leases are in compliance with laws, lease terms, regulations, and orders Maintain all records pertaining to Federal geothermal leases for six years after the records are generated unless the recordholder is notified in writing.	Hour burden covered under OMB Control Numbers 1012–0004 (for Forms ONRR–2014 and ONRR–4054).		
Part 1217—Audits and Inspections Subpart E—Coal				
1217.200	Furnish, free of charge, duplicate copies of audit reports that express opinions on such compliance with Federal lease terms relating to Federal royalties as directed by the Director for the Office of Natural Resources Revenue.	AUDIT PROCESS (See Note).		

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Subpart F—Other Solid Minerals				
1217.250	Furnish, free of charge, duplicate copies of annual or other audits of your books.	AUDIT PROCESS (See Note).		
Subpart G—Geothermal Resources				
1217.300	The Secretary, or his/her authorized representative, will initiate and conduct audits or reviews that relate to compliance with applicable regulations.	AUDIT PROCESS (See Note).		
PART 1218—COLLECTION OF MONIES AND PROVISION FOR GEOTHERMAL CREDITS AND INCENTIVES Subpart E—Solid Minerals—General				
1218.201(b); 1206.457(b); 1206.460(d).	You must tender all payments under § 1218.51 except for Form ONRR–4430 payments, include both your customer identification and your customer document identification numbers on your payment document, and you shall be liable for any additional royalties, plus interest, if improperly determined a washing or transportation allowance.	0.0055	1,368	8
1218.203(a) and (b)	Recoup an overpayment on Indian mineral leases through a recoupment on Form ONRR–4430 against the current month's royalties and submit the tribe's written permission to ONRR.	1	1	1
Subpart F—Geothermal Resources				
1218.300; 1218.301; 1218.304; 1218.305(a).	Submit all rental and deferred bonus payments when due and pay in value all royalties due determined by ONRR. The payor shall tender all payments. Pay the direct use fees in addition to the annual rental due Pay advanced royalties, under 43 CFR 3212.15(a)(1) to retain your lease, that equal to the average monthly royalty you paid under 30 CFR part 1206, subpart H.	Hour burden covered under OMB Control Number 1012–0004.		
1218.306(a)(2)	You may receive a credit against royalties if ONRR approves in advance your contract.	4	1	4
1218.306(b)	Pay in money any royalty amount that is not offset by the credit allowed under this section.	Hour burden covered under OMB Control Number 1012–0004.		
TOTAL BURDEN			9,434	3,434

Note: Audit Process—The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because ONRR staff asks non-standard questions to resolve exceptions.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burdens associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.)* provides that an agency may not conduct or sponsor—and a person does not have to respond to—a collection of information unless it displays a currently valid OMB control number.

Comments: Section 3506(c)(2)(A) of the PRA 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 that ONRR collects; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on February 11, 2013 (78 FR 9732), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no unsolicited comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection, but they may respond after 30 days. Therefore, in order to ensure maximum consideration, OMB should receive public comments by December 9, 2013.

Public Comment Policy: We will post all comments, including names and addresses of respondents, at *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying

information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold from public view your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Information Collection Clearance Officer: Dave Alspach (202) 219–8526

Dated: September 27, 2013.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2013–26638 Filed 11–7–13; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Annual Refiling Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Annual Refiling Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 9, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201307-1220-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR is to obtain OMB approval for changes to the Annual Refiling Survey (ARS), which is used in conjunction with the Unemployment Insurance tax reporting system in each State. The primary purpose of the ARS is to verify or to correct the North American Industry Classification System (NAICS) code assigned to establishments, as well as to obtain accurate mailing and physical location addresses of establishments. As a result, changes in the industrial and geographical compositions of the economy are captured in a timely manner and reflected in BLS statistical programs. Federal, State, and Local Governmental officials, as well as private researchers, depend on accurate geographical and industrial coding based on the 2012 North American Industry Classification System Manual. This ICR has been classified as a revision, because of minor changes to the notification letters and collection instruments.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0032. The current approval is scheduled to expire on December 31, 2013; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 23, 2013 (78 FR 44160).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0032. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Annual Refiling Survey.

OMB Control Number: 1220–0032.

Affected Public: Private Sector—business or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 1,605,915.

Total Estimated Number of Responses: 1,605,915.

Total Estimated Annual Burden Hours: 153,642.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 4, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26746 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Worker Classification Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) proposal titled, ''Worker Classification Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 9, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain201303-1235-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The DOL administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, et seq. The FLSA generally requires covered employers to pay employees at least the Federal minimum wage for all hours worked and overtime premium pay of time and one-half the regular rate of pay for all hours worked over forty (40) in a workweek. However, the FLSA includes a number of exemptions from the minimum wage and overtime requirements, requiring employers to classify employees to ensure adherence to proper practices. The DOL intends to administer a survey to collect information about employment experiences and worker knowledge as to basic employment laws in order to understand employee experiences with worker classification issues. More specifically, the DOL plans to compile an analytical research report on the findings and results of a nationally representative survey of workers. The DOL will also report on a qualitative study of employers that includes results from in-depth employer interviews.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on January 11, 2013.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention ICR Reference Number 201303–1235–002. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–WHD.

Title of Collection: Worker Classification Survey.

OMB ICR Reference Number: 201303–1235–002.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 18,006.

Total Estimated Number of Responses: 25,086.

Total Estimated Annual Burden Hours: 4,052.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 4, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26820 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for a Permit To Fire More Than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-Firing Units; Posting Notices of Misfires

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Application for a Permit to Fire More than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; Posting Notices of Misfires,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 9, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201304-1219-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and

Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authority for the process by which a coal mine operator applies for a permit to fire more than 20 shots and to use nonpermissible explosives and/or shot-firing units. An application contains the safeguards the mine operator will employ to protect miners while using requested blasting items. Federal Mine Safety and Health Act section 313, 30 U.S.C. 873, authorizes these applications. Regulations 30 CFR 75.1321 outlines the procedures by which a permit may be issued for the firing of more than 20 boreholes and/or the use of nonpermissible shot-firing units in underground coal mines. Regulations 30 CFR 77.1909–1 outlines the procedures by which a coal mine operator may apply for a permit to use nonpermissible explosives and/or shot-firing units in the blasting of rock while sinking a shaft or slope in an underground coal mine. In addition, this ICR seeks to maintain PRA authorization for the 30 CFR 75.1327 requirement that a qualified person post a warning to prohibit entry at each accessible entrance to the affected area when explosives have misfired.

These information collections are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for these information collections under Control Number 1219–0025.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this control number is scheduled to expire on November 30, 2013. The DOL seeks to extend PRA authorization for these information collections for three (3) more years, without any change to existing requirements. The DOL also notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 3, 2013 (78 FR 40195).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0025. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Application for a Permit to Fire More than 20 Boreholes and/or for the Use of Nonpermissible Blasting Units, Explosives, and Shot-firing Units; Posting Notices of Misfires.

OMB Control Number: 1219–0025.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 67.

Total Estimated Number of Responses: 88.

Total Estimated Annual Burden Hours: 74.

Total Estimated Annual Other Costs Burden: $348.

Dated: November 4, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26747 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Corps Application Data

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Job Corps Application Data,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before December 9, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201306-1205-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at

202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks continued PRA authorization for Job Corps application data collected on three forms (ETA–652, Job Corps Data Sheet; ETA–655, Statement from Court or Other Agency; and ETA–682, Child Care Certification) used for screening and enrollment purposes to determine eligibility for the Job Corp program in accordance with Workforce Investment Act requirements. The information collected concerns economic criteria and past behavior as well as information needed to certify an applicant's arrangements for care of dependent children while the applicant is in the Job Corps.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1225–0025.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on November 30, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 18, 2013 (78 FR 36599).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0225. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Job Corps Application Data.

OMB Control Number: 1205–0025.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 86,581.

Total Estimated Number of Responses: 179,723.

Total Estimated Annual Burden Hours: 16,201.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 1, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26764 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Resource Justification Model

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Resource Justification Model,'' (RJM) to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 9, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201302-1205-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authorization for the ETA to collect actual unemployment insurance administrative cost data from States' accounting records and projected expenditures for upcoming years. States use the RJM to submit detailed cost data electronically in a structured format (spreadsheet file). The information specifies salary and benefit rates, workloads, processing times, and non-personal services costs. The ETA uses RJM data to inform administrative funding allocations. ETA regional office data review and validation is also an important RJM component. Social Security Act sections 303(a)(1) and (6), 42 U.S.C. 503(a)(1) and (6), authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of

law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0430.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL also notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 7, 2013 (78 FR 14838).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0430. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Resource Justification Model.

OMB Control Number: 1205–0430.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Burden Hours: 6,519.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 4, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26821 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2013 Under the Federal Unemployment Tax Act

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: The Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.,* thereby enabling employers who make contributions to state unemployment funds to obtain certain credits against their liability for the federal unemployment tax. By letter, the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Signed in Washington, DC, October 31, 2013.

Eric M. Seleznow,

Acting Assistant Secretary, Employment and Training Administration.

October 31, 2013

The Honorable Jacob J. Lew, Secretary of the Treasury, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220

Dear Secretary Lew:

Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2013. One is required with respect to the normal federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to the additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

THOMAS E. PEREZ
Secretary of Labor

Enclosures

UNITED STATES DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON, DC

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3304(c) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2013, in regard to the unemployment compensation laws of those states, which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama	Idaho
Alaska	Illinois
Arizona	Indiana
Arkansas	Iowa
California	Kansas
Colorado	Kentucky
Connecticut	Louisiana
Delaware	Maine
District of Columbia	Maryland
Florida	Massachusetts
Georgia	Michigan
Hawaii	Minnesota
Mississippi	Puerto Rico
Missouri	Rhode Island
Montana	South Carolina
Nebraska	South Dakota
Nevada	Tennessee
New Hampshire	Texas
New Jersey	Utah
New Mexico	Vermont
New York	Virginia
North Carolina	Virgin Islands
North Dakota	Washington
Ohio	West Virginia
Oklahoma	Wisconsin
Oregon	Wyoming
Pennsylvania	

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 2013.

THOMAS E. PEREZ
Secretary of Labor

UNITED STATES DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON, DC

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY PURSUANT TO SECTION 3303(b)(1) OF THE INTERNAL REVENUE CODE OF 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the

Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2013:

Alabama	Idaho
Alaska	Illinois
Arizona	Indiana
Arkansas	Iowa
California	Kansas
Colorado	Kentucky
Connecticut	Louisiana
Delaware	Maine
District of Columbia	Maryland
Florida	Massachusetts
Georgia	Michigan
Hawaii	Minnesota
Mississippi	Puerto Rico
Missouri	Rhode Island
Montana	South Carolina
Nebraska	South Dakota
Nevada	Tennessee
New Hampshire	Texas
New Jersey	Utah
New Mexico	Vermont
New York	Virginia
North Carolina	Virgin Islands
North Dakota	Washington
Ohio	West Virginia
Oklahoma	Wisconsin
Oregon	Wyoming
Pennsylvania	

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code, subject to the limitations of Section 3302(c) of the Code.

Signed at Washington, DC, on October 31, 2013.

THOMAS E. PEREZ
Secretary of Labor

[FR Doc. 2013–26800 Filed 11–7–13; 8:45 am]

BILLING CODE 4510–30–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Board of Directors will meet telephonically on November 21, 2013. The meeting will commence at 5:00 p.m., EST, and will continue until the conclusion of the Board's agenda.

LOCATION: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED

Open

1. Approval of agenda
2. Approval of minutes of the Board's meeting of October 22, 2013
3. Consider and act on the Board of Directors' transmittal to accompany the Inspector General's Semiannual Report to Congress for the period of April 1, 2013 through September 30, 2013
4. Public comment
5. Consider and act on other business
6. 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 who need 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: November 5, 2013.

Atitaya C. Rok,
Staff Attorney.

[FR Doc. 2013–26930 Filed 11–6–13; 11:15 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Institutional Advancement Committee will meet telephonically on November 22, 2013. The meeting will commence at 2:30 p.m., EST, 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 campaign cabinet and honorary committee.

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

Open

1. Approval of Agenda
2. Approval of minutes of the Committee's open session meeting of October 1, 2013
3. Approval of minutes of the Committee's open session meeting of October 20, 2013
4. Update on development campaign
5. Public Comment
6. Consider and act on other business

Closed

7. Approval of minutes of the Committee's closed session meeting of October 1, 2013
8. Approval of minutes of the Committee's closed session meeting of October 20, 2013
9. Discussion of prospective funders for LSC's 40th anniversary celebration and development activities
10. Discussion of prospective members for LSC's 40th Campaign Cabinet and Honorary Committees
11. 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: November 5, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–26932 Filed 11–6–13; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 13–127]

Notice of Intent To Grant an Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in U.S. Patent Application Serial No. 13/874,182 entitled Hermetic Seal Leak Detection Apparatus and U.S. Patent No. 8,448,498 entitled Hermetic Seal Leak Detection Apparatus to REMCAL Products Corporation, having its principal place of business in Warrington, PA. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive [or partially exclusive if applicable] license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy A. Nabors, Technology Transfer Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2013–26797 Filed 11–7–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 13–131]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, December 3, 2013, 8:30 a.m. to 4:00 p.m., and Wednesday, December 4, 2013, 8:30 a.m. to 3:00 p.m., Local Time.

ADDRESSES: This meeting will take place at NASA Headquarters, Room 9H40 (December 3), Room 3H42 (December 4), 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–3092, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 800–857–2613, pass code 64849, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number on December 3 is 996 198 241, password SC@Dec03; the meeting number on December 4 is 994 936 785, password SC@Dec04. The agenda for the meeting includes the following topics:

—Subcommittee Reports

—Program Status

—2013 Science Plan

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–3092. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–26843 Filed 11–7–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

President's Committee on the Arts and the Humanities: Meeting #69

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities (PCAH) will be held in the Crystal Room, The Willard Intercontinental, 1401 Pennsylvania Avenue NW., Washington, DC 20004. Ending time is approximate.

DATES: November 21, 2013 from 3:00 p.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Lindsey Clark of the President's Committee at (202) 682–5409 or *lclark@pcah.gov.*

SUPPLEMENTARY INFORMATION: The meeting, on Thursday, November 21st, will begin with welcome, introductions, and announcements. Updates and discussion on recent programs and activities will follow. The meeting also will include a review of PCAH ongoing programming for arts education, youth arts and humanities learning, preservation and conservation, special events, and international cultural projects. The meeting will adjourn after closing remarks.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982, which currently states that the ''Committee shall advise, provide recommendations to, and assist the President, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services on matters relating to the arts and the humanities.''

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend are advised to contact Lindsey Clark of the President's Committee seven (7) days in advance of the meeting at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue NW., Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Clark at *lclark@pcah.gov.*

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Suite 724, Washington, DC 20506, (202) 682–5532, TDY–TDD (202) 682–5496, at least seven (7) days prior to the meeting.

Dated: November 4, 2013.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2013–26779 Filed 11–7–13; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0221]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 35, ''Medical Use of Byproduct Material.''

2. *Current OMB approval number:* 3150–0010.

3. *How often the collection is required:* Reports of medical events, doses to an embryo/fetus or nursing child, or leaking sources are reportable on occurrence. A specialty board certification entity desiring to be recognized by the NRC must submit a one-time request for recognition and infrequently revise the information.

4. *Who is required or asked to report:* Physicians and medical institutions holding an NRC license authorizing the administration of byproduct material or radiation from this material to humans for medical use. A specialty board certification entity desiring to have its certifying process and board certificate recognized by the NRC.

5. *The number of annual respondents: 7,654* (1,034 for NRC Licenses, 6,618 for Agreement States, and 2 for specialty board certification entities).

6. *The number of hours needed annually to complete the requirement or request:* 1,057,669 hours (142,892 for NRC Licenses and 914,775 for Agreement States + 2 for specialty board certification entities).

7. *Abstract:* 10 CFR Part 35, ''Medical Use of Byproduct Material,'' contains NRC's requirements and provisions for the medical use of byproduct material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. Part 35 contains mandatory requirements that apply to NRC licensees authorized to administer byproduct material or radiation there from to humans for medical use. These requirements also provide voluntary provisions for specialty boards to apply to have their certification processes recognized by NRC so that their board certified individuals can use the certifications as proof of training and experience.

The information in the required reports and records is used by the NRC to ensure that public health and safety is protected, and that the possession and use of byproduct material is in compliance with the license and regulatory requirements.

Submit, by January 7, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, One White Flint North, Room O–1 F21, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.*

The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you

do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2013–0221. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2013–0221. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 4th day of November 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–26857 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0239]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material.''

2. *Current OMB approval number:* 3150–0009.

3. *How often the collection is required:* On occasion. Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally, renewal applications are submitted every ten years and for major fuel cycle facilities updates of the safety demonstration section are submitted every two years. Nuclear material control and accounting information is submitted in accordance with specified instructions.

4. *Who is required or asked to report:* Applicants for and holders of specific NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

5. *The number of annual respondents:* 606.

6. *The number of hours needed annually to complete the requirement or request:* 89,240.6 hours (81,791.1 hours reporting + 7,379.4 hours recordkeeping + 70.1 hours third-party disclosure).

7. *Abstract:* 10 CFR part 70 establishes requirements for licenses to own, acquire, receive, possess, use, and transfer special nuclear material. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations concerning the use of special nuclear material.

Submit, by January 7, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2013–0239. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2013–0239. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 4th day of November 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–26859 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0229]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of a new information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 749, ''Manual License Verification Report''.

2. *Current OMB approval number:* 3150–XXXX.

3. *How often the collection is required:* On occasion. Licensees subject to 10 CFR part 37, ''Physical Protection of Byproduct Material'' license verification requirements must verify the legitimacy of the license with the issuing agency prior to transferring

radioactive materials in quantities of concern.

4. *Who is required or asked to report:* Licensees are required to complete a license verification under the circumstances noted in 3 above. A License Verification System (LVS) has been developed, providing an electronic method for fulfilling this requirement. In cases where a licensee is unable to use the LVS to perform a verification, they will provide NRC Form 749 for manual license verification.

5. *The number of annual respondents:* 91.

6. *The number of hours needed annually to complete the requirement or request:* 9.1 hours.

7. *Abstract:* When a licensee is unable to use the License Verification System to perform their license verification prior to transfer, a manual process has been developed, in which licensees submit the NRC Form 749, ''Manual License Verification Report.'' The form provides the information necessary for the issuing agencies to perform the verification on behalf of the transferring licensee.

Submit, by January 7, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2013–0229. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2013–0229. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 4th day of November 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–26860 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

This notice describes procedures to be followed with respect to meetings conducted by the U.S. Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS) pursuant to the Federal Advisory Committee Act (FACA). These procedures are set forth so that they may be incorporated by reference in future notices for individual meetings.

The ACRS is a statutory group established by Congress to review and report on nuclear safety matters and applications for the licensing of nuclear facilities. The Committee's reports become a part of the public record.

The ACRS meetings are conducted in accordance with FACA; they are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those related to radiological safety.

The ACRS meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process.

General Rules Regarding ACRS Full Committee Meetings

An agenda will be published in the **Federal Register** for each full Committee meeting. There may be a need to make changes to the agenda to facilitate the conduct of the meeting. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his/her judgment, will facilitate the orderly conduct of business, including making provisions to continue the discussion of matters not completed on the scheduled day on another day of the same meeting. Persons planning to attend the meeting may contact the Designated Federal Officer (DFO) specified in the **Federal Register** Notice prior to the meeting to be advised of any changes to the agenda that may have occurred.

The following requirements shall apply to public participation in ACRS full Committee meetings:

(a) Persons who plan to submit written comments at the meeting should provide 35 copies to the DFO at the beginning of the meeting. Persons who cannot attend the meeting, but wish to submit written comments regarding the agenda items may do so by sending a readily reproducible copy addressed to the DFO specified in the **Federal Register** Notice, care of the Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments should be limited to items being considered by the Committee. Comments should be in the possession of the DFO 5 days prior to the meeting to allow time for reproduction and distribution.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the DFO; if possible, the request should be made 5 days before the meeting, identifying the topic(s) on which oral statements will be made and the amount of time needed for presentation so that orderly arrangements can be made. The Committee will hear oral statements on topics being reviewed at an appropriate time during the meeting as scheduled by the Chairman.

(c) Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the DFO.

(d) The use of still, motion picture, and television cameras will be permitted at the discretion of the Chairman and subject to the condition that the use of such equipment will not interfere with the conduct of the

meeting. The DFO will have to be notified prior to the meeting and will authorize the use of such equipment after consultation with the Chairman. The use of such equipment will be restricted as is necessary to protect proprietary or privileged information that may be in documents, folders, etc., in the meeting room. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

(e) A transcript will be kept for certain open portions of the meeting and will be available in the NRC Public Document Room (PDR), One White Flint North, Room O–1F21, 11555 Rockville Pike, Rockville, MD 20852–2738. A copy of the certified minutes of the meeting will be available at the same location 3 months following the meeting. Copies may be obtained upon payment of appropriate reproduction charges. ACRS meeting agenda, transcripts, and letter reports are available through the PDR at *pdr@nrc.gov,* by calling the PDR at 1–800–394–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS Meeting schedules/agendas).

(f) Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Specialist, (301–415–8066) between 7:30 a.m. and 3:45 p.m. Eastern Time at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

ACRS Subcommittee Meetings

In accordance with the revised FACA, the agency is no longer required to apply the FACA requirements to meetings conducted by the Subcommittees of the NRC Advisory Committees, if the Subcommittee's recommendations would be independently reviewed by its parent Committee.

The ACRS, however, chose to conduct its Subcommittee meetings in accordance with the procedures noted above for ACRS full Committee meetings, as appropriate, to facilitate public participation, and to provide a forum for stakeholders to express their views on regulatory matters being considered by the ACRS. When Subcommittee meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at a reasonable cost. Accordingly, 50 copies of the materials to be used during the meeting should be provided for distribution at such meetings.

Special Provisions When Proprietary Sessions Are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The DFO should be informed of such an agreement at least 5 working days prior to the meeting so that it can be confirmed, and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the DFO prior to the beginning of the meeting for admittance to the closed session.

Dated: November 4, 2013.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2013–26836 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0079]

Qualification Tests for Safety-Related Actuators in Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing revision 1 to regulatory guide (RG) 1.73, ''Qualification Tests for Safety-Related Actuators in Nuclear Power Plants.'' This RG is being revised to provide applicants and licensees with the most current information on testing safety-related actuators in nuclear power plants. This RG is proposed Revision 1 of RG 1.73, ''Qualification Tests of Electric Valve Operators Installed Inside the Containment of Nuclear Power Plants,'' dated January 1974.

ADDRESSES: Please refer to Docket ID NRC–2011–0129 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0079. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 1 of RG 1.73 is available in ADAMS under Accession No. ML13210A463. The regulatory analysis may be found in ADAMS under Accession No. ML12219A400.
- *NRC's PDR:* You may examine for free or purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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

FOR FURTHER INFORMATION CONTACT: Darrell Murdock (email: *Darrell.Murdock@nrc.gov*) or Mark Orr (email: *Mark.Orr@nrc.gov*); telephone 301–415–7000, U.S. Nuclear Regulatory Commission, Washington, DC 20555 0001,

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was

developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 1 of RG 1.73 provides applicants and licensees with the most current information on testing safety-related actuators in nuclear power plants. The current version of RG 1.73, ''Qualification Tests of Electric Valve Operators Installed Inside the Containment of Nuclear Power Plants'' was issued January 1974. It endorses IEEE Std. 382–1972, ''IEEE Trial-Use Guide for Type Test of Class I Electric Valve Operators for Nuclear Power Generating Stations.'' The IEEE standard was updated three times, in 1985, 1996, and 2006. However, the RG has not been updated since 1974. This revision updates RG 1.73 to endorse the current version of IEEE Std. 382–2006, ''Standard for Qualification of Safety-Related Actuators for

II. Additional Information

Revision 1 of RG 1.73 was issued for public comment as draft regulatory guide (DG)-1235, ''Qualification Tests for Safety-Related Actuators in Nuclear Power Plants'' on May 1, 2013, (78 FR 25488) for a 60 day public comment period. The public comment period closed on June 28, 2013 and 2 sets of comments were received. These comments resulted in revisions to the final RG. The comments and the NRC staff response are available in ADAMS at Accession No. ML13210A462.

III. Congressional Review Act

This RG is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget (OMB) has not found it to be a major rule as designated in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of this final RG does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this RG, the NRC has no current intention to impose this RG on holders of current operating licenses or combined licenses.

This RG may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final RG, as well as future applications for operating licenses and combined licenses submitted after the issuance of the RG. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) or is otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 24th day of October 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

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

[FR Doc. 2013–26835 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Thursday, November 14, 2013, at 10:00 a.m.; and Friday, November 15, at 8:00 a.m. and 10:00 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: Thursday, November 14, at 10:00 a.m.—Closed; Friday, November 15, at 8:00 a.m.—Open; and at 10:00 a.m.—Closed

MATTERS TO BE CONSIDERED:

Thursday, November 14, at 10:00 a.m. (Closed)

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Friday, November 15, at 8:00 a.m. (Open)

1. Remarks of the Chairman of the Board.
2. Remarks of the Postmaster General and CEO.
3. Approval of Minutes of Previous Meetings.
4. Committee Reports.
5. FY2013 10K and Financial Statements.
6. FY2014 IFP and Financing Resolution.
7. FY2015 Appropriations Request.
8. Quarterly Service Performance Report.
9. Approval of Annual Report and Comprehensive Statement.
10. Tentative Agenda for the December 10, 2013, meeting in Washington, DC
11. Election of Chairman and Vice Chairman of the Board of Governors.

Friday, November 15, at 10:00 a.m. (Closed—If Needed)

1. Continuation of Thursday's closed session agenda.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone: (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2013–26929 Filed 11–6–13; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70801; File No. SR–CME–2013–25]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Reference Rate for Singapore Dollar Denominated Interest Rate Swaps

November 4, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2013, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(4)(ii)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(ii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing a proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would make one discrete change related to the reference rate for Singapore Dollar (''SGD'') denominated interest rate swaps (''IRS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to make a change to CME Rule 90102.E relating to the removal of the SGD–SOR-Reuters reference rate and the addition of the SGD–SOR–VWAP reference rate for SGD denominated IRS. These changes will be effective on filing.

On September 30, 2013 the Association of Banks in Singapore changed the calculation of certain financial benchmarks which included SGD–SOR. As a result, CME is delisting the SGD–SOR-Reuters reference rate of the discontinued benchmark and adding the reference rate SGD–SOR–VWAP for the new benchmark. The proposed change will allow clearing of SGD denominated IRS with the proper reference rate.

The changes that are described in this filing are limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC'') and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has already submitted the proposed rule changes that are the subject of this filing to its primary regulator, the CFTC, in CME Submission 13–476.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] The proposed rule change will remove the SGD–SOR-Reuters reference rate of the discontinued benchmark and will add the reference rate SGD–SOR–VWAP for the new benchmark to allow clearing of SGD denominated IRS with the proper reference rate. As such, the rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed changes are limited in their effect to futures and swaps products offered under CME's authority to act as a derivatives clearing organization. These products are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization, the proposed changes are also properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act[7] and are properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The rule change simply delists the SGD–SOR-Reuters reference rate of the discontinued benchmark and adds the reference rate SGD–SOR–VWAP for the new benchmark.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(4)(ii)[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2013–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 15 U.S.C. 78s(b)(3)(C).

Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–CME–2013–25. 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 or 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2013–25 and should be submitted on or before November 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary .

[FR Doc. 2013–26755 Filed 11–7–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70802; File No. SR–NYSEMKT–2013–59]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Withdrawal of Proposed Rule Change Relating to NDX and RUT Combination Orders November 4, 2013.

On June 21, 2013, NYSE MKT LLC (''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder [2] to amend NYSE MKT Rule 965NY to revise the procedures governing the trading of NDX and RUT combination orders. The proposed rule change was published for comment in the **Federal Register** on July 9, 2013.[3] The Commission initially received two comment letters regarding the proposal.[4] NYSE MKT responded to the comment letters on August 19, 2013.[5] On August 20, 2013, the Commission extended the time period for Commission action to October 7, 2013.[6] On October 1, 2013, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[7] NYSE MKT submitted an additional letter regarding the proposal on October 4, 2013.[8] The Commission subsequently received one additional comment letter on the proposal.[9] On November 1, 2013, NYSE MKT withdrew the proposed rule change (SR–NYSEMKT–2013–59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 69919 (July 2, 2013), 78 FR 41168 (July 9, 2013).

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Darren Story, CFA, Student Options, LLC, dated July 12, 2013; and David Spack, Chief Compliance Officer, Casey Securities, LLC, dated August 2, 2013.

[5] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP and Corporate Secretary, NYSE Euronext, dated August 19, 2013.

[6] *See* Securities Exchange Act Release No. 70235 (August 20, 2013), 78 FR 52818 (August 26, 2013).

[7] *See* Securities Exchange Act Release No. 70588 (October 1, 2013), 78 FR 62766 (October 22, 2013).

[8] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, EVP and Corporate Secretary, General Counsel, NYSE Markets, NYSE Euronext, dated October 4, 2013.

[9] *See* letter from Robert Pellicone, dated October 7, 2013.

[10] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26756 Filed 11–7–13; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13804]

Florida Disaster #FL–00094 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Florida, dated 10/31/2013.

Incident: Failure of Commercial Oyster Fishery.

Incident Period: 01/01/2012 through 12/31/2013.

Effective Date: 10/31/2013.

EIDL Loan Application Deadline Date: 07/31/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Franklin

Contiguous Counties:

Florida: Gulf, Liberty, Wakulla.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for economic injury is 138040.

The State which received an EIDL Declaration # is Florida.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: October 31, 2013.

Jeanne Hulit,

Acting Administrator.

[FR Doc. 2013–26729 Filed 11–7–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13805 and # 13806]

Santa Clara Pueblo Disaster #NM–00038

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Santa Clara Pueblo (FEMA–4147–DR), dated 10/29/2013.

Incident: Severe Storms and Flooding

Incident Period: 07/19/2013 through 07/21/2013

Effective Date: 10/29/2013

Physical Loan Application Deadline Date: 12/30/2013

Economic Injury (EIDL) Loan Application Deadline Date: 07/29/2014

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/29/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Santa Clara Pueblo.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13805B and for economic injury is 13806B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–26733 Filed 11–7–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0026]

Charging Standard Administrative Fees for Nonprogram-Related Information; Correction

AGENCY: Social Security Administration.

ACTION: Notice of standard administrative fees for providing information and related services for nonprogram-related purposes; announcing addition to schedule of standardized administrative fees; Correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** of September 18, 2013, concerning a new fee for providing detailed and certified yearly Social Security earnings information for nonprogram-related purposes. The document contained unclear fee information and incorrect date for implementation.

FOR FURTHER INFORMATION CONTACT: Kristina Poist, 410–597–1977.

Correction

In the **Federal Register** of September 18, 2013, in FR Doc. 2013–22625, on page 57445, in the second column, correct the ''New Information'' caption to read as follows:

New Information: We are establishing a new standard, single-tier fee of $102 for each request of detailed yearly Social Security earnings information, regardless of the number of earnings years requested. We will charge a separate fee of $32 per request, in addition to the standard fee, to certify detailed yearly Social Security earnings information. We based this new standard fee on our most recent cost calculations for supplying this information and the standard fee methodology previously published in the **Federal Register**. Non-certified, yearly earnings totals (Form SSA–7004, Request for a Social Security Statement) are still available as a free online service through mySocialSecurity, *http://socialsecurity.gov/myaccount/,* a personal online account for Social Security information and services. Online Social Security Statements display uncertified yearly earnings, free of charge, and do not show any employer information. Certified yearly earnings totals cost $32, available by completing Form SSA–7050.

In the **Federal Register** of September 18, 2013, in FR Doc. 2013–22625, on page 57445, in the third column, correct the ''Dates'' caption to read:

DATES: The new standard fee of $102 is effective January 1, 2014.

Paul Kryglik,

Director, Office of Regulations and Reports Clearance.

[FR Doc. 2013–26830 Filed 11–7–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2013–0194]

National Freight Advisory Committee: Notice of Public Meeting

AGENCY: Office of the Secretary , DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the National Freight Advisory Committee (NFAC). The NFAC will provide information, advice, and recommendations to the U.S. Secretary of Transportation on matters relating to U.S. freight transportation, including implementation of the Moving Ahead for Progress in the 21st Century Act (MAP–21).

DATES: The meeting will be held on November 21, 2013, from 1:15 p.m. to 5:00 p.m., Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tretha Chromey, Designated Federal Officer at (202) 366–1999 or *freight@dot.gov* or visit the NFAC Web site at *www.dot.gov/nfac* which is under construction.

SUPPLEMENTARY INFORMATION:

Background: The NFAC is established under the authority of the U.S. Department of Transportation, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). The Secretary of Transportation has determined that establishment of the committee is in the public interest. The NFAC provides advice and recommendations to the Secretary on matters related to freight transportation in the United States, including (1) Implementation of the

freight transportation requirements of the Moving Ahead for Progress in the 21st Century Act (*Pub. L. 112–141*); (2) establishment of the National Freight Network; (3) development of a National Freight Strategic Plan; (4) development of strategies to help States implement State Freight Advisory Committees and State Freight Plans; (5) development of measures of conditions and performance in freight transportation; (6) development of freight transportation investment, data, and planning tools; and (7) legislative recommendations.

Agenda: This will be the NFAC's second meeting. The U.S. Department of Transportation will provide a presentation to members. The NFAC's six subcommittees will meet for one hour and then report out to the full committee. The meeting agenda will be posted on the NFAC Web site at *www.dot.gov/nfac* in advance of the meeting.

Public Participation: The meeting will be open to the public and press on a first-come, first served basis. Space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Ms. Tretha Chromey, at (202) 366–1999 or *freight@dot.gov* five (5) business days before the meeting.

Members of the public who wish to attend in person are asked to RSVP to *freight@dot.gov* with your name and affiliation no later than November 13, 2013, in order to facilitate entry and guarantee seating.

Written comments: Persons who wish to submit written comments for consideration by the Committee must email *freight@dot.gov* or send them to Ms. Tretha Chromey, Designated Federal Officer, National Freight Advisory Committee, 1200 New Jersey Avenue SE., W82–320, Washington, DC 20590 by November 13, 2013 to provide sufficient time for review. All other comments may be received at any time before or after the meeting.

Dated: November 6, 2013.

Tretha Chromey,

Designated Federal Officer.

[FR Doc. 2013–26852 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 2013–0037]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to renew the following information collection:

Pre-Award, Post-Delivery Audit Requirements Under Buy America

DATES: Comments must be submitted before January 7, 2014.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.
2. *Fax:* 202–493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Pre-Award, Post-Delivery Audit Requirements Under Buy America—Mr. Richard Wong, FTA Office of Chief Counsel (202) 366–0675, or email: *richard.wong@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Pre-Award, Post-Delivery Audit Requirements Under Buy America (*OMB Number:* 2132–0544).

Background: Federal Transit Laws, 49 U.S.C. 5323(j) and (m), require that recipients of Federal Transit Administration (FTA) funding comply with certain requirements, including Buy America, certify compliance of these requirements at the pre-award and post-delivery stages of the procurement process when using FTA funds and maintain on file certifications.

Bidders or offerors must submit certificates to assure compliance with Buy America, the purchaser's contract specifications (for rolling stock only), and Federal motor vehicle safety requirements (for rolling stock only). The information collected on the certification forms is necessary for FTA recipients to meet the requirements of 49 U.S.C. Section 5323(j) and (m). In addition, FTA recipients are required to certify, as part of their annual Certifications and Assurances, that they will comply with pre-award and post-delivery audit requirements for rolling stock under 49 CFR Part 661.

Respondents: FTA recipients, including State and local government, and businesses or other for-profit organizations.

Estimated Annual Burden on Respondents: (1) Approximately 2.16 hours for each of the estimated 700 procurements by FTA recipients and businesses or other for-profit organizations to certify compliance (or 1,512 hours), (2) approximately .16 hours for each of the estimated 700 procurements for recordkeeping by FTA recipients (or 112 hours), and (3) 1.66 hours for each of the estimated 700 procurements for review by FTA recipients (or 1,162 hours).

Estimated Total Annual Burden: 2,786 hours.

Frequency: Annual.

Matthew M. Crouch,

Associate Administrator for Administration.

[FR Doc. 2013–26791 Filed 11–7–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Meeting of the Transit Rail Advisory Committee for Safety (TRACS)

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting via teleconference of the Transit Rail Advisory Committee for Safety (TRACS). TRACS is a Federal Advisory Committee established by the U.S. Secretary of Transportation (the Secretary) in accordance with the Federal Advisory Committee Act to provide information, advice, and recommendations to the Secretary and the Federal Transit Administrator on matters relating to the safety of public transportation systems.

DATES: The TRACS meeting will be held on November 21, 2013, from 10:00 a.m. to 3 p.m. (EST). Contact Bridget Zamperini (see contact information below) by 5 p.m. (EST) on or before November 19, if you wish to participate.

ADDRESSES: The meeting will be conducted via teleconference and is open for public participation. Instructions for accessing the call will be provided to all participants who pre-register with the Federal Transit Administration (FTA) before the start of the meeting.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2). As noted above, TRACS is a Federal Advisory Committee established to provide information, advice, and recommendations to the Secretary and the Administrator of the Federal Transit Administration (FTA) on matters relating to the safety of public transportation systems. TRACS is currently composed of approximately 24 members representing a broad base of expertise necessary to discharge its responsibilities. TRACS has convened five times since its initial meeting held on September 9–10, 2010. The tentative agenda for the sixth meeting of TRACS is set forth below:

Agenda

(1) Welcome Remarks/Introductions

(2) MAP–21 Presentation (Update)

(3) Review of the Draft Letter Report on the Development of the National Public Transportation Safety Plan

(4) Review of the Draft Letter Report on Public Transportation Agency Plans

(5) Public Comments

(6) Wrap Up

As previously noted, this meeting will be accessible to the public. Persons wishing to participate must contact Bridget Zamperini, Federal Transit Administration, Office of Safety and Oversight, at (202) 366–0306 or *TRACS@dot.gov* by 5 p.m. (EST) on or before November 19, 2013, to receive the information necessary to access the teleconference. Members of the public who wish to make an oral statement at the meeting or require special accommodations, are also directed to make a request to Bridget Zamperini at (202) 366–0306 or *TRACS@dot.gov* by 5 p.m. on or before November 17, 2013. Provisions will be made to include oral statements on the agenda, if needed. Members of the public may submit written comments or suggestions concerning the activities of TRACS at any time before or after the meeting at *TRACS@dot.gov,* or to the attention of Bridget Zamperini at the U.S. Department of Transportation, Federal Transit Administration, Office of Safety and Oversight, Room E45–310, 1200 New Jersey Avenue SE., Washington, DC 20590. Information from the meeting will be posted on FTA's public Web site at *http://www.fta.dot.gov/about/13099.html.* Written comments submitted to TRACS will also be posted at the above Web address.

Peter Rogoff,

Administrator.

[FR Doc. 2013–26849 Filed 11–7–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0044]

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

ACTION: Request for public comment on extension of a currently approved collection of information.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period was published on April 3, 2013 [78 FR 20172]. No comments were received.

This document describes the collection of information for which NHTSA intends to seek OMB approval. The collection of information described is the ''Make Inoperative Exemptions—49 CFR Part 595.'' (OMB Control Number: 2127–0635)

DATES: Comments must be submitted on or before December 9, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Wiacek at U.S. Department of Transportation, NHTSA, 1200 New Jersey Avenue SE., West Building, Room W43–419, NVS–112, Washington, DC 20590. Mr. Wiacek's telephone number is (202) 366–4801 and fax number is (202) 366–7002.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Make Inoperative Exemptions—49 CFR Part 595.

OMB Control Number: 2127–0635.

Type of Request: Extension of a currently approved collection.

Abstract: On February 27, 2001, NHTSA published a final rule (66FR12638) to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them as passengers. In that final rule, the agency issued a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features

installed on motor vehicles pursuant to the Federal motor vehicle safety standards or altering the equipment or features so as to adversely affect their performance. The exemption is limited in that it allows repair businesses to modify only certain types of Federal required safety equipment and features, under specified circumstances. The regulation is found at 49 CFR part 595 subpart C, ''Vehicle Modifications to Accommodate People with Disabilities.''

This final rule included two new ''collections of information,'' as that term is defined in 5 CFR part 1320, ''Controlling Paperwork Burdens on the Public'': Modifier identification and a document to be provided to the owner of the modified vehicle stating the exemptions used for that vehicle and any reduction in load carrying capacity of the vehicle of more than 100 kg (220 lbs).

Modifiers who take advantage of the exemption created by this rule are required to furnish NHTSA with a written document providing the modifier's name, address, telephone number and a statement that the modifier is availing itself of the exemption. The rule requires:

''S595.6 Modifier Identification.

(a) Any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7 shall furnish the information specified in paragraphs (a)(1) through (3) of this section to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(1) Full individual, partnership, or corporate name of the motor vehicle repair business.

(2) Residence address of the motor vehicle repair business and State of incorporation if applicable.

(3) A statement that the motor vehicle repair business modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7.

(b) Each motor vehicle repair business required to submit information under paragraph (a) of this section shall submit the information not later than August 27, 2001. After that date, each motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7 shall submit the information required under paragraph (a) not later than 30 days after it first modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle. Each motor vehicle repair business who has submitted required information shall keep its entry current, accurate and complete by submitting revised information not later than 30 days after the relevant changes in the business occur.''

This requirement is a one-time submission unless changes are made to the business as described in paragraph (b).

Affected Public: Businesses that modify vehicles, after the first retail sale, so that the vehicle may be used by persons with disabilities.

Estimated Total Annual Burden: 1152 hours, and $50.04.

Estimated Number of Respondents: 595.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–26810 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Porsche Cars North America, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Porsche Cars North America, Inc. (Porsche) petition for exemption of the Macan vehicle line in accordance with 49 CFR part 543, *Exemption From Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard.*

DATES: The exemption granted by this notice is effective beginning with the 2014 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Room W43–439, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated July 25, 2013, Porsche requested an exemption from the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* for the Macan vehicle line beginning with MY 2014. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption From Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Porsche provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its new Porsche Macan vehicle line. Porsche stated that all Porsche Macan vehicles will be equipped with a passive antitheft device as standard equipment beginning with MY 2014. Key components of the antitheft device will include a microprocessor-based immobilizer system, electronic ignition switch, transponder key, remote control unit, alarm/central locking control unit, optional keyless entry system and electronic parking brake. The device will also be equipped with an audible and visible alarm. Additionally, Porsche stated that the central locking system works in conjunction with the audible and visible alarm. Locking the doors with the ignition key, the remote control or a door switch (with the keyless entry

option) will activate the audible and visible alarm. An ultrasonic sensor in the alarm system will monitor the doors, rear luggage compartment, front deck lid, fuel filler door, and interior movement. The horn will sound and the lights will flash if there is any detection of unauthorized use. Porsche's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

Porsche stated that the immobilizer system cannot be disabled unless an original key or optional keyless entry key sends the proper code to the immobilizer system instructing the engine management system via a code to begin functioning again. The immobilizer is automatically activated when the key is removed from the ignition switch assembly, or, with the optional keyless entry, the immobilizer is automatically activated after the engine is turned off from the dashboard control switch. The immobilizer then returns to its normal ''off'' state, where engine starting and transmission starting are not allowed. Starting the engine and operation of the vehicle will be allowed only when the correct code is sent to the control unit by using the correct key in the ignition switch, or by having the correct keyless entry key within the occupant compartment of the car. The ignition key contains a radio signal transponder, which signals the control unit to allow the engine to be started. With the keyless entry system, operation of the vehicle is allowed when the ignition key is substituted with the special key that contains a radio signal transmitter similar to the transponder in the standard ignition key.

Porsche stated that its central locking system works in conjunction with its audible and visible alarm. Locking the doors with the ignition key, the remote control or a door switch (with the keyless entry option) will also activate the audible and visible alarm. Porsche also stated that the immobilizer cannot be disabled by manipulation of the door locks or central-locking system because the locks/locking system are incapable of sending the code needed to disable the device.

As an additional feature, Porsche stated that it will also incorporate an electronically activated parking brake on the Macan vehicle which is electronically activated and integrated into the vehicle's antitheft device. Porsche stated that if the control unit does not receive the correct code from the ignition key or keyless entry key, the parking brake will remain activated and the vehicle cannot be towed away.

Since the Porsche Macan is a new vehicle line, there is currently no available theft rate data published by the agency for the vehicle line. However, Porsche provided data on the effectiveness of other similar antitheft devices that have been installed on its 911 and Boxster/Cayman vehicle lines in support of its belief that its proposed device will be at least as effective as those comparable devices previously granted exemptions by the agency. Porsche's data showed that the theft rate for the 911 and Boxster/Cayman vehicle lines remained consistently low over a three-year period. Using an average of 3 MYs' theft data (2008–2010), the theft rates for the Porsche 911 and Boxster/Cayman vehicle lines are 0.4771 and 0.2283 respectively. Porsche also stated that the off-board antitheft concept introduced on its MY 2010 Panamera vehicle line will continue to be utilized on its Macan vehicles. Therefore, Porsche believes that the demand for Porsche vehicle components will be further reduced. The theft rate for the MY 2010 Panamera vehicle line is 1.2656. Based on the experience of these vehicle lines, Porsche has concluded that the antitheft device proposed for its Porsche Macan vehicle line is no less effective than those devices in lines for which NHTSA has already granted full exemption from the parts-marking requirements. The agency agrees that the device is substantially similar to devices in these and other vehicle lines for which the agency has already granted exemptions.

In addressing the specific content requirements of 543.6, Porsche provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Porsche conducted tests based on its own specified standards. Porsche provided a detailed list of the tests conducted (i.e., extreme temperature tests, voltage spike tests, reverse polarity tests, electromagnetic interference tests, vibration test and endurance tests) and believes that the device is reliable and durable since the device complied with its specific requirements for each test. Additionally, Porsche stated that the antitheft device also features a built-in self-diagnostic that constantly checks for system failures. If a failure is detected, an alarm indicator will signal the driver.

Porsche further states that disablement of the immobilizer is virtually impossible. Disconnecting power to the antitheft device does not affect the operation of the device. Once the antitheft device is activated, the device stays activated until the correct key or optional keyless entry key is used to instruct the engine management system through the proper code to begin functioning again.

In further support of the reliability of its antitheft device, Porsche informed the agency that it will continue to use the ''off-board'' antitheft strategy that reduces the marketability of stolen electronic components and making the theft of vehicles unattractive. Specifically, Porsche stated that during the production of its vehicle, the initialization and registration of various antitheft electronic components are recorded in a central database. If the components have to be repaired or replaced, authorized access to the database must be obtained to receive authorization for the components. If authorized access to the central database is unavailable or the database indicates that the components are not authorized, further operation and use of the vehicle will be restricted or impossible to obtain.

Based on the evidence submitted by Porsche, the agency believes that the antitheft device for the Macan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Porsche has provided adequate reasons for its belief that the antitheft device for the Porsche Macan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This conclusion is based on the information Porsche provided about its device.

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Porsche's petition for exemption for the Porsche Macan vehicle line from the parts-marking requirements of Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Federal Motor Vehicle Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Federal Motor Vehicle Theft Prevention Standard.

The agency notes that Porsche was significantly delayed in submitting its petition for exemption for its MY 2014 Macan vehicle line. As specified under paragraph (4) of § 543.5(b), a petition for an exemption must be submitted at least 8 months before the commencement of production for the first model year in which the petitioner wishes those lines to be exempted. Porsche is reminded of its statutory requirement for meeting this timeline when submitting future petitions for exemptions.

If Porsche decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Porsche wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–26809 Filed 11–7–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 352X); Docket No. AB 1093 (Sub No. 1X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Fayette and Wayne Counties, Ind.; C&NC Railroad Corporation—Discontinuance of Service Exemption—in Fayette and Wayne Counties, Ind.

Norfolk Southern Railway Company (NSR) and C&NC Railroad Corporation (CNUR) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* for NSR to abandon, and for CNUR to discontinue service over, approximately 0.61 miles of rail line between milepost CB 4.80 (near East County Road 450N in Connersville, Fayette County, Ind.) and milepost CB 5.41 (near Whitaker Drive in Washington Township, Wayne County, Ind.) (the Line). The Line traverses United States Postal Service Zip Codes 47331 and 47357.

Applicants have 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 overhead traffic, 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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on December 10, 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 November 18, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 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 applicants' representatives: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037, and Richard R. Wilson, 518 Center St., Suite 1, Ebensberg, PA 15931.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 15, 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 (FIRS) at 1–800–877–8339. Comments on

[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).

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 November 8, 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: November 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26839 Filed 11–7–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 286 (Sub-No. 7X)]

The New York, Susquehanna and Western Railway Corporation—Abandonment Exemption—Passaic and Morris Counties, NY

The New York, Susquehanna and Western Railway Corporation (NYS&W) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a segment of its line of railroad, known as the Pompton Industrial, between milepost 22.1 in Wayne Township, Passaic County, N.J., and milepost 26.3 in Pompton Plains Township, Morris County, N.J. (the Line). The Line traverses United States Postal Service Zip Codes 07440, 07442, 07444, and 07470.

NYS&W has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; [1] (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 December 11, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 18, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 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 NYS&W's representative: Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NYS&W 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 November 15, 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), NYS&W 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 NYS&W's filing of a notice of consummation by November 8, 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: November 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26837 Filed 11–7–13; 8:45 am]

BILLING CODE 4915–01–P

[1] NYS&W states that no local or overhead traffic has moved over the portion of the Line between milepost 22.1 and milepost 25.96 for over twenty years, or on the portion of the Line between 25.96 and milepost 26.3 for over two years.

[2] 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.

[3] 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 TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 346X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Lake County, Ind.

On October 22, 2013, Norfolk Southern Railroad Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon approximately 2.95 miles of railroad between milepost MQ 280.15 (near the intersection of Lincoln Highway and Junction Avenue in the City of Schererville, Ind.) and milepost MQ 283.10 (near the line's crossing of E 53rd Avenue/Main Street, which is proximate to the border of the Town of Munster and the City of Schererville), in Lake County, Ind. (the Line). The Line traverses United States Postal Service

Zip Codes 46321 and 46375, and includes the station of Schererville.[1]

NSR states that, based on the information in its possession, the Line does not contain federally granted rights-of-way. Any documentation in NSR's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 7, 2014.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than February 14, 2014, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each OFA must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following the abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 29, 2013. Each trail use request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 290 (Sub-No. 346X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037. Replies to the petition are due on or before November 29, 2013.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: November 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26840 Filed 11–7–13; 8:45 am]

BILLING CODE 4915–01–P

[1] Petitioner states that the station of Schererville will not be closed due to other NSR lines that will remain in place that also serve this station.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 316X)]

Union Pacific Railroad Company—Abandonment Exemption—in Franklin County, Iowa

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments* to abandon a 0.59-mile line of railroad on its Bristow Subdivision from milepost 318.07 to milepost 318.66 near Hampton, in Franklin County, Iowa (the Line). The Line traverses United States Postal Service Zip Code 50441.

UP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (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 December 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 November 18, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 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 UP's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP 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 November 15, 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 1–800–877–8339. 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

[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).

conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP 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 UP's filing of a notice of consummation by November 8, 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: November 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26842 Filed 11–7–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35778]

CSX Transportation, Inc.—Trackage Rights Exemption—Glasgow Railway Company

Pursuant to a written trackage rights agreement, Glasgow Railway Company (Glasgow) has agreed to grant overhead and local trackage rights to CSX Transportation, Inc. (CSXT) over the entire rail line of Glasgow, between milepost 00E–90.85, at Park City, Ky., and milepost 00E–101.00, at Glasgow, Ky., a distance of approximately 10.15 miles, including all sidings, yard tracks, and yard leads now existent or hereafter constructed along or at the end of the line.[1]

The transaction is scheduled to be consummated on or after November 22, 2013, the effective date of the exemption (30 days after the exemption was filed).

According to CSXT, the purpose of the transaction is to enable it to serve local and overhead traffic on the line.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

[1] A redacted trackage rights agreement between CSXT and Glasgow was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by November 15, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35778, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: November 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26838 Filed 11–7–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Senior Executive Service; Legal Division Performance Review Board

AGENCY: Department of the Treasury.

ACTION: Notice of members of the Legal Division Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Legal Division PRB. The purpose of this Board is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, and other appropriate personnel actions for incumbents of SES positions in the Legal Division.

DATES: *Effective Date:* November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 3000, Washington, DC 20220, Telephone: (202) 622–0283 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Composition of Legal Division PRB

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed in this notice.

The names and titles of the PRB members are as follows:

Priya R. Aiyar, Deputy General Counsel;
Peter A. Bieger, Assistant General Counsel (Banking and Finance);
George Bostick, Benefits Tax Counsel;
Himamauli Das, Assistant General Counsel (International Affairs);
Margaret Depue, Chief Counsel, Bureau of the Fiscal Service;
Roberto J. Gonzalez, Deputy General Counsel;
Rochelle F. Granat, Assistant General Counsel (General Law, Ethics and Regulation);
Elizabeth Horton, Deputy Assistant General Counsel (Ethics);
Mark Kaizen, Associate Chief Counsel (General Legal Services), Internal Revenue Service;
Lee Kelley, Deputy Benefits Tax Counsel;
Robert Neis, Associate Benefits Tax Counsel;
Danielle Rolfes, International Tax Counsel;
Daniel P. Shaver, Chief Counsel, United States Mint;
Brian Sonfield, Deputy Assistant General Counsel (General Law and Regulation);
Paul Wolfteich, Deputy Chief Counsel, Bureau of the Fiscal Service and;
Lisa Zarlenga, Tax Legislative Counsel.

Dated: October 29, 2013.

Roberto J. Gonzalez,

Deputy General Counsel.

[FR Doc. 2013–26862 Filed 11–7–13; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $50 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal

agencies to comment on a revision to this information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comment concerning a revision to a regulatory reporting requirement for national banks and Federal savings associations titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' The OCC is also giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by December 9, 2013.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–NEW, 400 7th St. SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th St. 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) 874–4700. 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.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th St. SW., Washington, DC 20219. In addition, copies of the templates and instructions referenced in this notice can be found on the OCC's Web site under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: Requesting new control number for portion of existing OMB Control No. 1557–0311 relating to Covered Institutions with Consolidated Assets of $50 Billion or More. Collection previously approved under 1557–0311.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including national banks and Federal savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A national bank or Federal savings association is a ''covered institution'' and therefore subject to the stress test requirements if its total consolidated assets are more than $10 billion. Under the OCC's final rule implementing section 165(i)(2) of the Dodd-Frank Act, covered institutions are divided into two categories: covered institutions with total consolidated assets between $10 and $50 billion, and covered institutions with total consolidated assets over $50 billion. In this notice, the OCC is soliciting comment concerning a revision to a regulatory reporting requirement for covered institutions with total consolidated assets over $50 billion.

Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be given confidential treatment (5 U.S.C. 552(b)(4)).

In 2012, the OCC first implemented the reporting templates referenced in the final rule. *See* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012). The OCC is now revising them as described below. On August 20, 2013, the OCC published notice of its intention to revise these templates. 77 FR 51272. No comments were received in response to the notice.

The OCC intends to use the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions with total consolidated assets of $50 billion or more are required to submit reports using the Comprehensive Capital Analysis and Review (CCAR) reporting form FR Y–14A.[7] The OCC also recognizes the Board has modified the FR Y–14A, and, to the extent practical, the OCC will keep its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.[8] Therefore, the OCC is revising its reporting requirements to remain consistent with the Board's FR Y–14A for covered institutions with total consolidated assets of $50 billion or more.

Proposed Revisions to Reporting Templates for Institutions With $50 Billion or More in Assets

The revisions to the DFAST–14A reporting templates consist of adding data items, deleting data items, and redefining existing data items. These changes will (1) provide additional information to greatly enhance the ability of the OCC to analyze the validity and integrity of firms' projections, (2) improve comparability across firms, and (3) increase consistency between the FR Y–14A reporting templates and DFAST–14A reporting templates. The OCC has conducted a thorough review of the changes and believes that the incremental burden of these changes is justified given the need for these data to properly conduct the OCC's supervisory responsibilities related to the stress testing.

[1] Public Law 111–203, 124 Stat. 1376, July 2010.
[2] 12 U.S.C. 5365(i)(2)(A).
[3] 12 U.S.C. 5301(12).
[4] 12 U.S.C. 5365(i)(2)(C).
[5] 12 U.S.C. 5365(i)(2)(B).
[6] 77 FR 61238 (October 9, 2012).
[7] *http://www.federalreserve.gov/reportforms.*
[8] 78 FR 59934, September 30, 2013.

Summary Schedule

The OCC is making a number of changes to the Summary Schedule to better assess covered institutions' calculation of risk-weighted assets (RWA) and certain other items detailed below.

Risk Weighted Assets and Regulatory Capital Related to Basel III

On July 9, 2013, the OCC approved a joint final rule that will revise and replace the OCC's risk-based and leverage capital requirements to be consistent with agreements reached by the Basel Committee on Banking Supervision in ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (Basel III).[9] The revisions include implementation of a new definition of regulatory capital, a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the Advanced Approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. In addition, the rule will amend the methodologies for determining RWA and introduce disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets.

Due to the timing of this proposal, the Dodd-Frank Act stress test, and the capital rulemaking, the OCC considered several options for the timing and scope of the proposal to collect information related to the proposed capital rulemaking. After careful consideration of the various options, the OCC determined that the following revisions would enable the OCC to collect these data while minimizing the burden to the industry.

Revisions to Capital Worksheet

To accommodate changes in the capital regime, the OCC proposed replacing the current Capital worksheet with three worksheets (General, Advanced Approaches, and Revised Capital worksheets). These proposed worksheets would have incorporated the items of the current Capital worksheet and added or revised items to collect projections depending on which capital regime is applicable to the covered institution at any given point in the projection horizon. However, the OCC has decided to reorganize the structure of the proposed capital worksheets by collapsing the General, Advanced Approaches, and Revised Capital worksheets into one Capital worksheet that allows respondents to submit capital projections according to all three capital rules, which are outlined in different sections of the worksheet.

Proposed Capital Worksheet

On the Capital worksheet, the OCC is adding line items that collect detail on the additions and adjustments to tier 1 capital that result in the calculation of total risk-based capital under the general risk-based capital rules. The OCC is adding or revising line items to collect data consistent with the definition of tier 1 capital under the Advanced Approaches rule (12 CFR part 3, Appendix C). The OCC is also adding line items to collect detail on the adjustments to tier 1 capital and to collect other data elements consistent with the Basel III definition of capital. Finally, the OCC is also revising the description of the item collecting data on taxes paid in previous years to refer to the current year, one year ago, and two years ago, instead of specific years.

Addition of RWA Worksheets

To accommodate the eventual collection of RWA as outlined in the rulemakings, the OCC is adding two RWA worksheets: RWA General and RWA Advanced. The items in the two worksheets correspond to the general risk-based capital rules and Standardized and Advanced Approaches. The reporting requirements for these schedules are as follows:

1. All covered institutions are required to submit projections on the General worksheet for all projection quarters, where applicable. Covered institutions are required to complete the General RWA section for all projection quarters until the Standardized Approach becomes the applicable risk-based capital requirement. At that time (January 1, 2014 for Advanced Approaches institutions, January 1, 2015 for all other covered institutions) institutions will be required to report items in the Standardized Approach section. The Memoranda for Derivative Contracts section will collect notional principal amounts by type of derivative contracts for all quarters.

2. Covered institutions subject to market risk capital requirements are required to report items in the Market RWA section of the applicable RWA worksheet, using methodologies outlined in that rule.

3. Covered institutions that have exited parallel run prior to the beginning of DFAST 2014 will be required to submit projections on the Advanced Approaches RWA worksheet for all projection quarters.

4. Institutions that have exited parallel run and are subject to the Advanced Approaches rule are required to report items in the Advanced Approaches Credit Risk and Operational Risks sections for all quarters. These institutions will be required to report items in the Revised Advanced Approaches section for all applicable quarters and these institutions would still be required to complete the General RWA worksheet in order to calculate minimum risk-based capital requirements per the Advanced Approaches rule.

Proposed General RWA Worksheet

The General RWA worksheet, which is composed of 72 items, will collect RWA as calculated under the general risk-based capital framework and the Standardized Approach, when applicable. The OCC is adding 3 items not included in the proposal to better capture certain information on Schedule RC–R of the Consolidated Reports of Condition and Income, which is used in the calculation of RWA under the Standardized Approach per the revised regulatory capital rule (July 2013).

Proposed Advanced RWA Worksheet

The Advanced RWA worksheet, which will be composed of 81 items, will collect RWA projections as calculated under the Advanced Approaches rule. The OCC is adding 13 items not included in the proposal to capture additional information needed to calculate RWA for Advanced Approaches banks. Additional line items cover securitization exposures, balance sheet amounts and risk weights subject to the simplified supervisory formula approach (SSFA), supervisory formula approach (SFA), and 1250 percent risk weighting. The OCC is also adding line items to capture information on cleared transactions, repo-style transactions, and default fund contributions.

In addition to the above changes to the Capital worksheet, the OCC is making changes to several other worksheets in the Summary Schedule as described below.

Current Balance Sheet Worksheet

On the Balance Sheet worksheet, the OCC is adding two items to the Securities section, three items to the Other Assets section, two items to the Deposits section, and two items to the Liabilities section to better align this schedule with other regulatory reports to provide better insight into historical

[9] *http://www.occ.gov/news-issuances/news-releases/2013/nr-occ-2013-110.html.*

behavior of respondents' assets and liabilities. In addition, the OCC is revising the definition of one item, accumulated other comprehensive income (AOCI), in the covered institution equity capital section. This item will now be estimated by all covered institutions using the conditions specified in the applicable macroeconomic scenario, rather than under the trading shock.

Securities Available-for-Sale (AFS) Market Shock Worksheet

Consistent with the redefinition of AOCI in the Balance Sheet worksheet, the OCC is renaming this worksheet to Securities AFS OCI by Portfolio. This will collect quarterly projections of other comprehensive income (OCI) related to fair-value gains and losses on AFS securities that are based on the conditions specified in the applicable macroeconomic scenario.

PPNR Net Interest Income Worksheet

On the PPNR Net Interest Income worksheet, the OCC is redefining the information collected in this worksheet to include all assets, including nonaccrual loans which were previously reported in the PPNR metrics worksheet. Covered institutions will be expected to include in the supporting documentation a breakout of the major categories of nonaccrual loans relevant to their own institution. The OCC is expanding the detail on covered institution's holdings of securities to better understand the underlying dynamics of securities balances and interest income by breaking out data items for Treasury and Agency debt, residential mortgage-backed securities issued by government agencies, and all other securities. Similarly, the OCC is redefining the information collected in this worksheet to include all liability balances and adding one item to capture other liabilities that fall outside the existing liability types reported. To reduce burden on reporting institutions, the existing breakout of commercial and industrial loans into small business loans and other loans will be collapsed into one item.

PPNR Metrics Worksheet

Where applicable, the aforementioned changes to the PPNR Net Interest Income worksheet will also be reflected in the PPNR Metrics worksheet. In addition, the OCC will modify, delete, and add several items to better understand how PPNR projections compare to historical trends.

Finally, the OCC is adding four footnote items to allow the OCC to better assess covered institution PPNR projections. Outside of the worksheets named above, the OCC is making minor changes to the Balance Sheet, Retail Balance & Loss Projections, Securities OTTI Methodology, Securities OTTI by Portfolio, Securities AFS Market Shock, Securities Market Value Sources, OpRisk, and PPNR Projections worksheets.

RegCap Transitions Schedule (Formerly Basel III Schedule)

The OCC is adding a line item to the Capital Composition worksheet to capture adjustments related to insurance underwriting subsidiaries and AOCI, which will enable more precise calculations of regulatory capital. The OCC is also revising the General and Advanced Approaches RWA worksheets to align with certain changes made to the Summary Schedule. Specifically, the OCC is adding to the General RWA worksheet a ''RWA per Standardized Approach'' section, which will collect credit RWA using methodologies under the revised Standardized Approach.

The OCC has decided to also make additional revisions to the proposed RegCap Transitions Schedule (labeled as the Basel III Schedule in the proposal). These additional revisions are being made to ensure consistency with the regulatory capital rules and include: (1) Revising the AOCI calculator; (2) revising the 10 percent and 15 percent regulatory threshold deductions; (3) breaking out additional tier 1 capital deductions; (4) collecting data and calculations consistent with the final market risk rule; (5) revising the credit RWA calculation to reflect the market risk rule's comprehensive risk measurement (CRM); (6) revising the credit RWA associated with credit valuation adjustment capital charges; and (7) collecting data relevant to the tier 1 leverage ratio and supplementary leverage ratio.

Counterparty Schedule

The OCC is eliminating the aggregate worksheets EE Profile by Ratings and Credit Quality by Rating from the Counterparty Schedule and expanding the collection of the counterparty specific worksheets CP CVA by Top 200 CVA, EE Profile by CP, and Credit Quality by CP to capture the top counterparties that account for 95 percent of credit valuation adjustment (CVA). This expansion in scope is driven by the need to close the sometimes significant gap between the CVA of the top 200 counterparties and the covered institution's total CVA and to capture exposures to counterparties that are significantly large in other dimensions, but which are currently excluded from the top 200 by CVA. Additionally, the OCC is adding an additional worksheet that collects the top 20 counterparties by Securities Financing Transactions and Repo exposure to account for counterparty exposures other than derivatives. Finally, the OCC is adding columns on the worksheets of the template as appropriate to collect stressed counterparty data based on the Adverse and Severely Adverse scenarios as part of the stress testing process. In addition, the OCC is amending the scope of the respondents to the DFAST–14A CCR schedule and Trading and CCR worksheets of the DFAST–14A Summary schedule to include any company that the OCC may require to complete these schedules under 12 CFR 46.4.

Burden Estimates:

The OCC estimates the burden of this collection as follows:

Estimated Number of Respondents: 23.

Estimated Total Annual Burden: 14,319 hours.

The OCC recognizes that the Board has estimated 64,800 hours for bank holding companies to prepare the Summary, Counterparty credit risk, Basel III and Capital reporting schedules submitted for the FR Y–14. The OCC believes that the systems covered institutions use to prepare the FR Y–14 reporting templates will also be used to prepare the reporting templates described in this notice. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 5, 2013.

Stuart Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–26869 Filed 11–7–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0342]

Proposed Information Collection Activity; Comment Request: Other On-the-Job Training and Apprenticeship Training Agreement and Standards and Employer's Application To Provide Job Training

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to meet statutory requirements for job training program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 7, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0342'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden 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 through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Other On-The-Job Training and Apprenticeship Training Agreement and Standards, (Training Programs Offered Under 38 U.S.C. 3677 and 3687), VA Form 22–8864.

b. Employer's Application to Provide Job Training, (Under Title 38 U.S. Code. 3677 and 3687), VA Form 22–8865.

OMB Control Number: 2900–0342.

Type of Review: Revision of a currently approved collection.

Abstract: VA uses the data on VA Form 22–8864 to ensure that all trainees receive a training agreement and to make certain that training programs and agreements meet statutory requirements for approval of an employer's job training program.

Affected Public: Business or other for-profit, not-for-profit institutions, farms, Federal Government, State, Local or Tribal Government.

Estimated Annual Burden:

a. Other On-The-Job Training and Apprenticeship Training Agreement and Standards, (Training Programs Offered Under 38 U.S.C. 3677 and 3687), VA Form 22–8864—2,500 hours.

b. Employer's Application to Provide Job Training, (Under Title 38 U.S. Code. 3677 and 3687), VA Form 22–8865—4,500 hours.

Frequency of Response: On occasion.

a. Other On-The-Job Training and Apprenticeship Training Agreement and Standards, (Training Programs Offered Under 38 U.S.C. 3677 and 3687), VA Form 22–8864—30 minutes.

b. Employer's Application to Provide Job Training, (Under Title 38 U.S. Code. 3677 and 3687), VA Form 22–8865—90 minutes.

Estimated Number of Respondents:

a. Other On-The-Job Training and Apprenticeship Training Agreement and Standards, (Training Programs Offered Under 38 U.S.C. 3677 and 3687), VA Form 22–8864—3,000 respondents.

b. Employer's Application to Provide Job Training, (Under Title 38 U.S. Code. 3677 and 3687), VA Form 22–8865—5,000 respondents.

Dated: November 5, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2013–26788 Filed 11–7–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Nuclear Regulatory Commission

10 CFR Parts 40, 70, 72, et al.

Proposed Guidance for Fuel Cycle Facility; Material Control and Accounting Plans and Completing NRC Form 327 and Amendments to Material Control and Accounting Regulations; Proposed Rules

Nuclear Regulatory Commission

10 CFR Parts 40, 70, 72, 74, and 150

[NRC–2013–0195]

RIN 3150–AI61

Proposed Guidance for Fuel Cycle Facility; Material Control and Accounting Plans and Completing NRC Form 327

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREGs; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is making available for public comment the following draft NUREGs: NUREG–1280, Revision 2, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Strategic Special Nuclear Material;'' NUREG–2159, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Moderate Strategic Significance;'' NUREG–1065, Revision 3, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Low Strategic Significance;'' NUREG–2158 (formerly NUREG/CR–5734), ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Low Enriched Uranium Enrichment Facilities;'' and NUREG/BR–0096, Revision 2, ''Instructions and Guidance for Completing Physical Inventory Summary Reports.'' The NUREGs support a proposed rule (RIN 3150–AI61; NRC–2009–0096) amending the NRC's MC&A regulations applicable to various types of special nuclear material (SNM). The proposed rule is being published in the Proposed Rule section of this issue of the **Federal Register.**

DATES: Submit comments by February 18, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0195. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06A–44MP, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: Thomas Pham, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9132, email: *Tom.Pham@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0195 when contacting the NRC about the availability of information regarding this notice. You may access publicly available information by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0195.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in Section III, ''Availability of Documents,'' of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0195 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Discussion

Draft NUREGs 1280, 2159, and 1065 provide fuel cycle licensees (*i.e.,* those authorized to hold strategic SNM, SNM of moderate strategic significance, and SNM of low strategic significance, respectively) guidance to facilitate compliance with applicable provisions in part 74 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Material Control and Accounting of Special Nuclear Material.'' Draft NUREG–2158 provides similar guidance to the subset of licensees authorized to hold SNM of low strategic significance who engage in uranium enrichment operations. Except for NUREG–2159—which is a new NUREG for any future licensees and applicants who may request authorization to hold SNM of moderate strategic significance—the NUREGs would revise existing guidance. The NUREGs are being revised to incorporate the proposed changes and enhancements to 10 CFR part 74.

Generally, the four draft guidance documents discuss acceptable methods licensees and applicants may use to prepare and implement their MC&A plans, and how the NRC will review and inspect these plans. Additionally, these four draft NUREGs address: (1) The proposed general performance objectives; (2) the proposed MC&A program capabilities to meet those objectives; and (3) the incorporation of checks and balances to detect falsification of data and reports that could conceal the theft or diversion of SNM. The SNM licensees can find instructions on the following in NUREG/BR–0096: (1) Using NRC Form 327 to report inventory differences (IDs)

and (2) associated information needed to evaluate IDs. Such IDs may result from the physical inventories required by 10 CFR 74.31(c)(5), 74.33(c)(4), 74.43(c)(7), or 74.59(f). We are revising NUREG/BR–0096 to update and clarify its terms.

III. Availability of Documents

Document	ADAMS Accession No.
NUREG–1280, Revision 2, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Strategic Special Nuclear Material''.	ML13253A308
NUREG–2159, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Moderate Strategic Significance''.	ML13253A310
NUREG–1065, Revision 3, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Low Strategic Significance''.	ML13253A305
NUREG–2158, (formerly NUREG/CR–5734) ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Low Enriched Uranium Enrichment Facilities''.	ML13253A309
NUREG/BR–0096, Revision 2, ''Instructions and Guidance for Completing Physical Inventory Summary Reports''	ML13253A303

Dated at Rockville, Maryland, this September 17, 2013.

For the Nuclear Regulatory Commission.

Marissa G. Bailey,

Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2013–25612 Filed 11–7–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40, 70, 72, 74, and 150

[NRC–2009–0096]

RIN 3150–AI61

Amendments to Material Control and Accounting Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for material control and accounting (MC&A) of special nuclear material (SNM). The goal of this rulemaking is to revise and consolidate the MC&A requirements in order to update, clarify, and strengthen them. The proposed amendments add new requirements that would apply to NRC licensees who are authorized to possess SNM in a quantity greater than 350 grams.

DATES: Submit comments on the rule by February 18, 2014. Submit comments specific to the information collections aspects of this rule by December 9, 2013. Comments received after these dates will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before these dates.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0096. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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

FOR FURTHER INFORMATION CONTACT: Thomas Young, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5795, email: *Thomas.Young@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments
II. Introduction and Summary of Proposed Revisions to MC&A Regulations
III. Specific Request for Comments on the Proposed New Requirements
IV. Discussion
A. Whom would this action affect?
B. Why are the requirements being revised?
C. When would these actions become effective?
D. How does the NRC use a graded approach for MC&A?
E. What are the changes to the general performance objectives?
F. Are sealed sources included in the general performance requirements for Category II and III facilities?
G. Why would newly defined terms be added to 10 CFR 74.4?
H. Why would the term, ''effective kilograms of special nuclear material,'' be removed from 10 CFR part 74?
I. Why would appendix A to 10 CFR part 74 be added?
J. Why would references to the MC&A ''system'' be changed to the MC&A ''program,'' and why would ''MC&A plan'' replace ''FNMC plan?''
K. What would change in the reporting requirements to the NMMSS, including those that ISFSIs are subject to?
L. Is a two-person rule included as part of this proposed rule?
M. Why would requirements be added to designate material balance areas, item control areas, and custodians?
N. Why would calendar days be inserted into 10 CFR part 74?
O. Would the implementation guidance documents be updated for the MC&A program?
P. Would there be changes for item controls or physical inventories?
Q. Why would an exception be added to 10 CFR 74.15(b)(2)?
R. Are there any cumulative effects of regulation associated with this rule?
S. What should I consider as I prepare my comments to the NRC?
V. Discussion of Proposed Amendments by Section
VI. Availability of Documents
VII. Criminal Penalties
VIII. Agreement State Compatibility
IX. Plain Writing
X. Voluntary Consensus Standards
XI. Environmental Assessment and Finding of No Significant Environmental Impact: Availability
XII. Paperwork Reduction Act Statement
XIII. Regulatory Analysis
XIV. Regulatory Flexibility Certification
XV. Backfitting and Issue Finality

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2009–0096 when contacting the NRC about the availability of information for this proposed rule. You may access publicly available information related to this proposed rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0096.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, ''Availability of Documents.''
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2009–0096 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Introduction and Summary of Proposed Revisions to MC&A Regulations

The NRC's regulations specify requirements for control and accounting of SNM that is held by a licensee. The MC&A regulations ensure that the information about SNM is accurate, authentic, and sufficiently detailed to enable a licensee to maintain current knowledge of its SNM and manage its program for securing and protecting SNM. The MC&A, together with physical protection of facilities and information security requirements, make up the primary elements of the NRC's SNM safeguards program. The MC&A component of the larger safeguards program helps ensure that SNM within a fuel cycle facility is not stolen or otherwise diverted from the facility and promotes the NRC's strategic goal of maintaining adequate protection over the use and management of radioactive materials.

The MC&A requirements for an independent spent fuel storage installation (ISFSI) would be consolidated with MC&A regulations applicable to other types of facilities authorized to possess SNM. General performance objectives (GPOs) would be made applicable to an additional set of NRC licensees who are authorized to possess more than 350 grams of SNM. Some current exemptions in the MC&A regulations would be removed or modified to strengthen the requirements, and defined terms would be added to clarify the regulations. Plain language revisions would also be made. Guidance documents would be updated as necessary to reflect these proposed changes. Concurrently with this proposed rule, in this issue of the **Federal Register,** the NRC published a document (NRC–2013–0195) requesting comment on the following draft NUREGs: NUREG–1280, Revision 2, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Strategic Special Nuclear Material;'' NUREG–2159, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Moderate Strategic Significance;'' NUREG–1065, Revision 3, ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Low Strategic Significance;'' NUREG–2158 (formerly NUREG/CR–5734), ''Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Low Enriched Uranium Enrichment Facilities;'' and NUREG/BR–0096, Revision 2, ''Instructions and Guidance for Completing Physical Inventory Summary Reports.''

The NRC seeks input on several specific aspects of the proposed rule, including the appropriate threshold amount of SNM on which item control requirements should be imposed. With respect to these and other proposed requirements that go beyond consolidation and clarification of existing requirements, the NRC seeks input on the need for the requirements in relation to the proportionate levels of risk represented by the processes and material quantities and forms that are used at different types of licensee facilities. The NRC also seeks input on whether there are less burdensome alternatives to the proposed requirements that would still ensure the adequate control and accurate accounting of SNM.

In a future rulemaking, the NRC will consider a two-person rule to verify the accuracy of MC&A information within a fuel cycle facility. Interested stakeholders will then have the opportunity to comment regarding a two-person rule.

The NRC plans to amend Title 10 of the *Code of Federal Regulations* (10 CFR) to consolidate the MC&A provisions in 10 CFR part 74. Conforming changes would be made to 10 CFR parts 40, 70, 72 and 150. The changes are intended to update, clarify, and strengthen MC&A requirements.

The existing 10 CFR part 74 regulations contain subparts A through F, and the MC&A requirements are organized in a graded fashion with subpart E containing the most rigorous set of MC&A requirements. General MC&A reporting and recordkeeping requirements in subpart B apply to all materials licensees authorized to possess SNM under 10 CFR part 70, reactor licensees under 10 CFR parts 50 or 52, and ISFSI licensees under 10 CFR part 72. Licensees authorized to possess SNM of ''low strategic significance'' (defined in 10 CFR 74.4) are subject to the more rigorous MC&A requirements in subpart C. Such licensees operate what are known as Category III facilities, which include licensed uranium enrichment facilities and the three fuel fabrication facilities supplying fresh fuel assemblies (containing low enriched uranium) to commercial power reactors.

Licensees authorized to possess SNM of ''moderate strategic significance'' (defined in 10 CFR 74.4) are subject to the MC&A requirements in subpart D, and are authorized to operate Category II facilities (no such facilities currently operate). The most rigorous MC&A requirements are in subpart E, and apply to licensees authorized to possess a ''formula quantity'' (defined in 10 CFR 74.4) of strategic special nuclear material (SSNM). Such 10 CFR part 70 licensees operate what are known as Category I facilities. Only two such facilities now operate, and they fabricate fuel (containing high enriched uranium) for use by the U.S. Navy and in research and test reactors. One potential Category I facility may operate in the future as a mixed oxide fuel fabrication facility.

Table 1 shows the location of the proposed MC&A requirements within 10 CFR part 74 and the types of facilities that are licensed to possess SNM. A list of specific questions about the proposed requirements is provided in Section III of this document.

TABLE 1—LOCATION OF PROPOSED MC&A REQUIREMENTS FOR CERTAIN TYPES OF FACILITIES

New requirement	Location in proposed 10 CFR part 74 by type of facility					
	Subparts A and B			Subpart C	Subpart D	Subpart E
	Part 70 license authorizing > 350 grams	Part 50 or 52 reactor facility	Part 72 ISFSI			
				Part 70 Fuel Cycle Facility		
				Category III	Category II	Category I
General performance objectives.	74.3			modified the existing requirements in 74.31(a) and 74.33(a) to refer to 74.3; retained the unique performance objectives in 74.33(a) for an enrichment facility.	modified the existing requirement in 74.41(a) to refer to 74.3.	modified the existing requirement in 74.51(a) to refer to 74.3 and retain unique performance objectives 74.51(a).
Item control system ..	no requirement.	74.19(d)		modified the existing requirements in 74.31(c)(6) and 74.33(c)(6) to remove some exemptions.	modified the existing requirement in 74.43(b)(5) to remove some exemptions.	no modification would be needed for existing 74.55, Item Monitoring.
Tamper-safing of containers or vaults.	no requirement			74.31(c)(9) ..... 74.33(c)(9)	clarified the existing requirement in 74.43(c)(3).	clarified the existing requirement in 74.59(f)(2)(i).
MBA/ICA and custodians.	no requirement			74.31(c)(10) ..... 74.33(c)(10)	74.43(c)(9)	74.59(h)(5).

In 2008, the NRC developed an MC&A rulemaking plan (SECY–08–0059, Rulemaking Plan: Part 74—Material Control and Accounting of Special Nuclear Material, ADAMS Accession No. ML080580307) and submitted it to the Commission for its consideration. In accordance with the Commission's approval of the rulemaking plan's Option 4 in the Staff Requirements Memorandum (SRM) for SECY–08–0059 (ADAMS Accession No. ML090360473), various changes would be made to 10 CFR part 74. The considerations on which this rulemaking action are based, and the proposed substantive changes to the MC&A requirements, may be summarized as follows:

General Performance Objectives

The existing GPO requirements are set forth for each type of facility in 10 CFR 74.31(a), 74.33(a), 74.41(a), and 74.51(a). Building on these existing GPOs, the NRC proposes to list five GPOs in a new 10 CFR 74.3 that would apply to all licensees authorized to possess more than 350 grams of SNM—a set of licensees that includes power reactors and ISFSIs. The 10 CFR 74.3 GPOs would largely replace the existing GPOs for Category I, II, and III facilities. Some GPOs that are unique to the Category III enrichment facilities, and to the Category I fuel fabrication facilities, would remain in revised 10 CFR 74.33(a) and 74.51(a), respectively. The NRC does not expect that Category I, II, and III licensees would need to alter their MC&A programs in response to the 10 CFR 74.3 GPOs, because these GPOs are similar to the existing GPOs.

Proposed 10 CFR 74.3(e) would require that information related to MC&A be stored in a locked file cabinet or office.

Licensees authorized to possess 350 grams of SNM or less would not be made subject to the GPO requirements, because such licensees are not required to implement a formal MC&A program. These licensees are subject to the existing reporting requirements in 10 CFR 74.11, 74.13, and 74.15, which are applicable to licensees authorized to possess 1 gram or more of SNM. Agreement State licensees are similarly subject to the corresponding reporting requirements in 10 CFR 150.16 and 150.17.

Item Control System

Existing subparts C and D of 10 CFR part 74 contain item control provisions applicable to Category III and II facilities, respectively, that would be modified. The NRC additionally proposes to add clarifying definitions of two related terms to 10 CFR 74.4. *Item*

control system would be defined as a system for tracking the creation, identity, element and isotopic content, location, and disposition of all items, which would enable the licensee to maintain current knowledge of each item in its possession. *Item control area* (ICA) would be defined as a designated administrative area within the controlled access area, in which SNM would be maintained in such a way that, at any time, a count of the items and the related material quantities can be obtained using the accounting system. Control of items moving into, out of, and within an ICA would be indicated by the identity of an item and its assigned material quantity.

As is the case for the GPO requirements previously discussed, licensees authorized to possess 350 grams of SNM or less would not be subject to item control requirements. Starting in 2009, such licensees were required to submit material balance and physical inventory reports on an annual basis under 10 CFR 74.13 (or 10 CFR 150.17 for Agreement State licensees). As there have been no reports of lost SNM items from these licensees, the NRC's view is that imposing item control requirements on them is not necessary.

In a new 10 CFR 74.19(d), the NRC is proposing to expand the requirement to establish an item control system to include reactor facilities licensed under 10 CFR part 50 or 52, and ISFSIs licensed under 10 CFR part 72. This requirement is consistent with guidance developed for the reactor industry by the American National Standards Institute (ANSI) in ANSI N15.8 (''Methods of Nuclear Material Control—Material Control Systems—Special Nuclear Material Control and Accounting Systems for Nuclear Power Plants''), dated February 18, 2009. In June 2013, the NRC published Regulatory Guide (RG) 5.29, ''Nuclear Material Control Systems for Nuclear Power Plants'' (Revision 2), which endorses use of the ANSI N15.8 guidance. Requiring item control systems at reactors and ISFSIs would ensure that SNM is adequately accounted for at these sites.

Licensed Category III fuel fabrication and uranium enrichment facilities are already subject to item control requirements under 10 CFR 74.31(c)(6) and 74.33(c)(6), respectively. Similarly, licensees of Category II facilities are subject to item control requirements under 10 CFR 74.43(b)(6). These requirements are being modified, in part, by removing the exemption provisions for items existing for less than 14 days. These exemptions date from when most facilities did not have, as part of their MC&A programs, automated tracking systems and computer-based accounting systems to help track SNM items. Today, licensees have the ability to track items immediately upon creation instead of waiting for hand-written ledgers to be updated. Removing these exemptions will require tracking of items that could contain large quantities of SNM but are not now subject to a facility's item control system.

The 10 CFR 74.31(c)(6) and 74.33(c)(6) requirements would further be modified by removing the exemptions for individual items containing less than 500 grams of uranium-235, which may contain up to a cumulative total of 50 kilograms of uranium-235. Similarly, for a Category II facility, the exemption (in 10 CFR 74.43(b)(6)) for individual items containing less than 200 grams of plutonium or uranium-233; or 300 grams or more of uranium-235 up to a cumulative total of one formula kilogram of strategic SNM; or 17 kilograms of uranium-235 contained in uranium enriched to 10 percent or more but less than 20 percent in the uranium-235 isotope, would be removed. By not allowing large quantities of SNM to be exempt from a Category II or Category III facility's item control system, a more complete and comprehensive inventory would be achieved. Further, since all licensees are required by existing 10 CFR 74.11 to report the loss of 1 gram or more of SNM, removing these item control exemptions increases the internal consistency of the MC&A requirements.

Category I facilities are subject to the item monitoring requirements in 10 CFR 74.55, which are not being changed in this rulemaking. Consistent with the present graded approach, these subpart E item monitoring requirements are part of the more stringent MC&A program that applies to Category I facilities. Item monitoring differs significantly from item control. As compared to the item control requirements applicable to Category II and III facilities, the item monitoring requirements in 10 CFR 74.55 are more stringent and rigorous with respect to the scope of item test frequencies, statistical sampling plans, and detection limits. The NRC has found no problems with the item monitoring programs used by Category I licensees, and therefore no changes to 10 CFR 74.55 are proposed.

Tamper-Safing

The NRC proposes to strengthen the existing MC&A requirements related to tamper-safing containers and vaults that contain SNM. The term *tamper-safing* would be defined as the use of devices on containers or vaults in a manner and at a time that ensures a clear indication of any violation of the integrity of previously made measurements of SNM within the container or vault.

Category I and II facilities are required to follow tamper-safing requirements by existing 10 CFR 74.59(f)(2)(i) and 10 CFR 74.43(c)(3), respectively. By adding 10 CFR 74.31(c)(9) and 74.33(c)(9), the NRC proposes to make tamper-safing requirements applicable to licensed Category III fuel fabrication and uranium enrichment facilities as well. Such licensees would be required to develop tamper-safing procedures and use tamper-safing devices on containers or vaults holding SNM. These procedures must ''include control of access to, and distribution of, unused seals and records.'' The quoted language is part of existing 10 CFR 74.43(c)(3), and would be added to existing 10 CFR 74.59(f)(2)(i) so that the tamper-safing requirements in subparts C, D, and E of 10 CFR part 74 would be similarly worded. As the intent of the tamper-safing requirement remains the same, the changes in wording are not expected to affect the MC&A programs at Category I and II facilities.

The proposed 10 CFR 74.31(c)(9) and 74.33(c)(9) would incorporate as requirements common practices and procedures already used at Category III facilities, and would supplement and strengthen their existing SNM item control and inventory programs that help to protect against the unauthorized and unrecorded removal of SNM. All Category III facilities routinely tamper-safe containers of SNM, so this regulatory change is not expected to be a burden for the affected licensees.

The use of tamper-safing procedures would not be required at other types of NRC-licensed facilities, since SNM at such facilities is generally not in forms where tamper-safing seals can be applied. At reactors, for example, fuel assemblies are not amenable to tamper-safing because the fuel assemblies are not stored in containers where unauthorized opening of a container could be detected with a tamper-safing device. Containers for spent fuel at ISFSIs are welded shut and are sufficiently difficult to open that tamper-safing is not required. At facilities where only sealed sources are used (e.g., at industrial, academic, and research facilities authorized to possess 350 grams or less of SNM), tamper-safing is not required because the manner in which the sealed sources are manufactured and sealed adequately prevents removal of the SNM.

Material Balance Areas, Item Control Areas, and Custodians

As previously discussed, the NRC proposes to add a definition of an ICA to 10 CFR 74.4. Similarly, the NRC proposes to add a definition of an MBA to 10 CFR 74.4. The term *material balance area* would be defined as a designated contiguous area in which the control of SNM is such that the quantity of material being moved into, out of, and within the MBA is an assigned value based on measurements of both the element content and the isotopic content, if known.

The proposed rule adds requirements that all Category I, II, and III licensees must designate ICAs and MBAs at their facilities, and identify custodians who would be responsible for monitoring these areas. The proposed requirements are set forth in 10 CFR 74.59(h)(5), 74.43(c)(9), 74.31(c)(10), and 74.33(c)(10). These required areas form the basis for nuclear material accounting and control of all SNM within a Category I, II, or III facility's boundaries, and these new requirements are expected to enhance the capability of licensees to detect the unauthorized removal of SNM. In general, smaller accounting areas make control of SNM easier, and reduce the size of the area in which detected losses of SNM can be attributed.

All Category I and III facilities (there are no operating Category II facilities) are voluntarily using MBAs and ICAs and have designated custodians assigned to them, so these proposed regulations are not expected to result in significant operating changes.

The rule change would require future facilities to follow this best practice for ensuring that timely and accurate information is kept within a designated area to adequately account for and control SNM.

Licensees at other types of NRC-licensed facilities do not use complex processing operations involving large quantities of SNM in multiple forms and their operations do not involve moving SNM frequently throughout the facility. Accordingly, the NRC is proposing to make these MBA, ICA, and custodian requirements applicable only to licensed Category I, II, and III facilities.

Other Proposed Changes to the Material Control and Accounting Requirements

Other proposed changes to the MC&A requirements are considered to be non-substantive (in that they are either plain language revisions to improve clarity, conforming changes, or are otherwise organizational or administrative in nature) are summarized as follows:

- The MC&A requirements for ISFSIs that are currently located in 10 CFR part 72 would be relocated to 10 CFR part 74, including requirements for reporting to the Nuclear Materials Management and Safeguards System (NMMSS). These 10 CFR part 72 requirements duplicate reporting requirements in existing subpart B of 10 CFR part 74 and duplicate similar reporting requirements applicable to certain types of source material as specified in 10 CFR 40.64. The following list shows how 10 CFR part 74 requirements relate to the 10 CFR part 72 requirements being removed:
- The requirement for recordkeeping at 10 CFR 72.72(a) would be covered in proposed 10 CFR 74.19(d).
- The requirement for physical inventory at 10 CFR 72.72(b) would be covered in 10 CFR 74.19(c).
- The requirement for written MC&A procedures at 10 CFR 72.72(c) would be covered in 10 CFR 74.19(b).
- The requirement for recordkeeping at 10 CFR 72.72(d) would be removed.
- The requirement to report loss of SNM at 10 CFR 72.74 would be covered in 10 CFR 74.11.
- The requirement for submitting material status reports to NMMSS at 10 CFR 72.76 would be covered in 10 CFR 74.13.
- The requirement for submitting nuclear material transaction reports to NMMSS at 10 CFR 72.78 would be covered in 10 CFR 74.15.
- Revisions are proposed to 10 CFR 72.72 and 72.74, and 10 CFR 72.76 and 72.78 would be deleted. Revisions would be made to 10 CFR 40.64 and 150.17(b) to remove their references to 10 CFR part 72 material status reports.
- Because some licensees have expressed confusion as to what MC&A requirements apply to a particular facility, the NRC proposes to revise the 10 CFR part 74 definitions of *formula quantity, special nuclear material of moderate strategic significance,* and *special nuclear material of low strategic significance* by conforming them to the existing definitions in 10 CFR parts 70 and 73, making clear that these classes of SNM are what is referred to, respectively, as Category I, II, and III quantities of material. Licensees authorized to possess Category I material are subject to the 10 CFR part 74 subpart E requirements, while licensees authorized to possess Category II and III material are subject to the subpart D and C requirements, respectively. To further clarify these divisions, the staff proposes to add appendix A (''Categories of SNM'') to 10 CFR part 74. Also for purposes of clarification, the NRC proposes to add defined terms for *accounting* and *material control and accounting.*

Plain language revisions are reflected in the proposed regulations, and include replacing the existing references to the fundamental nuclear material control (FNMC) plan with references to an MC&A plan. The staff's view is that FNMC is an outdated term and does not include ''accounting;'' thus, it does not fully describe the accounting aspects of an MC&A program. Licensees would not be required to change the name of their FNMC plans to MC&A plans.

The defined term *effective kilograms of special nuclear material* (and references to it in several provisions) would be removed from 10 CFR part 74. Quantities of SNM would instead be expressed in gram units to simplify the accounting requirements in 10 CFR part 74 and provide consistency with the existing 10 CFR part 74 definitions of the various types of SNM, all of which specify quantities in gram units. This proposed change would also correct an inconsistency within the current 10 CFR 74.19 provisions. Existing 10 CFR 74.19(b) refers to a quantity of SNM ''exceeding one effective kilogram'' in specifying the set of licensees that must establish written MC&A procedures. Existing 10 CFR 74.19(c) refers to a quantity of SNM ''greater than 350 grams'' in specifying the set of licensees that must conduct physical inventories. Removing *effective kilograms of special nuclear material* from 10 CFR part 74 would also eliminate confusion caused by a conflict between the regulatory thresholds for the SNM categories (Category I, Category II, and Category III) and an effective kilogram of SNM. *Effective kilograms of special nuclear material* would remain as a defined term in 10 CFR parts 40, 70, 75, 76, and 110, to ensure the continued effective implementation of the U.S./International Atomic Energy Agency (IAEA) Safeguards Agreement.

Other proposed changes include revising 10 CFR 150.17(a) to conform with the proposed plain language revisions to 10 CFR 74.13. The instructions for material status reporting would be clarified in 10 CFR 74.13. The intervals and due dates for each type of facility would also be clarified in 10 CFR 74.13. No substantive changes are being proposed in this regard and licensees authorized to possess SNM under a license from an Agreement State would continue to submit material status reports to the NRC via the NMMSS. References to due dates and reporting frequencies would be made more uniform by expressing most timeframes in terms of calendar days (e.g., 7, 30, 60, 65, 95, 185, or 370

calendar days). The interval for the number of months assigned to a licensee's assessment of the MC&A program would be retained (e.g., 12 months, 18 months, or 24 months). The retention period for records would be retained (e.g., 3 years). An appendix A, ''Categories of Special Nuclear Material,'' would be added to 10 CFR part 74. The appendix would be based on existing appendix M to 10 CFR part 110, and would show the SNM quantity limits for Category I, Category II, and Category III facilities. The new appendix would also show the corresponding subpart in 10 CFR part 74 for each category, and the formulae to calculate any combination of SSNM within the quantity limits for a category. A conforming change would be made to replace the reference to 10 CFR 74.51(c) with 10 CFR 74.51(b) because the paragraph designation regarding implementation of an MC&A plan would then be consistent with the other citations listed in 10 CFR 70.32(c)(1)(i) and (iii) that refer to paragraph (b) in 10 CFR 74.31, 74.33, and 74.41.

The SECY–09–0082 (''Update on Reprocessing Regulatory Framework—Summary of Gap Analysis,'' ADAMS Accession No. ML091520280), dated May 28, 2009, included the NRC staff's recommendation that the existing 10 CFR 74.51(a) exemption for an irradiated fuel reprocessing plant be removed as part of this rulemaking. Proposed 10 CFR 74.51(a)(2) reflects the removal of this exemption.

The NRC placed on *www.regulations.gov* a preliminary version of the proposed rule language to inform stakeholders of the status of the proposed rulemaking and invited stakeholders to provide informal comments by June 30, 2011. Thirteen comment letters were received by this date, and were considered. Public input at this stage helped to develop the proposed rule in its current form.

III. Specific Request for Comments on the Proposed New Requirements

In addition to the general opportunity to submit comments on the proposed rule, the NRC also requests comments on the following questions about the proposed new requirements:

General Performance Objectives:

In 10 CFR 74.3, the NRC proposes GPOs that would apply to all licensees authorized to possess greater than 350 grams of SNM. Are there other GPOs that the NRC should consider adding? Do the proposed GPOs impose unnecessary expenses or burdens on licensees? Should the regulatory threshold for GPOs be higher or lower than 350 grams, and if so, why? If this threshold amount is lower than 350 grams, the NRC would add a similar set of GPO requirements to 10 CFR part 150 to apply to Agreement State licensees. If that were done, how could the NRC best ensure compliance with the GPOs in Agreement States?

Item Control System:

In 10 CFR 74.19(d), the NRC proposes to make item control requirements applicable to licensed reactors and ISFSIs. Licensees of fuel cycle facilities authorized to possess Category III amounts of SNM are subject to existing item control requirements in subpart C of 10 CFR part 74, and subpart D of 10 CFR part 74 contains item control requirements that would be applicable to any future fuel cycle facility that may be authorized to possess Category II amounts of SNM. Are such requirements necessary at reactor and ISFSI sites? Are there alternatives that should be considered? Should other types of licensees be required to have an item control system? What is the appropriate regulatory threshold for requiring an item control system under 10 CFR part 74? Should there be a threshold for the amount of material that is required to be tracked under an item control system?

Tamper-Safing:

In 10 CFR 74.31(c)(9) and 74.33(c)(9), the NRC proposes a new requirement for tamper-safing containers and vaults. The NRC also proposes clarifying the existing requirements for tamper-safing in 10 CFR 74.43(c)(3) and 74.59(f)(2)(i) to provide a consistent approach for all Category I, II, and III licensees. Should tamper-safing be required for Category III licensees? Are there alternative measures that should be considered?

Material Balance Areas, Item Control Areas, and Custodians:

In 10 CFR 74.31(c)(10), 74.33(c)(10), and 74.43(c)(9), the NRC proposes a new requirement to identify specific MBAs and ICAs, and to designate custodians for these areas. The NRC also proposes that the existing requirement for custodians in 10 CFR 74.59(h)(5) be revised to match the new language to provide a consistent approach for all Category I, II, and III licensees. Should use of MBAs and ICAs be required? Should other facilities be required to have MBAs and ICAs? Are there alternatives that should be considered?

Alternatives resulting in equivalent outcome and less burden:

Throughout this proposed rule, the NRC is proposing measures that would strengthen MC&A requirements at licensee sites. Are there alternative ways to strengthen existing MC&A requirements that would impose less burden on NRC licensees while still maintaining adequate control and accounting of SNM? What specific alternatives should be considered? For the proposed requirements that go beyond consolidation and clarification, the NRC is seeking input on the need for such requirements in relation to the proportionate levels of risk represented by the processes and material quantities and forms of SNM that are used at different types of licensee facilities.

IV. Discussion

To further describe this proposed rulemaking the following series of questions and answers is set forth.

A. Whom would this action affect?

Licensees authorized by the NRC to possess SNM in a quantity greater than 350 grams would be affected by the proposed rule. For example, the proposed 10 CFR 74.3 would require a licensee authorized to possess a quantity of SNM greater than 350 grams to implement and maintain a material control and accounting program that enables the licensee to achieve the GPOs provided in the new 10 CFR 74.3.

Agreement State licensees authorized to possess SNM are subject to the 10 CFR 150.17 material status reporting requirements. The proposed changes to these requirements are plain language revisions, and conform with the proposed plain language revisions to the 10 CFR 74.13 material status reporting requirements. These changes do not require any action by the Agreement State licensees.

B. Why are the requirements being revised?

Many of the current MC&A requirements were developed over 20 years ago and need to be updated to include commonly used terms. Item control system requirements would be strengthened by including items that are currently exempted from these requirements. The requirements for general performance objectives to deter, detect, or aid in responding to any loss, theft, diversion or misuse of SNM need to be extended to NRC licensees who are not authorized to possess Category I, II, or III amounts of material, but who are authorized to possess SNM in a quantity greater than 350 grams. The NRC's view is that all MC&A regulations governing SNM held by NRC licensees should be in 10 CFR part 74 in order to provide a focal point and a complete framework/umbrella for controlling and accounting for all SNM under NRC oversight.

C. When would these actions become effective?

The NRC expects that the final rule would be published within 12 months of the publication of the proposed rule for comment. The revisions to the regulations would become effective 90 days after the publication of the final rule. Question R in this section requests comments on the cumulative effects of this rulemaking and specifically asks whether an effective date of 6 months from the date the final rule is published in the **Federal Register** would provide sufficient time to implement the new proposed requirements.

D. How does NRC use a graded approach for MC&A?

The NRC currently uses a graded, risk-informed approach for MC&A. Based on the quantity and form of material a licensee possesses, the licensee is subject to specific requirements that increase with the amount of SNM the licensee is authorized to possess. Table 2 shows the requirements that apply to various types of licensed facilities based on their possession limits and how the NRC proposes to strengthen requirements through this rulemaking.

TABLE 2—NRC'S GRADED, RISK-INFORMED APPROACH TO MATERIAL CONTROL AND ACCOUNTING

Grams of SNM the licensee is authorized to possess	Current MC&A requirements in 10 CFR Part 74	Proposed changes to strengthen MC&A requirements in 10 CFR Part 74
1 gram or more of SNM (all licensees, including part 70 licensees authorized to possess 350 grams or less and licensees authorized by an Agreement State).	74.11/150.16 Reporting loss and theft. 74.13/150.17 Material status reports for NMMSS. 74.15/150.16 Material transaction reports for NMMSS. 74.19(a) Recordkeeping. 74.19(d) Retention of records.	Existing 74.19(d) would be moved to 74.19(e) to accommodate a new item control requirement for reactors and ISFSIs.
>350 grams of SNM (part 70 licensees authorized for industrial, academic, and research types of use.	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.19(a) Recordkeeping. 74.19(b) Written procedures. 74.19(c) Physical inventory. 74.19(d) Retention of records.	New GPOs in 74.3. To replace the term "one effective kilogram," 74.19(b) would apply to licensees possessing greater than 350 grams of SNM. Existing 74.19(d) would be moved to 74.19(e) to accommodate a new item control requirement for reactors and ISFSIs.
Reactors licensed under part 50 or part 52 and ISFSIs licensed under part 72.	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.19(a) Recordkeeping. 74.19(b) Written procedures. 74.19(c) Physical inventory. 74.19(d) Retention of records.	New GPOs in 74.3. New requirement for item control in 74.19(d). Existing 74.19(d) would be designated as 74.19(e).
>350 grams of SNM of low strategic significance (also known as Category III facilities). *Current threshold of one effective kilogram would be replaced with 350 grams.*	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.17 Physical inventory summary report. 74.31: (a) GPOs. (b) FNMCP. (c)(1) Management and procedures. (c)(2) Measurement. (c)(3) Measurement control. (c)(4) SEID. (c)(5) Physical inventory. (c)(6) Item control. (c)(7) Shipper-receiver differences. (c)(8) Assessments. (d) Recordkeeping and retention.	74.31(a)(1)–(3) GPOs would be revised and relocated to 74.3. 74.31(b) Replace FNMCP with MC&A Plan. Remove two exemptions related to item control in 74.31(c)(6). New requirement for tamper-safing in 74.31(c)(9). New requirement for MBAs and ICAs and for custodians in 74.31(c)(10).

TABLE 2—NRC'S GRADED, RISK-INFORMED APPROACH TO MATERIAL CONTROL AND ACCOUNTING—Continued

Grams of SNM the licensee is authorized to possess	Current MC&A requirements in 10 CFR Part 74	Proposed changes to strengthen MC&A requirements in 10 CFR Part 74
>350 grams of SNM of low strategic significance for uranium enrichment facilities, (also known as Category III enrichment facilities). *Current threshold of one effective kilogram would be replaced with 350 grams.*	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.17 Physical inventory summary report. 74.33: (a) GPOs. (b) FNMCP. (c)(1) Management and procedures. (c)(2) Measurement. (c)(3) Measurement control. (c)(4) Physical inventory. (c)(5) Detection program. (c)(6) Item control. (c)(7) Shipper-receiver differences. (c)(8) Assessments. (d) Recordkeeping and retention.	74.33(a)(1)–(9) GPOs revised and relocated to 74.3, except for five retained in proposed 74.33(a)(1)–(5). 74.33(b) Replace FNMCP with MC&A Plan. Remove two exemptions related to item control in 74.33(c)(6). New requirement for tamper-safing in 74.33(c)(9). New requirement for MBAs and ICAs and custodians in 74.33(c)(10).
>1000 grams of SNM of moderate strategic significance (there is currently no operating Category II facility or applicant for such a license). *Current threshold of one effective kilogram would be replaced with 1000 grams.*	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.17 Physical inventory summary report. 74.41: (a) GPOs. (b) FNMCP. (c) Checks and balances. 74.43: (b)(1)–(4) Management and procedures. (b)(5)–(6) Item control. (b)(7) Shipper-receiver differences. (b)(8) Assessments. (c)(1) Identification of items. (c)(2) Documenting transfers. (c)(3) Tamper-safing. (c)(4) Validity of prior measurements. (c)(5)–(8) Physical inventory. (d) Recordkeeping and retention. 74.45: (b) Measurements. (c) Measurement control.	74.41(a)(1)–(4) GPOs revised and relocated to 74.3. 74.41(b) Replace FNMCP with MC&A Plan. Remove two exemptions related to item control in 74.43(b)(6). Reword the requirement for tamper-safing in 74.43(c)(3). New requirement for MBAs and ICAs and custodians in 74.43(c)(9).
>5000 grams of formula quantities of strategic SNM (also known as Category I facilities). *Current threshold of five formula kilograms would be replaced with 5000 grams.*	74.11 Reporting loss and theft. 74.13 Material status reports for NMMSS. 74.15 Material transaction reports for NMMSS. 74.17 Physical inventory summary report. 74.51: (a) GPOs. (b) Checks and balances. (c) FNMCP. (d) Bimonthly physical inventory. 74.53 Process monitoring. 74.55 Item monitoring. 74.57 Alarm resolution. 74.59: (a) Quality assurance. (b) Management and procedures. (c) Qualification and training. (d) Measurements. (e) Measurement control. (f) Physical inventory. (f)(2)(i) Tamper-safing. (g) Accounting records retention. (h)(1) Shipper-receiver differences. (h)(2) Scrap control. (h)(3) Checks and balances for human error. (h)(4) Assessments. (h)(5) Custodians.	74.51(a)(1)–(5) GPOs revised and relocated to 74.3, except for three retained in proposed 74.33(a)(1)(i)–(iii). Removed the exemption for irradiated fuel reprocessing plants in 74.51(a). Switching 74.51(b) and (c) for consistency with other sections of part 74. New 74.51(b) Replace FNMCP with MC&A Plan. Reword the requirement for tamper-safing in 74.59(f)(2)(i). Revise the requirement for custodians to include new requirement for MBAs and ICAs in 74.59(h)(5).

E. What are the changes to the general performance objectives?

The existing GPOs in 10 CFR 74.31(a) and 74.33(a) (applicable to licensees of Category III facilities), 74.41(a) (applicable to licensees of Category II facilities), and 74.51(a) (applicable to licensees of Category I facilities) would be revised by consolidating their common provisions into a new 10 CFR 74.3. In addition to being applicable to Category I, II, and III facilities, the 10 CFR 74.3 GPOs would be applicable to reactor licensees and two NRC materials licensees that are authorized to hold more than 350 grams of SNM, but are not Category I, II, or III facilities. The proposed 10 CFR 74.3 GPOs describe activities to deter, detect, or aid in responding to any loss, theft, diversion or misuse of SNM. The existing GPO provisions in 10 CFR 74.31, 74.33, 74.41, and 74.51 would be revised to refer to 10 CFR 74.3, but GPOs that are unique to uranium enrichment facilities and Category I fuel fabrication facilities would be retained in 10 CFR 74.33 and 74.51.

F. Are sealed sources included in the general performance objectives for Category II and III facilities?

Yes. The current exclusion for sealed sources in the 10 CFR 74.31 and 74.41 GPO provisions would be relocated to appendix A (Note 1) to clarify that the sealed sources would not be considered for determining whether a facility is a Category III facility or a Category II facility, respectively. The change would be consistent with the current requirements, which were intended to exclude sealed sources from the material quantity calculations used to determine whether a facility is a Category III facility subject to subpart C requirements, or a Category II facility subject to the subpart D requirements of 10 CFR part 74. However, sealed sources would be within the scope of the proposed 10 CFR 74.3 GPOs. Sealed sources would continue to be subject to a licensee's MC&A program.

G. Why would newly defined terms be added to 10 CFR 74.4?

Certain terms are commonly used by licensees in their internal procedures implementing their MC&A systems, plans and programs, including *accounting, custodian, material control and accounting.* Defining these terms in the NRC's regulations would clarify the requirements and improve understanding of the regulations. Other newly defined terms (*material balance area* and *item control area*) and their related requirements are deemed necessary to strengthen the MC&A requirements at facilities holding significant amounts of SNM, thereby making diversion or misuse of SNM at such facilities less likely.

H. Why would the term ''effective kilograms of special nuclear material'' be removed from 10 CFR part 74?

Doing so would allow quantities of SNM specified in 10 CFR part 74 to be expressed in gram units, which would simplify the accounting requirements and provide consistency with the existing definitions of *formula quantity, special nuclear material of low strategic significance,* and *special nuclear material of moderate strategic significance,* which specify quantities in gram units. The reference to one effective kilogram in the 10 CFR 74.19(b) written MC&A procedures provision would be replaced with a reference to a quantity of SNM greater than 350 grams. This 350-gram amount is referenced in existing 10 CFR 74.19(c) regarding the physical inventory provisions stated there. References to one effective kilogram in the GPO provisions of 10 CFR 74.31, 74.33, and 74.41 would be revised to reference gram units of material. The new appendix A would also use gram units. The effective kilogram term would remain in 10 CFR parts 40, 70, 75, 76, and 110, to ensure the continued effective implementation of the U.S./IAEA Safeguards Agreement.

I. Why would appendix A to 10 CFR part 74 be added?

Appendix A would be added to clarify the definitions and quantities and units of the various categories of SNM. Similar information is provided in existing appendix M to 10 CFR part 110 and would be appended to 10 CFR part 74 as well for the convenience of licensees, the NRC staff, and members of the public. Appendix A would clarify the elements, isotopic composition, and quantities of material that Category I, Category II, and Category III facilities are authorized to possess. Notes would be included to clarify that sealed sources are excluded from the quantity limits that are used to determine the category of a facility. An additional note is included to clarify that spent nuclear fuel is reduced one category level during the period of time that the radiation exposure exceeds 1 Sievert (Sv) per hour (100 rads per hour) at 1 meter, unshielded. Formulae are included to calculate a quantity of material for Category I, Category II, or Category III.

J. Why would references to the MC&A ''system'' be changed to the MC&A ''program,'' and why would ''MC&A plan'' replace ''FNMC plan?''

Portions of existing 10 CFR part 74 that refer to the MC&A ''system'' (e.g., 10 CFR 74.31(c), 74.33(a), and 74.51(a)) would be revised to instead refer to the MC&A ''program.'' The term ''program'' better describes the over-arching, comprehensive set of methods licensees use to control and track SNM, and using ''program'' avoids confusion with the required material measurement systems (e.g., 10 CFR 74.31(c)(2), 74.33(c)(3), and 74.59(d)) that are part of the overall MC&A program. Similarly, existing references to the overall ''system'' capabilities would be changed to ''program'' capabilities. The existing requirements referring to an item control program (e.g., 10 CFR 74.31(c)(6), 74.33(c)(6) and 74.43(b)(5)) would be revised to instead refer to an item control system.

Replacing the existing references to the ''FNMC plan'' with references to an ''MC&A plan'' is necessary in the NRC staff's view because FNMC is an outdated term and does not include accounting. It does not fully describe the accounting aspects of the MC&A program, and is not consistent with the general title of 10 CFR part 74 (''Material Control and Accounting of Special Nuclear Material''). The term MC&A plan is not intended to be an exact name that licensees are required to use and licensees will not be required to change the names of their existing plans.

K. What would change in the reporting requirements to NMMSS, including those that ISFSIs are subject to?

The proposed addition of numbered subsections to 10 CFR 74.13(a) would make these reporting requirements easier to read and understand. The plain language revisions would make no substantive changes to the existing requirements.

The NMMSS reporting requirements for an ISFSI currently in § 72.76 for material status reports and in § 72.78 for nuclear material transaction reports are duplicated in §§ 74.13 and 74.15, respectively. Proposed 10 CFR 74.2 would include existing ISFSIs within the scope of 10 CFR part 74. Accordingly, §§ 72.76 and 72.78 would be removed from 10 CFR part 72. The requirements in § 72.72 for storage of source material (SM) and SNM would be revised to direct a licensee to refer to §§ 40.61 and 40.64 for SM and to subparts A and B in 10 CFR part 74 for SNM.

L. Is a two-person rule included as part of this proposed rule?

No. Earlier in this rulemaking process, the NRC staff developed proposed provisions that would have required Category I, II, and III licensees to have two qualified and authorized individuals present when—

- Tamper-safing devices are applied to SNM containers,
- physical inventories are performed,
- SNM is transferred, and
- SNM that is not under an active control measure is handled.

The Commission in its May 10, 2013, SRM, disapproved publishing the proposed requirements. The SRM stated that the staff could conduct a backfit analysis on the proposed two-person rule or, to avoid a significant delay in publishing this MC&A rule for comment, remove these provisions and consider a two-person rule in a separate future MC&A rulemaking effort. Interested members of the public will have the opportunity to comment on a two-person rule in any such future rulemaking.

M. Why would requirements be added to designate material balance areas, item control areas, and custodians?

The added MC&A requirements would strengthen and specifically define the terms for MBA, ICA, and custodians. The added requirements would be consistent in requiring licensees under subparts C, D, and E to designate MBAs and ICAs and custodians for these areas. The terms are widely used in the regulated community and 10 CFR part 74 would be clarified by setting forth the specific definition for the terms in 10 CFR 74.4. A licensee would be required to designate MBAs, ICAs, and assign custodial responsibilities for these areas to provide internal controls to deter or detect any diversion or misuse of SNM at the licensee's facility.

N. Why would calendar days be inserted into 10 CFR part 74?

To clarify 10 CFR part 74, references to due dates and reporting frequencies would be made more uniform by expressing most timeframes in calendar days. Using calendar days avoids the existing uncertainty over whether weekends and holidays are counted in determining whether or not a licensee has taken timely action. The proposed clarifications are intended to make 10 CFR part 74 more internally consistent with existing 10 CFR 74.33(c)(4), which requires that annual static physical inventories be taken ''at least every 370 calendar days.'' Existing 10 CFR part 74 provisions referencing 6-month intervals would be changed to ''185 calendar days.''

O. Would the implementation guidance documents be updated for the MC&A program?

The following guidance documents would be revised and updated in conjunction with the rulemaking effort. In addition, a guidance document for Category II facilities (SNM of Moderate Strategic Significance) would be updated and issued with the following existing guidance documents. All revised NUREG guidance documents will be available for public comment in parallel with the scheduled publication of the proposed rule.

i. NUREG–1280, ''Standard Format and Content Acceptance Criteria for the MC&A Reform Amendment,''

ii. NUREG–1065, ''Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Facilities,''

iii. NUREG/CR–5734, ''Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities,''

iv. NUREG/BR–0096, ''Instructions and Guidance for Completing Physical Inventory Summary Report.''

P. Would there be changes for item controls or physical inventories?

Subpart B in 10 CFR part 74 would be revised to include a new requirement in 10 CFR 74.19(d) that licensees of power reactors and ISFSIs must establish, document, implement, and maintain an item control system (as would be defined in 10 CFR 74.4).

Some of the current exemption provisions for item controls would be removed. Specifically, the exemption provisions in 10 CFR 74.31(c)(6), 74.33(c)(6)(ii) and 74.43(b)(6) for items existing 14 days or less in Category III and II facilities would be removed. The 14-day exemption was put in the current regulations at a time when most Category III licensees did not have computer inventory controls and instead relied on manual ledger entries. In other words, the current regulation aligned the risk with what the licensees could do in a production environment.

However, over the last several years, licensees have implemented business systems that track SNM containing items through the use of bar codes and entries to computer systems. This has had the secondary benefit of giving these licensees the ability to track individual items and total inventory in near real time. Licensees have demonstrated this ability numerous times during inspections by the NRC staff.

Current requirements in 10 CFR part 74 recognize the importance of conducting timely inventories and reporting the results by requiring the reporting of shipments and receipts of a gram or more of material in 10 days (see 10 CFR 74.15) and through the reporting of lost, stolen, or diverted SNM of a gram or more within one hour (10 CFR 74.11). Inspections performed by the NRC have identified cases where there were ''near-misses'' associated with current exemptions. Removal of the exemptions from the item control requirements would align this regulation with other requirements in 10 CFR part 74 to better ensure accurate SNM item bearing inventories. These proposed regulatory changes are not expected to impact licensees significantly since licensees have in-house systems that track such items in near real time.

Additionally, for Category III facilities, the exemption provisions (in 10 CFR 74.31(c)(6) and 74.33(c)(6)(ii)) for individual items each containing less than 500 grams of uranium-235, up to a total of 50 kilograms of uranium-235, would be removed. For a Category II facility, the exemption (in 10 CFR 74.43(b)(6)) for individual items containing less than 200 grams of plutonium or uranium-233; or 300 grams or more of uranium-235 up to a cumulative total of one formula kilogram of strategic SNM; or 17 kilograms of uranium-235 contained in uranium enriched to 10 percent or more but less than 20 percent in the uranium-235 isotope, would be removed. These exemptions were identified for removal in SECY–08–0059. Item control requirements that exclude kilogram amounts of SNM are not consistent with protection of the common defense and security.

Q. Why would an exception be added to 10 CFR 74.15(b)(2)?

The exception from performing independent tests when receiving unirradiated fuel rods or unirradiated fuel assemblies would be included to clarify the requirement for licensees under 10 CFR part 50 or 52. Similarly the requirement would be clarified for a licensee under 10 CFR part 70 receiving SNM contained in a sealed source that will not be opened. The NRC inspection program has indicated that a licensee will typically verify the contents of such shipments by reviewing the shipping papers and visual inspection of the

material because independent testing (e.g., destructive testing or sampling) is impractical for determining the contents of the shipment being received.

R. Are there any cumulative effects of regulation associated with this rule?

Cumulative effects of regulation (CER) describe the challenges that licensees or other impacted entities (such as State partners) face while implementing new regulatory positions, programs, or requirements (e.g., rules, generic letters, backfits, inspections). The CER are organizational effectiveness challenges that result from a licensee or impacted entity implementing a number of complex regulatory positions, programs or requirements within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The CER can potentially distract licensee or entity staff from executing other primary duties that ensure safety or security.

The NRC is specifically requesting comment on the cumulative effects of this rulemaking. In developing comments on CER, consider the following questions:

i. In light of any current or projected CER challenges, would an effective date 6 months from the date the final rule is published in the **Federal Register** provide sufficient time to implement the new proposed requirements?

ii. If current or projected CER challenges exist, what should be done to address this situation (e.g., if more time is required to implement the new requirements, what period of time would be sufficient)?

iii. Do other regulatory actions (e.g., orders, generic communications, license amendment requests, and inspection findings of a generic nature) influence the implementation of the proposed requirements?

iv. Are there unintended consequences? Does the proposed rule create conditions that would be contrary to the proposed rule's purposes and objectives? If so, what are the unintended consequences and how should they be addressed?

v. Please comment on the NRC's cost and benefit estimates in the regulatory analysis that supports this proposed rule.

S. What should I consider as I prepare my comments to the NRC?

When submitting your comments, remember to:

i. Identify the rulemaking (RIN 3150–AI61; NRC–2009–0096).

ii. Explain why you agree or disagree; suggest alternatives and substitute language.

iii. Describe any assumptions and include technical information or data that you used.

iv. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

v. Provide specific examples to illustrate your concerns, and suggest alternatives.

vi. Explain your views as clearly as possible.

vii. Submit your comments by the comment period deadline identified.

viii. The NRC is particularly interested in your comments concerning the issues in Sections II and III of this document about item controls, designating MBAs, ICAs and custodial responsibilities for these areas. Section VIII, Agreement State Compatibility, of this document contains a request for comment on the compatibility designations for the proposed rule; Section IX, Plain Writing, contains a request for comments on the use of plain language; Section XI, Environmental Assessment and Finding of No Significant Environmental Impact Availability, contains a request for comments on the draft environmental assessment; Section XII, Paperwork Reduction Act Statement, contains a request for comments on the information collection requirements; Section XIII, Regulatory Analysis, contains a request for comments on the draft regulatory analysis; and Section XIV, Regulatory Flexibility Certification, contains a request for comments on the impact of the proposed rule on small businesses.

V. Discussion of Proposed Amendments by Section

Section 40.64 Reports.

Paragraphs (b)(1) and (2) would be revised to remove the reference to 10 CFR part 72.

Section 70.32 Conditions of licenses.

Paragraphs (c)(1)(i) and (iii) would be revised to replace the reference to § 74.51(c) with § 74.51(b). These sections were revised to provide consistent organization for subparts C, D, and E in 10 CFR part 74 and a conforming change would be completed in 10 CFR 70.32(c)(1)(i) and (iii).

Section 72.9 Information collection requirements: OMB approval.

The NRC proposes to remove §§ 72.76 and 72.78 from the list of approved information collections in § 72.9.

Section 72.72 Material control and accounting requirements for source material and special nuclear material.

The title of the section would be revised from ''Material balance, inventory, and records requirements for stored materials'' to ''Material control and accounting requirements for source material and special nuclear material.'' Paragraph (a) would be revised to only reference requirements for source material, and would reference §§ 40.61 and 40.64 in this regard. The remainder of existing § 72.72 (a), (b), (c), and (d) would be removed because these requirements are duplicated in 10 CFR part 74. As previously discussed, the § 74.2 scoping provisions would be revised to include ISFSIs.

New paragraph (b) would reference MC&A requirements for SNM in 10 CFR part 74.

Section 72.74 Reports of accidental criticality.

The title of this section would be revised from ''Reports of accidental criticality or loss of special nuclear material'' to ''Reports of accidental criticality.'' Paragraph (a) would be revised to remove the requirement that any loss of SNM be reported within 1 hour of discovery. The ISFSIs would be subject to 10 CFR 74.11(a) with regard to any loss of SNM that must be reported within 1 hour of discovery. Section 72.74 would retain its reporting requirement for accidental criticality.

Paragraph (b) would be revised to state that required one-hour notifications be made to the NRC Headquarters Operations Center via any available telephone system. The outdated reference to the Emergency Notification System would be removed.

Section 72.76 Material status reports.

This section would be removed and reserved, and § 72.9 would be changed accordingly.

Section 72.78 Nuclear material transaction reports.

This section would be removed and reserved, and § 72.9 would be changed accordingly.

Section 74.2 Scope.

The last sentence of paragraph (a) would be revised to bring licensees who possess spent nuclear fuel at ISFSIs within the scope of the MC&A reporting and recordkeeping requirements in 10 CFR part 74.

Section 74.3 General performance objectives.

This section would be added to require a licensee authorized by the NRC to possess SNM in a quantity greater than 350 grams to implement and maintain an MC&A program that achieves the general performance objectives listed in paragraphs (a) through (e).

Section 74.4 Definitions.

This section would be revised to remove the definition, *Effective kilograms of special nuclear material.* This section would be revised to add, in alphabetical order, definitions for the following terms: *Accounting, Custodian, Item control area, Item control system, Material balance area, and Material control and accounting.* The definitions of the following terms would be revised to conform with the existing definitions of these terms in 10 CFR parts 70 and 73, and to refer to appendix A of this part: *Formula quantity, Special nuclear material of low strategic significance,* and *Special nuclear material of moderate strategic significance.*

Section 74.11 Reports of loss or theft or attempted theft or unauthorized production of special nuclear material.

Paragraph (b) would be revised to state that required licensee notifications be made to the NRC Headquarters Operations Center via any available telephone system within 1 hour of the event, and an outdated reference to the Emergency Notification System would be removed.

Section 74.13 Material status reports.

As discussed further in the following paragraph, plain language revisions would be made to paragraph (a) by specifying eight numbered requirements, and new paragraphs (b), (c), and (e) would be added. Existing paragraph (b) would be designated as paragraph (d).

Paragraph (a)(1) through (8) would specify deadlines by which various sets of licensees would be required to submit their material balance reports and physical inventory listing reports.

Paragraph (b) would include the reporting instructions that are in existing § 74.13(a), and would include references to the reporting forms (NUREG/BR–0007 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees'') referenced in existing § 74.13(a).

Paragraph (c) would retain the provision in existing § 74.13(a) that the reports may be submitted at other times for good cause with prior NRC approval.

As indicated previously, paragraph (d) restates the existing § 74.13(b) provision regarding reports required under section 75.35 of this chapter (pertaining to implementation of the U.S./IAEA Safeguards Agreement).

Paragraph (e) would retain the requirement in existing § 74.13(a) regarding the resolution of any discrepancies identified during the report review.

Section 74.15 Nuclear material transaction reports.

Paragraph (b)(2) would be revised by adding an exception that independent testing is not required for receipt of unirradiated fuel rods, unirradiated fuel assemblies, or sealed sources containing SNM that will not be opened.

Section 74.19 Recordkeeping, procedures, item controls, and physical inventories.

This section's title would be revised to reference written MC&A procedures, item controls, and physical inventories.

As previously discussed, paragraph (b) would be revised to replace its reference to a quantity of SNM ''exceeding one effective kilogram'' with ''a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof.''

Paragraph (d) would be re-designated as paragraph (e) and a new paragraph (d) would be added to require reactor facilities licensed under 10 CFR part 50 or 52 and ISFSIs licensed under 10 CFR part 72 to establish, document, implement, and maintain an item control system. A definition of the term *item control system* would be added to 10 CFR part 74.4.

Section 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

The general performance objectives applicable to licensees of Category III fuel fabrication facilities would be set forth in proposed § 74.3 as previously discussed. Revised § 74.31(a)(1) would incorporate the § 74.3 performance objectives by reference, thereby replacing the performance objectives set forth in existing § 74.31(a)(1)–(3). Proposed paragraph (a)(2) would retain elements of the exemption in existing § 74.31(a) applicable to production or utilization facilities, and any licensee operations involving waste disposal. Proposed paragraph (a)(2) would add an exemption for ISFSIs, thereby making it consistent with existing § 74.51(a).

Paragraph (b) would be revised by replacing the reference to ''a fundamental nuclear material control (FNMC) plan'' with a reference to ''a MC&A plan.'' The plan would need to achieve the general performance objectives in § 74.3, and meet the program capability requirements set forth in revised § 74.31(c).

The introductory language of paragraph (c) would be revised to state that the MC&A plan must: Include the capabilities described in paragraphs (c)(1) through (10); and achieve the performance objectives in § 74.3. The title of paragraph (c) would be changed from ''System capabilities'' to ''Program capabilities.'' Grammatical errors in existing paragraphs (c)(1) through (3) would be corrected. Paragraph (c)(4) would be clarified to state the standard error as the standard error of the inventory difference (SEID). The paragraph (c)(5) physical inventory timing provisions would be clarified by changing ''60 days'' to ''60 calendar days,'' and grammatical errors in the existing text would be corrected. Paragraph (c)(6) would be revised by referencing the item control system defined in § 74.4. The 14-day provision in the first sentence of the existing requirement would be removed. The reference to detecting ''unauthorized removals of substantial quantities of material from items'' in the second sentence would be changed to require detecting the removal of ''any quantity of material.'' In the third sentence, the existing exemption from the detection requirements for ''items individually containing less than 500 grams of uranium-235 up to a total of 50 kilograms of uranium-235'' would be removed. The wording of paragraph (c)(7) would be revised to state as follows: ''Conduct and document shipper-receiver difference comparisons for all SNM receipts on a total shipment basis, and on an individual batch basis when required by 10 CFR part 75 of this chapter, and ensure that any shipper-receiver difference that is statistically significant and exceeds twice the estimated standard deviation of the difference estimator and 500 grams of uranium-235 is investigated and resolved.'' Paragraph (c)(8) would be revised by referencing the MC&A ''program'' rather than the MC&A ''system.'' Paragraphs (c)(9) and (10) would be added to require that the MC&A program include, respectively, tamper-safing procedures and the designation of material balance areas, item control areas, and custodians responsible for these areas.

Section 74.33 Nuclear material control and accounting for uranium enrichment facilities authorized to produce special nuclear material of low strategic significance.

The general performance objectives applicable to Category III uranium enrichment facilities would be set forth in proposed § 74.3 as previously discussed, and revised § 74.33(a) would reflect this. The general performance objectives stated in existing paragraphs (a)(1) through (9) would be replaced by new paragraphs (a)(1) through (4), which would only reference source material. These general performance objectives would parallel those set forth in proposed § 74.3, which would apply only to SNM. New paragraph (a)(5) retains elements of existing paragraph

(a)(8), and retains the exemption for centrifuge enrichment facilities stated in existing (a)(5).

Paragraph (b) would be revised by replacing the reference to ''a fundamental nuclear material control (FNMC) plan'' with a reference to ''an MC&A plan.'' The plan would need to achieve the general performance objectives in § 74.3, the performance objectives in paragraph (a) as previously discussed, and meet the program capability requirements set forth in revised § 74.33(c).

The introductory language of paragraph (c) would be revised to state that the MC&A plan must: Include the capabilities described in paragraphs (c)(1) through (10); and achieve the performance objectives (as previously referenced). The title of paragraph (c) would be changed from ''System features and capabilities'' to ''Program capabilities.'' Existing paragraphs (c)(1) through (2) would remain unchanged. Paragraph (c)(3)(ii) would be clarified to include the acronym SEID in a parenthetical. Paragraph (c)(4)(i) would be clarified by changing ''65 days'' to ''65 calendar days.'' Paragraph (c)(4)(ii) would be clarified by changing ''60 days'' to ''60 calendar days,'' and a grammatical correction to the existing regulatory text would be made. Paragraph (c)(5) would be revised by adding ''resolving'' at the end of the introductory sentence, to read, ''A detection program, independent of production, that provides high assurance of detecting and resolving.'' Paragraph (c)(6) would be revised by deleting (c)(6)(i) and (ii). Paragraph (c)(6) would instead reference the item control system defined in § 74.4. The requirement to have such an item control system replaces the existing § 74.33(c)(6)(i) requirement. The reference to detecting the ''unauthorized removal of 500 grams or more of uranium-235'' in existing § 74.33(c)(6)(ii) would be changed to require detecting the removal of ''any quantity of uranium-235.'' The existing exemption in § 74.33(c)(6)(ii) from the detection requirements for items containing ''less than 500 grams of uranium-235 up to a cumulative total of 50 kilograms of uranium-235,'' and for items that ''exist for less than 14 calendar days,'' would be removed. This exemption would be replaced with a provision exempting items in solution with a concentration of less than 5 grams per liter, and waste items destined for burial or incineration (the proposed wording here tracks the portion of the § 74.31(c)(6) exemption that is being retained). Paragraph (c)(7) would be clarified to state the requirements to conduct and document shipper-receiver difference comparisons for all SM and SNM receipts on a total shipment basis and on an individual batch basis when required by 10 CFR part 75 of this chapter, and that any shipper-receiver difference that is statistically significant and exceeds twice the estimated standard deviation of the difference and 500 grams of uranium-235 must be investigated and resolved. Paragraph (c)(8) would be revised by referencing the MC&A ''program'' rather than the MC&A ''system.'' Paragraphs (c)(9) and (10) would be added to require that the MC&A program include, respectively, tamper-safing procedures and the designation of MBAs, ICAs, and custodians responsible for these areas.

Section 74.41 Nuclear material control and accounting for special nuclear material of moderate strategic significance.

The general performance objectives applicable to Category II facilities would be set forth in proposed § 74.3 as previously discussed. Revised § 74.41(a)(1) would incorporate the § 74.3 performance objectives by reference, thereby replacing the performance objectives set forth in existing § 74.41(a)(1) through (4). Proposed paragraph (a)(2) would retain elements of the exemption in existing § 74.41(a) applicable to production or utilization facilities, licensees using reactor irradiated fuels for research purposes, and any licensee operations involving waste disposal.

Paragraph (b) would be revised by replacing the reference to ''a fundamental nuclear material control (FNMC) plan'' with a reference to ''an MC&A plan.'' The plan would need to achieve the general performance objectives in § 74.3, meet the program capability requirements set forth in § 74.41(c), and the requirements of §§ 74.43 and 74.45 as previously discussed. The title of paragraph (b) would be changed from ''Implementation schedule'' to ''Implementation,'' and the existing paragraphs (b)(1) and (2) would be consolidated into a single paragraph consistent with the format used in existing § 74.31(b).

Paragraph (c) would be revised by changing its title from ''System capabilities'' to ''Program capabilities.'' The reference in existing § 74.41(c) to the ''MC&A system'' would be changed to the ''MC&A plan,'' which must achieve the performance objectives in § 74.3, and include the capabilities described in §§ 74.43 and 74.45. The existing § 74.41(c)(1) and (2) checks and balances requirements remain the same.

Section 74.43 Internal controls, inventory, and records.

Paragraph (b)(3) would be revised to replace the title, ''FNMC plan'' with ''MC&A plan.'' Paragraph (b)(5) would be revised by replacing the term ''item control program'' with ''item control system'' as newly defined in § 74.4. The current paragraphs (b)(5)(i) and (b)(5)(ii) would be consolidated into proposed paragraph (b)(5). The current detection requirement in paragraph (5)(ii) would be revised to require the detection of ''unauthorized removals of individual items or any quantity of material (as defined in § 74.4) from items,'' replacing the existing reference to the ''unauthorized removal of 200 grams or more of plutonium or uranium-233 or 300 grams or more of uranium-235, as one or more whole items and/or as SNM removed from containers.'' Paragraph (b)(6) would be revised to replace the exemptions stated in the current requirement. Only ''items in solution with a concentration of less than 5 grams of U–235 per liter, and items of waste destined for burial or incineration'' would be exempt from the detection requirements described previously. The reference to ''shipper-receiver comparisons'' in existing paragraph (b)(7) would be clarified to state ''shipper-receiver difference comparisons.''

Paragraph (c)(3) would be clarified by removing the phrases, ''if tamper-safe seals are to be used for assuring the validity of prior measurements,'' and ''showing the date and time of seal application.'' These changes are proposed so that the tamper-safing requirements in subparts C, D, and E of 10 CFR part 74 will be worded in a consistent manner. Paragraph (c)(9) would be added to provide requirements that the MC&A plan capabilities must include the designation of MBAs, ICAs, and assigning custodial responsibilities for these areas.

Paragraph (d)(5) would be revised to refer to the performance objectives of proposed §§ 74.3 and 74.41(a)(1), as its current reference to § 74.41(a)(1) through (4) would no longer be accurate if the proposed changes to § 74.41(a) are made.

Section 74.45 Measurements and measurement control.

Paragraph (c)(4) would be clarified by spelling out the acronym SEID as the ''standard error of the inventory difference.''

Section 74.51 Nuclear material control and accounting for strategic special nuclear material.

The general performance objectives applicable to Category I facilities would

be set forth, in part, in proposed § 74.3 as previously discussed. Revised § 74.51(a)(1) would incorporate the § 74.3 performance objectives by reference. Additionally, proposed § 74.51(a)(1)(i) through (iii) would set forth the performance objectives stated in existing § 74.51(a)(2) through (4).

Proposed paragraph (a)(2) would retain the exemptions in existing § 74.51(a) applicable to production or utilization facilities, ISFSIs, and any licensee operations involving waste disposal, but would remove the exemption for an irradiated fuel reprocessing plant. The removal of this exemption is in accordance with the NRC staff's recommendation in its regulatory framework gap analysis for irradiated fuel reprocessing documented in SECY–09–0082. The licensee of any future irradiated fuel reprocessing facility would likely be authorized to possess quantities of strategic SNM that need to be subject to the highest level of MC&A safeguards and security requirements, to ensure that this material would be adequately protected.

To make the organization of requirements for Category I and Category III fuel fabrication facilities more consistent, changes in existing 10 CFR 74.51(b) and (c) are proposed, which would align the format with that used in existing 10 CFR 74.31(b) and (c). Thus, 10 CFR 74.51(b) would be retitled, ''Implementation,'' and would contain elements of existing 10 CFR 74.51(c). Proposed 10 CFR 74.51(b) would refer to an ''MC&A plan'' rather than a ''FNMC plan,'' for the reasons previously discussed. The MC&A plan would need to achieve the general performance objectives in §§ 74.3 and 74.51(a), and meet the requirements of §§ 74.53, 74.55, 74.57, and 74.59.

Proposed 10 CFR 74.51(c) would be retitled, ''Program capabilities,'' and would contain elements of existing § 74.51(b). In addition to the MC&A plan requirements discussed in revised 10 CFR 74.51(b), 10 CFR 74.51(c) would require that the plan incorporate checks and balances that are sufficient to detect falsification of data and reports that could conceal diversion of SNM or strategic SNM (SSNM). A plain language change to simplify paragraph (c)(1) would revise ''An individual'' to ''A single individual.'' A plain language change to simplify paragraph (c)(2) would revise ''Collusion between an individual with MC&A responsibilities and another individual who has responsibility or control within both the physical protection and the MC&A systems'' to ''Collusion between two individuals, one or both of whom have authorized access to SNM or SSNM.''

Section 74.51(d) would be revised to replace ''FNMC'' plan with ''MC&A'' plan. Additionally, the times to perform physical inventories would be expressed in terms of calendar days.

Section 74.53 Process monitoring.

Paragraph (a)(3) would be clarified to replace ''a consecutive three-month period'' with ''a period of 95 calendar days.''

Paragraph (a)(4) would be clarified to replace ''any seven-consecutive-day period'' with ''a period of 7 calendar days.''

Paragraph (c)(1) would be clarified to replace ''monthly'' with ''at intervals not to exceed 30 calendar days.''

Section 74.57 Alarm resolution.

Paragraph (c) would be revised to replace ''fundamental nuclear material control plan'' with ''MC&A plan.''

Section 74.59 Quality assurance and accounting requirements.

In paragraph (e)(7), the requirement to correct SSNM measurement differences ''accumulated over a six-month period'' would be clarified to instead reference ''a period not to exceed 185 calendar days.''

In paragraph (f)(1), the requirement to perform a physical inventory ''every six calendar months'' would be clarified to instead reference ''every 185 calendar days,'' and ''45 days'' would be clarified to specify ''45 calendar days.'' The paragraph (f)(2)(i) tamper-safing provision would be revised by adding at its end the phrase ''and that include control of access to, and distribution of, unused seals and records,'' in order to make this provision consistent across subparts C, D, and E of 10 CFR part 74.

With respect to required internal controls regarding how frequently scrap material must be measured, paragraph (h)(2)(ii) would be clarified by replacing ''six months'' with ''185 calendar days.'' Paragraph (h)(5) would be revised by adding at its beginning a requirement to designate MBAs and ICAs, in order to make this provision consistent across subparts C, D, and E of 10 CFR part 74.

Appendix A to 10 CFR Part 74—Categories of Special Nuclear Material.

Appendix A would be added to provide a table stating the elements, isotopic composition, and quantities of material that Category I, Category II, and Category III facilities are authorized to possess. Notes are included to state that sealed sources are excluded from the quantity limits in the table and that spent nuclear fuel is reduced one category level during the period of time that the radiation exposure exceeds 1 Sv per hour (100 rads per hour) at 1 meter, unshielded. Formulae are included to calculate a quantity of SSNM for Category I, Category II, or Category III.

Section 150.17 Submission to Commission of nuclear material status reports.

The requirements in paragraph (a) would be clarified by arranging the requirements into numbered subsections (a)(1), (2), (3), and (4). The revised introductory paragraph would clarify the requirement to submit both a Material Balance Report and a Physical Inventory Listing Report to the NMMSS in accordance with the instructions in paragraph (a)(1). The reports would be due between January 1 and March 31 of each year.

Paragraph (a)(1) would include the reporting instructions that are in the current requirements in paragraph (a) and would state that individual reports must be prepared for each Reporting Identification Symbol account using the information in NUREG/BR–0007 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees.'' Paragraph (a)(2) would include the provision that is currently in paragraph (a) stating that the NRC may permit reports to be submitted at other times for good cause. Paragraph (a)(3) would include the statement in existing paragraph (b) regarding the submittal of reports under 10 CFR 75.35 (pertaining to implementation of the U.S./IAEA Safeguards Agreement). Paragraph (a)(4) would include the requirement that is currently in paragraph (a) that a licensee must resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of being notified of a discrepancy identified by the NRC.

Paragraph (b)(1) would be revised to remove the reference to 10 CFR part 72, and paragraph (b)(2) would also be revised to remove the reference to 10 CFR part 72.

VI. Availability of Documents

The following table indicates the proposed rule and some related background documents that are available to the public and how they may be obtained. See the information contained in the Accessing Information and Submitting Comments section of **SUPPLEMENTARY INFORMATION** on the physical locations and Web sites where the documents may be accessed.

Document	PDR	Web	NRC Library (ADAMS)
''Draft Environmental Assessment and Finding of No Significant Impact for the Proposed Rule Amending 10 CFR Parts 40, 70, 72, 74, and 150; Amendments to Material Control and Accounting Regulations''.	X	X	ML13228A222
''Draft Regulatory Analysis for Proposed Rule: Amendments to Material Control and Accounting Regulations (10 CFR part 74)''.	X	X	ML13228A223
SECY–08–0059, ''Rulemaking Plan: Party 74—Material Control and Accounting of Special Nuclear Material''	X	X	ML080580307
Staff Requirements Memorandum (SRM) for SECY–08–0059	X	X	ML090360473
SECY–09–0082, ''Update on Reprocessing Regulatory Framework—Summary of Gap Analysis''	X	X	ML091520280

VII. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act of 1954, as amended (AEA), the Commission is proposing to amend 10 CFR parts 40, 70, 72, 74, and 150 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

VIII. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement States Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), the regulations affected by this rulemaking are classified as compatibility Category ''NRC.'' The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA, or the provisions of 10 CFR, and cannot be relinquished to the Agreement States. Thus, States should not adopt these program elements.

IX. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

X. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would revise and consolidate requirements for MC&A in 10 CFR part 74. The NRC is not aware of any comprehensive voluntary consensus standards that address the proposed subject matter of this proposed rule. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified. If a voluntary consensus standard is identified for consideration, the submittal should explain why the standard should be used.

XI. Environmental Assessment and Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not have any significant environmental impacts, and therefore this rulemaking does not warrant the preparation of an environmental impact statement. The proposed rule pertains to MC&A program requirements, which consist of administrative procedures and operations to track and control SNM and related information, in order to deter and detect any loss, theft, diversion, or unauthorized production of nuclear material. As the proposed amendments pertain to information collection and reporting requirements, adopting them would have no significant impact on the quality of the human environment. The draft environmental assessment, entitled ''Draft Environmental Assessment and Finding of No Significant Impact for the Proposed Rule Amending 10 CFR Parts 40, 70, 72, 74, And 150; Amendments to Material Control and Accounting Regulations,'' can be found at ADAMS Accession No. ML12291A792.

XII. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements contained in 10 CFR parts 72 and 74 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). These information collection requirements have been submitted to the Office of Management and Budget (OMB) for review and approval. The proposed changes to 10 CFR parts 40, 70, and 150 do not contain new or amended information collection requirements. Existing requirements were approved by the OMB, approval numbers 3150–0132 and 3150–0123.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste'' and 10 CFR part 74, ''Material Control and Accounting of Special Nuclear Material.''

The form number if applicable: U.S. Department of Energy (DOE)/NRC Form 741, ''Nuclear Material Transaction Report,'' DOE/NRC Form 742, ''Material Balance Report,'' and DOE/NRC Form 742C, ''Physical Inventory Listing.''

How often the collection is required: Licensee timeframes for reporting to the NRC have not changed for NRC Forms 741, 742, and 742C. Licensees under subparts B and C of 10 CFR part 74 would submit reports within 60 calendar days after the start of the physical inventory covered by the reports, at intervals not to exceed 370 calendar days or 12 months. Licensees under subpart D of 10 CFR part 74 would submit reports within 60 calendar days after the start of the physical inventory covered by the reports, at intervals not to exceed 9 months. Licensees under subpart E of 10 CFR part 74 would be required to submit reports within 30 calendar days after the start of the physical inventory covered by the reports, at intervals not to exceed 65 calendar days until performance acceptable to the NRC has been demonstrated and the Commission has issued formal approval to perform physical inventories at intervals not to exceed 185 calendar days. Forms are also submitted when a nuclear material transaction is made.

Who will be required or asked to report: Persons licensed under 10 CFR parts 50, 52, 70, 72, and 76 who possess and use certain forms and quantities of SNM.

An estimate of the number of annual responses: 68 responses (0 reporting responses + 68 record keepers).

The estimated number of annual respondents: 68.

An estimate of the total number of hours needed annually to complete the requirement or request: 1,213 hours (0 hours reporting plus 1,213 hours recordkeeping).

Abstract: The NRC is proposing to amend its regulations to revise and consolidate the requirements for MC&A of SNM in 10 CFR part 74. The proposed amendments relocate the NMMSS-related reporting requirements for a licensee operating an ISFSI from 10 CFR part 72 to 10 CFR part 74; however, no changes have been made to the reporting requirements for NRC Forms 741, 742, or 742C. The proposed rule would change recordkeeping requirements in subparts B, C, and D. The reactor licensees have already implemented item control systems to document, control, and account for discrete items and thus would not be impacted by the proposed requirement. The ISFSI licensees would be impacted by the proposed item control requirement. Licensees under subpart C would include currently exempted items in their item controls. Currently there is no licensee operating a facility under subpart D.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

The public may examine and have copied, for a fee, publicly available documents, including the OMB supporting statement, at the NRC's PDR, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available on the NRC's Web site, *http://www.nrc.gov/public-involve/doc-comment/omb/index.html,* for 60 days after the signature date of this document.

Send comments on any aspect of these proposed regulations related to information collections, including suggestions for reducing the burden and on the previously stated issues, by December 9, 2013 to the Information Services Branch (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *Infocollects.Resource@NRC.gov* and to the Desk Officer, Chad Whiteman, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0132 and 3150–0123), Office of Management and Budget, Washington, DC 20503. Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone to (202) 395–4718. Comments on the proposed information collections may also be submitted via the Federal rulemaking Web site *http://www.regulations.gov,* Docket ID NRC–2009–0096. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XIII. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comment on the draft regulatory analysis (RA), which can be found at ADAMS Accession No. ML13228A223.

XIV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The majority of companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

The NRC is seeking public comment on the potential impact of the proposed rule on small entities. The NRC particularly desires comment from licensees who qualify as small businesses, specifically as to how the proposed regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety and common defense and security. Comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss:

(a) The size of the business and how the proposed regulation would result in a significant economic burden upon it as compared to a larger organization in the same business community;

(b) How the proposed regulation could be further modified to take into account the business' differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter;

(d) How the proposed regulation, as modified, would more closely equalize the impact of the NRC's regulations as opposed to providing special advantages to any individuals or groups; and

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety and common defense and security.

XV. Backfitting and Issue Finality

The NRC has determined that the NRC's backfitting and issue finality regulations in 10 CFR 50.109, 70.76, 72.62, 76.76, and in 10 CFR part 52, do not apply to this proposed rule because this amendment would not involve any provisions that are subject to these backfitting and issue finality provisions. The proposed rule addresses MC&A programs, which consist of administrative procedures and operations to track and control SNM and related information to deter and detect any loss, theft, diversion, or unauthorized production of nuclear material. The NRC regards MC&A requirements as constituting information collection and reporting requirements. The NRC has long taken the position that information collection and reporting requirements are not subject to the NRC's backfitting and issue finality regulations, as reflected in past MC&A rulemakings published in the **Federal Register** (*e.g.,* 56 FR 55991; October 31, 1991, 67 FR 78130; December 23, 2002, and 73 FR 32453; June 9, 2008). The remainder of this section discusses the NRC's bases for determining that MC&A activities are information collection and reporting requirements.

There are several bases for the NRC's determination that MC&A activities required by 10 CFR part 74 are information collection and reporting requirements. First, several of the existing general provisions in 10 CFR part 74, subpart A, indicate that 10 CFR part 74 includes information collection and reporting requirements. For example, 10 CFR 74.1, *Purpose,* states

that the requirements in 10 CFR part 74 address ''the *control and accounting* of special nuclear material at fixed sites and for *documenting* the transfer of special nuclear material,'' and include general ''*reporting requirements''* (*emphases added*). This focus on information collection and reporting requirements is further emphasized by the current language of paragraph (a) of 10 CFR 74.2, *Scope,* which states, ''The general *reporting and recordkeeping requirements of subpart B* . . . apply to each person licensed under this chapter . . . (*emphasis added*).'' Similarly, § 74.2(c) states that the regulations in 10 CFR part 74 ''establish procedures and criteria for *material control and accounting* for the issuance of a certificate of compliance or the approval of a compliance plan'' (*emphasis added*).

The proposed revisions to 10 CFR part 74 subpart A do not change the purpose and scope of 10 CFR part 74. The proposed addition to 10 CFR 74.2(a) states that the general *reporting and recordkeeping requirements of subpart B* of this part also apply to licensees who possess spent nuclear fuel at independent spent fuel storage installations [*emphasis added].* Paragraph (b) of proposed § 74.3 states, ''In addition, specific *control and accounting* requirements are included in subparts C, D and E for certain licensees. . .'' (*emphasis added*).

Given the language in the preceding paragraphs referencing the existing and proposed provisions of 10 CFR part 74, the NRC believes that the primary issue—from the standpoint of backfitting and issue finality—is whether MC&A requirements may reasonably be deemed ''information collection and reporting'' requirements. In the NRC's view, the answer is in the affirmative. Required MC&A actions represent a systematic approach for ensuring that information about SNM at a facility is accurate, which in turn, helps achieve the objective of ensuring that items containing SNM are not lost, stolen, diverted, or misused through human error, or because of deliberate acts of malfeasance. *Item* is a defined term in 10 CFR part 74, and means ''any discrete quantity or container of SNM or source material, not undergoing processing, having an unique identity and also having an assigned element and isotope quantity.'' The systematic approach for managing items under 10 CFR part 74 has two aspects: *accounting* for items of material; and maintaining *control* over such items.

The concept of material *accounting* is reflected in the proposed definition of *accounting* that would be added to 10 CFR 74.4 to read as follows: *Accounting* means a system that documents the quantities of SNM held on current inventory by the licensee, and includes tracking of receipts, shipments, and measured discards, and transfers of SNM. Material accounting constitutes the principles, processes and procedures for collecting and maintaining accurate information and records on the nature and quantities of SNM within the licensee's control. By *accurate* information and records, the NRC means that the information has been collected and maintained in a manner that minimizes the possibility of human error or deliberate acts of malfeasance affecting the accuracy and quality of the information.

The concept of material *control* is reflected in the proposed definitions that would be added to 10 CFR 74.4 and that read as follows. *Item control area* means a designated administrative area within the controlled access area, in which SNM is maintained in such a way that, at any time, a count of the items and the related material quantities can be obtained using the accounting system. Control of items moving into, out of, and within an ICA is by the identity of an item and its assigned material quantity. *Item control system* means a system tracking the creation, identity, element and isotopic content, location, and disposition of all items, which enables the licensee to maintain current knowledge of each item.

Material control constitutes the administrative processes and procedures that a holder of SNM employs to control the location and accounting of items containing SNM, by applying appropriate material accounting principles, processes and procedures. These processes and procedures for controlling the quantities, location, storage, transportation and use of items containing SNM support the accuracy of the material accounting information each time it is collected, and ensure that the information remains accurate throughout the period of time that the items are in the possession of the licensee. This concept of control is reflected in the proposed definition that would be added to 10 CFR 74.4: *Material control and accounting* means a program to control and account for certain types of nuclear material used at a licensed facility, including SNM and source material, and which controls and accounts for unauthorized use of equipment capable of producing enriched uranium. The purpose of an MC&A program is to deter and detect any loss, theft, diversion, misuse, or unauthorized production of nuclear material.

Material accounting and material control, properly integrated, ensure that accurate information (*i.e.,* information that is not inaccurate due to human error or deliberate acts of malfeasance) is developed and maintained on items of SNM in the licensee's possession. By doing so, the NRC's regulatory objective (of ensuring that SNM is not lost, stolen, diverted, or misused through human error or because of deliberate acts of malfeasance) is achieved.

The performance requirements for the MC&A program, set forth in proposed 10 CFR 74.3, *General Performance Requirements,* demonstrate that such a program represents a system of information collection and reporting requirements directed at achieving the NRC's regulatory objective of ensuring that SNM is not lost, stolen, diverted, or misused. Proposed 10 CFR 74.3 would require licensees to implement an MC&A program to achieve five general performance objectives. The nature of the five objectives (shown in Table 3) includes maintaining accurate, current, and reliable information to confirm quantities and locations of SNM. The information would enable a licensee to detect, respond and resolve any anomaly concerning SNM being held by the licensee and would enable the licensee to make a rapid determination of the actual situation. A licensee would be able to provide reliable information to aid in the investigation and recovery of SNM. A licensee would be expected to control access to MC&A information and prevent unauthorized use of the information by adversaries.

The NRC notes that nothing in the current provisions of part 74, or in the proposed amendments to part 74, precludes affected licensees from possessing or using SNM. Such substantive health and safety or common defense and security requirements are set forth in other parts of 10 CFR parts 20, 70, 71, 72, 73, 75, 76, 95, and 110. A review of the substantive provisions of the proposed rule (*i.e.,* those proposed changes to the regulations *other than* conforming changes, plain language revisions, and other changes of an administrative or organizational nature) confirms that the overall character of the rulemaking is one of information collection and reporting.

Table 3 summarizes the key substantive provisions of the proposed rule, together with a short explanation why the provision includes an information collection and reporting requirement.

TABLE 3—CHARACTERIZATION OF PROPOSED SUBSTANTIVE AMENDMENTS TO 10 CFR PART 74 AS INFORMATION COLLECTION AND REPORTING REQUIREMENTS

Proposed rule citation	Description of proposed requirement	Explanation of why the proposed requirement would be information collection and reporting
74.3 *General performance objectives.*	This section would require a licensee authorized by the NRC to possess SNM in a quantity greater than 350 grams to implement and maintain an MC&A program that achieves the five general performance objectives, as follows: (a) Maintain accurate, current, and reliable information on, and confirm the quantities and locations of SNM in its possession; (b) Detect, respond to, and resolve any anomaly indicating a possible loss, theft, diversion, or misuse of SNM; (c) Permit rapid determination of whether an actual loss, theft, diversion, or misuse of SNM has occurred; (d) Provide information to aid in the investigation and recovery of missing SNM in the event of an actual loss, theft, diversion, or misuse; and (e) Control access to MC&A information that might assist adversaries to carry out acts of theft, diversion, misuse, or radiological sabotage involving SNM.	The proposed general performance objectives in § 74.3 are directed at maintaining knowledge of SNM which is done through collection and recording of information. Loss of material is detected through activities such as physical inventory that provide information to verify the accuracy of the MC&A records at a site. MC&A information is essential to detecting and resolving any actual or potential loss, theft, diversion, or misuse. Finally, restricting access to MC&A records reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).
74.19 *Recordkeeping, procedures, item controls, and physical inventories.*	Paragraph (d) would require production or utilization facilities licensed under 10 CFR part 50 or 52 of this chapter and independent spent fuel storage installations licensed under 10 CFR part 72 of this chapter to establish, document, implement, and maintain an item control system as defined in § 74.4.	The reactor and ISFSI licensees would be required to periodically collect and verify the MC&A information recorded on site.
74.31 *Nuclear material control and accounting for special nuclear material of low strategic significance.*	To achieve the general performance objectives, a licensee's MC&A plan would include the capabilities described in paragraph (c). In paragraph (c)(6) a licensee would be required to establish, document, implement, and maintain an item control system as defined in § 74.4 to ensure that items are stored and handled or subsequently measured in a manner such that unauthorized removals of individual items or any quantity of SNM from items would be detected. Items in solution with a concentration of less than 5 grams of uranium-235 per liter and items of waste destined for burial or incineration would continue to be exempted from the item control.	Removing some of the currently allowed exemptions for item control for Category III licensees would require these licensees to collect and maintain additional MC&A information on these types of items and verify the information periodically.
	In paragraph (c)(9) a licensee would be required to maintain and follow procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM, which include control of access to, and distribution of, unused seals and records.	Tamper-safing as defined in § 74.4, increases the integrity of MC&A information collected and maintained by the licensee. This reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).
	In paragraph (c)(10) a licensee would be required to designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SNM possessed under the license.	The use of MBAs, ICAs, and designated custodians provides a means of tracking SNM at a more localized level than the entire site. These areas and their custodians help to collect MC&A information on the movement of SNM through the facility.

TABLE 3—CHARACTERIZATION OF PROPOSED SUBSTANTIVE AMENDMENTS TO 10 CFR PART 74 AS INFORMATION COLLECTION AND REPORTING REQUIREMENTS—Continued

Proposed rule citation	Description of proposed requirement	Explanation of why the proposed requirement would be information collection and reporting
74.33 *Nuclear material control and accounting for uranium enrichment facilities authorized to produce special nuclear material of low strategic significance.*	To achieve the general performance objectives, a licensee's MC&A plan would include the capabilities described in paragraph (c).	
	In paragraph (c)(6) a licensee would be required to establish, document, implement, and maintain an item control system as defined in § 74.4 to ensure that items are stored and handled or subsequently measured in a manner such that unauthorized removal of any quantity of U-235, as individual items or as uranium contained in items, will be detected. Items in solution with a concentration of less than 5 grams of uranium-235 per liter and items of waste destined for burial or incineration would be exempted from the item control.	Removing some of the currently allowed exemptions for item control for Category III licensees would require these licensees to maintain additional MC&A information on these types of items and verify the information periodically.
	In paragraph (c)(9) a licensee would be required to maintain and follow procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM, which include control of access to, and distribution of, unused seals and records.	Tamper-safing, as defined in § 74.4, increases the integrity of MC& A information collected and maintained by the licensee. This reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).
	In paragraph (c)(10) a licensee would be required to designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SNM possessed under the license.	The use of MBAs, ICAs, and designated custodians provides a means of tracking SNM at a more localized level than the entire site. Collecting information on SNM movements within specific areas of the plant provides increased knowledge of the quantities and movement of SNM through the facility. By increasing the number of data collection areas, and the need to reconcile inventory statements for different areas, this reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).
74.43 *Internal controls, inventory, and records.*	Paragraph (b)(5) would require a licensee to establish, document, implement, and maintain an item control system as defined in § 74.4 to ensure that items are stored and handled or subsequently measured in a manner such that unauthorized removals of individual items or any quantity of material (as defined in § 74.4) from items will be detected.	Removing some of the currently allowed exemptions for item control for Category II licensees would require these licensees to maintain additional MC&A information on these types of items and verify the information periodically.
	Paragraph (b)(6) would exempt from the requirements of paragraph (b)(5) an item in solution with a concentration of less than 5 grams of U-235 per liter, and items of waste destined for burial or incineration.	
	In paragraph (c)(3) a licensee would be required to maintain and follow procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM, which include control of access to, and distribution of, unused seals and records.	Tamper-safing, as defined in § 74.4, increases the integrity of MC& A information collected and maintained by the licensee. This reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).
	In paragraph (c)(9) a licensee would be required to designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SNM possessed under the license.	The use of MBAs, ICAs, and designated custodians provides a means of tracking SNM at a more localized level than the entire site. Collecting information on SNM movements within specific areas of the plant provides increased knowledge of the quantities and movement of SNM through the facility. By increasing the number of data collection areas, and the need to reconcile inventory statements for different areas, this reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).

TABLE 3—CHARACTERIZATION OF PROPOSED SUBSTANTIVE AMENDMENTS TO 10 CFR PART 74 AS INFORMATION COLLECTION AND REPORTING REQUIREMENTS—Continued

Proposed rule citation	Description of proposed requirement	Explanation of why the proposed requirement would be information collection and reporting
74.59 *Quality assurance and accounting requirements.*	Paragraph (f)(2)(i) would require a licensee to develop procedures for tamper-safing of containers or vaults containing SSNM not in process that include adequate controls to assure the validity of assigned SSNM values and which include control of access to, and distribution of, unused seals and records. Paragraph (h)(5) would require a licensee to designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SSNM possessed under the license.	Tamper-safing, as defined in § 74.4, increases the integrity of MC& A information collected and maintained by the licensee. This reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM). The use of MBAs, ICAs, and designated custodians provides a means of tracking SNM at a more localized level than the entire site. Collecting information on SNM movements within specific areas of the plant provides increased knowledge of the quantities and movement of SNM through the facility. By increasing the number of data collection areas, and the need to reconcile inventory statements for different areas, this reduces the likelihood that these records could be tampered with in a manner that would invalidate the information they contain (*i.e.,* concealing the loss, theft or diversion of SNM).

In as much as the MC&A provisions constitute requirements to collect and report information, they are not subject to backfitting and issue finality requirements. Accordingly, the NRC did not prepare a backfit analysis for the proposed rulemaking. This conclusion is consistent with the NRC's position on the applicability of backfitting to past MC&A rulemakings published in the **Federal Register** (*e.g.,* 56 FR 55991; October 31, 1991, 67 FR 78130; December 23, 2002, and 73 FR 32453; June 9, 2008).

List of Subjects

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, SNM.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR parts 40, 70, 72, 74, and 150.

■ 1. The authority citation for part 40 continues to read as follows:

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

Authority: Atomic Energy Act secs. 11(e)(2), 62, 63, 64, 65, 81, 161, 181, 182, 183, 186, 193, 223, 234, 274, 275 (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2231, 2232, 2233, 2236, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–59, 119 Stat. 594 (2005).

Section 40.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 40.31(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 40.46 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 40.71 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

■ 2. In § 40.64, revise paragraphs (b)(1) and (2) to read as follows:

§ 40.64 Reports.

* * * * *

(b) * * *

(1) Possesses, or had possessed in the previous reporting period, at any one time and location, one kilogram or more of uranium or thorium source material with foreign obligations as defined in this part, shall document holdings as of September 30 of each year and submit to the Commission within 30 days, a statement of its source material inventory with foreign obligations as defined in this part. Alternatively, this information may be submitted with the licensee's material status reports on SNM filed under part 74 of this chapter, as a statement of its source material inventory with foreign obligations as defined in this part. This statement must be submitted to the address specified in the reporting instructions in NUREG/BR–0007, and include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee.

(2) Possesses, or had possessed in the previous reporting period, one kilogram or more of uranium or thorium source material pursuant to the operation of

enrichment services, downblending uranium that has an initial enrichment of the U–235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels shall complete and submit, in computer-readable format, Material Balance and Physical Inventory Listing Reports concerning all source material that the licensee has received, produced, possessed, transferred, consumed, disposed of, or lost. Reports must be submitted for each RIS account including all holding accounts. Each licensee shall prepare and submit these reports as specified in the instructions in NUREG/BR–0007 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees.'' These reports must document holdings as of September 30 of each year and must be submitted to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under part 74 of this chapter. Copies of the reporting instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001, or by email to *RidsNmssFcss.Resource@nrc.gov.* Each licensee required to report material balance, inventory, and/or foreign obligation information, as detailed in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by the NRC.

* * * * *

■ 3. The authority citation for part 70 continues to read as follows:

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

Authority: Atomic Energy Act secs. 51, 53, 161, 182, 183, 193, 223, 234 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2243, 2273, 2282, 2297f); secs. 201, 202, 204, 206, 211 (42 U.S.C. 5841, 5842, 5845, 5846, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 194 (2005).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

Section 70.21(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 70.31 also issued under Atomic Energy Act sec. 57(d) (42 U.S.C. 2077(d)). Sections 70.36 and 70.44 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 70.81 also issued under Atomic Energy Act secs. 186, 187 (42 U.S.C. 2236, 2237). Section 70.82 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

■ 4. In § 70.32, revise paragraphs (c)(1)(i), (ii), and (iii) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c)(1) * * *

(i) The program for control and accounting of uranium source material at a uranium enrichment facility and SNM at all applicable facilities as implemented pursuant to § 70.22(b), or §§ 74.31(b), 74.33(b), 74.41(b), or 74.51(b) of this chapter, as appropriate;

(ii) The measurement control program for uranium source material at a uranium enrichment facility and for SNM at all applicable facilities as implemented pursuant to §§ 74.31(b), 74.33(b), 74.45(c), or 74.59(e) of this chapter, as appropriate; and

(iii) Other material control procedures as the Commission determines to be essential for the safeguarding of uranium source material at a uranium enrichment facility or of SNM and providing that the licensee shall make no change that would decrease the effectiveness of the material control and accounting program implemented pursuant to § 70.22(b), or §§ 74.31(b), 74.33(b), 74.41(b), or 74.51(b) of this chapter, and the measurement control program implemented pursuant to §§ 74.31(b), 74.33(b), 74.41(b), or 74.59(e) of this chapter without the prior approval of the Commission. A licensee desiring to make changes that would decrease the effectiveness of its material control and accounting program or its measurement control program shall submit an application for amendment to its license pursuant to § 70.34.

* * * * *

■ 5. The authority citation for part 72 continues to read as follows:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act sec. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. Nuclear Waste Policy Act 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K is also issued under sec. 218(a) (42 U.S.C. 10198).

■ 6. In § 72.9, revise paragraph (b) to read as follows:

§ 72.9 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 72.7, 72.11, 72.16, 72.22 through 72.34, 72.42, 72.44, 72.48 through 72.56, 72.62, 72.70 through 72.75, 72.77, 72.79, 72.80, 72.90, 72.92, 72.94, 72.98, 72.100, 72.102, 72.103, 72.104, 72.108, 72.120, 72.126, 72.140 through 72.176, 72.180 through 72.186, 72.192, 72.206, 72.212, 72.218, 72.230,72.232, 72.234, 72.236, 72.240, 72.242, 72.244, 72.248.

* * * * *

■ 7. Revise § 72.72 to read as follows:

§ 72.72 Material control and accounting requirements for source material and special nuclear material.

(a) Each licensee shall follow the requirements of § 40.61 and § 40.64 of this chapter for source material.

(b) Each licensee shall follow the requirements of 10 CFR part 74, subparts A and B, for special nuclear material.

■ 8. Revise § 72.74 to read as follows:

§ 72.74 Reports of accidental criticality.

(a) Each licensee shall notify the NRC Headquarters Operations Center within one hour of discovery of accidental criticality.

(b) Each licensee shall make the notifications required by paragraph (a) of this section to the NRC Headquarters Operations Center via any available telephone system to ensure that a report is received within one hour.

(c) Reports required under § 73.71 of this chapter need not be duplicated under the requirements of this section.

■ 9. Remove and reserve §§ 72.76 and 72.78.

§ 72.76 [Removed and Reserved]

§ 72.78 [Removed and Reserved]

■ 10. The authority citation for part 74 continues to read as follows:

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

Authority: Atomic Energy Act secs. 53, 57, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note).

■ 11. In § 74.2, revise the last sentence in paragraph (a) to read as follows:

§ 74.2 Scope.

(a) * * * The general reporting and recordkeeping requirements of subpart B of this part also apply to licensees who possess spent nuclear fuel at independent spent fuel storage installations.

* * * * *

■ 12. Add § 74.3 to read as follows:

§ 74.3 General performance objectives.

In addition to any other requirements in this part, each licensee who is authorized to possess or use SNM in a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, at a fixed site, shall implement and maintain a material control and accounting program that enables the licensee to achieve the following general performance objectives in a timely manner:

(a) Maintain accurate, current, and reliable information on, and confirm the quantities and locations of SNM in its possession;

(b) Detect, respond to, and resolve any anomaly indicating a possible loss, theft, diversion, or misuse of SNM;

(c) Permit rapid determination of whether an actual loss, theft, diversion, or misuse of SNM has occurred;

(d) Provide information to aid in the investigation and recovery of missing SNM in the event of an actual loss, theft, diversion, or misuse; and

(e) Control access to MC&A information that might assist adversaries to carry out acts of theft, diversion, misuse, or radiological sabotage involving SNM.

■ 13. In § 74.4:

■ a. Remove the definition for *Effective kilograms of special nuclear material;*

■ b. Add the definitions for *Accounting, Custodian, Item control system, Item control area, Material balance area,* and *Material control and accounting* in alphabetical order; and

■ c. Revise the definitions for *Formula quantity, Special nuclear material of low strategic significance,* and *Special nuclear material of moderate strategic significance.*

The additions and revisions read as follows:

§ 74.4 Definitions.

* * * * *

Accounting means a system that documents the quantities of special nuclear material (SNM) held on current inventory by the licensee, and includes tracking of receipts, shipments, and measured discards, and transfers of SNM.

* * * * *

Custodian means an individual authorized and qualified by the licensee who is responsible for controlling the movement of all SNM into, out of, and within a material balance area.

* * * * *

Formula quantity means strategic special nuclear material (SSNM) in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium). This class of material is also referred to as a Category I quantity of material as shown in appendix A to this part.

* * * * *

Item control area (ICA) means a designated administrative area within the controlled access area, in which SNM is maintained in such a way that, at any time, a count of the items and the related material quantities can be obtained using the accounting system. Control of items moving into, out of, and within an ICA is by the identity of an item and its assigned material quantity.

Item control system means a system tracking the creation, identity, element and isotopic content, location, and disposition of all items, which enables the licensee to maintain current knowledge of each item.

* * * * *

Material balance area (MBA) means a designated contiguous area in which the control of SNM is such that the quantity of material being moved into, out of, and within the MBA is an assigned value based on measurements of both the element content and the isotopic content.

Material control and accounting (MC&A) means a program to control and account for certain types of nuclear material used at a licensed facility, including SNM and source material, and which controls and accounts for unauthorized use of equipment capable of producing enriched uranium. The purpose of an MC&A program is to deter and detect any loss, theft, diversion, misuse, or unauthorized production of nuclear material.

* * * * *

Special nuclear material of low strategic significance means:

(1)(i) Less than an amount of SNM of moderate strategic significance, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = grams contained U-235 + grams plutonium + grams U-233; or

(ii) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more, but less than 20 percent in the U-235 isotope); or

(iii) 10,000 grams or more of uranium-235 contained in uranium enriched above natural, but less than 10 percent in the U-235 isotope.

(2) This class of material is also referred to as a Category III quantity of material as shown in appendix A to this part.

Special nuclear material of moderate strategic significance means:

(1)(i) Less than a formula quantity of SSNM but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U-235) + 2 (grams U-233 + grams plutonium); or

(ii) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope).

(2) This class of material is also referred to as a Category II quantity of material as shown in appendix A to this part.

* * * * *

■ 14. In § 74.11, revise paragraph (b) to read as follows:

§ 74.11 Reports of loss or theft or attempted theft or unauthorized production of special nuclear material.

* * * * *

(b) Each licensee shall make the notifications required by paragraph (a) of this section to the NRC Headquarters Operations Center via any available telephone system to ensure that a report is received within 1 hour.

* * * * *

■ 15. Revise § 74.13 to read as follows:

§ 74.13 Material status reports.

(a) All licensees who possess or who had possessed in the previous reporting period one gram or more of irradiated or

non-irradiated SNM are required to submit both a Material Balance Report and a Physical Inventory Listing Report of these materials to the NMMSS in accordance with the instructions in paragraph (b) of this section and according to the following schedule:

(1) Commercial power reactor licensees, authorized under part 50 or part 52 of this chapter shall submit both reports within 60 calendar days of the beginning of the physical inventory covered by the reports;

(2) Research and test reactors, authorized under part 50 of this chapter shall submit both reports within 60 calendar days of the beginning of the physical inventory covered by the reports;

(3) Independent spent fuel storage licensees, authorized under part 72 of this chapter shall submit both reports within 60 calendar days of the beginning of the physical inventory covered by the reports.

(4) Licensees subject to § 74.31 shall submit both reports within 60 calendar days of the beginning of the physical inventory covered by the reports;

(5) Licensees operating uranium enrichment facilities shall submit both reports within 60 calendar days of the beginning of the physical inventory providing a total plant material balance as described in § 74.33(c)(4)(i);

(6) Licensees subject to subpart D of this part shall submit both reports within 60 calendar days of the beginning of the physical inventory covered by the reports;

(7) Licensees subject to subpart E of this part shall submit both reports within 30 calendar days of the beginning of the physical inventory covered by the reports; and

(8) All other licensees who possess, or had possessed in the previous reporting period, one gram or more of irradiated or non-irradiated SNM shall submit both reports between January 1 and March 31 of each year.

(b) Each licensee shall prepare and submit the reports described in paragraph (a) of this section as follows:

(1) Reports must be submitted for each Reporting Identification Symbol (RIS) account, including all holding accounts, concerning SNM that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost.

(2) Each licensee shall prepare and submit the reports described in this section as specified in the instructions in both NUREG/BR–0007 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees.''

(i) This prescribed computer-readable report replaces the DOE/NRC Form 742, Material Balance Report, and DOE/NRC Form 742C, Physical Inventory Listing Report, which have been previously submitted in paper form.

(ii) Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001 or by email to *RidsNmssFcss.Resource@nrc.gov.*

(c) The Commission may permit a licensee to submit the reports at other times for good cause. Such requests must be submitted in writing to Chief, Material Control and Accounting Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The licensee must continue to report as required until such request is granted.

(d) Any licensee who is required to submit routine Material Status Reports under § 75.35 of this chapter (pertaining to implementation of the U.S./IAEA Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) through (b) of this section).

(e) Each licensee subject to the requirements of this section shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by the NRC.

■ 16. In § 74.15, revise paragraph (b)(2) to read as follows:

§ 74.15 Nuclear material transaction reports.

* * * * *

(b) * * *

(2) Perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; except that a licensee authorized under parts 50 or 52 of this chapter receiving unirradiated fuel rods or unirradiated fuel assemblies or a licensee authorized under part 70 of this chapter receiving SNM contained in a sealed source that will not be opened need not perform such tests; and

* * * * *

■ 17. In § 74.19, revise the section heading, paragraph (b), redesignate paragraph (d) as paragraph (e), and add a new paragraph (d) to read as follows:

§ 74.19 Recordkeeping, procedures, item controls, and physical inventories.

* * * * *

(b) Each licensee authorized to possess special nuclear material, at any one time and site location, in a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall establish, maintain, and follow written material control and accounting procedures that are sufficient to enable the licensee to account for the SNM in its possession under the license. The licensee shall retain these procedures until the Commission terminates the license that authorizes possession of the special nuclear material and retain any superseded portion of the procedures for 3 years after the portion is superseded.

* * * * *

(d) Production or utilization facilities licensed under part 50 or 52 of this chapter and independent spent fuel storage installations licensed under part 72 of this chapter shall establish, document, implement, and maintain an item control system as defined in § 74.4.

* * * * *

■ 18. In § 74.31, revise paragraphs (a), (b), and (c) to read as follows:

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) *General performance objectives.* (1) Each licensee who is authorized to possess and use a quantity greater than 350 grams of contained uranium-235 or SNM of low strategic significance (as defined in § 74.4 and shown in appendix A to this part) at any site or contiguous sites subject to control by the licensee is subject to the performance objective requirements stated in § 74.3.

(2) Production or utilization facilities licensed under part 50 or 52 of this chapter, independent spent fuel storage installations licensed under part 72 of this chapter, and operations involving waste disposal are not subject to the requirements of subpart C of this part.

(b) *Implementation.* Each applicant for a license, and each licensee that, upon application for modification of its license, would become newly subject to paragraph (a) of this section shall submit for approval an MC&A plan describing how the performance objectives of § 74.3 and the requirements of paragraph (c) of this section will be met. The MC&A plan shall be implemented when a license is issued or modified to authorize the activities being addressed in paragraph (a) of this section, or by the date specified in a license condition.

(c) *Program capabilities.* To achieve the § 74.3 performance objectives, the MC&A plan must include the capabilities described in paragraphs

(c)(1) through (10) of this section, and require the licensee to:

(1) Establish, document, and maintain a management structure that assures clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures;

(2) Establish and maintain a measurement system, which assures that all quantities in the material accounting records are based on measured values;

(3) Follow a measurement control program, which assures that measurement bias is estimated and significant biases are eliminated from inventory difference values of record;

(4) In each inventory period, control total material control and accounting measurement uncertainty so that twice its standard error of the inventory difference (SEID) is less than the greater of 9,000 grams of U-235 or 0.25 percent of the active inventory, and assure that any measurement performed under contract is controlled so that the licensee can satisfy this requirement;

(5) Unless otherwise required to satisfy part 75 of this chapter, perform a physical inventory at least every 12 months and, within 60 calendar days after the start of the inventory, reconcile and adjust the book inventory to the results of the physical inventory, and resolve, or report an inability to resolve, any inventory difference that is rejected by a statistical test that has a 90-percent power of detecting a discrepancy of a quantity of uranium-235 established by the NRC on a site-specific basis;

(6) Establish, document, implement, and maintain an item control system as defined in § 74.4. Store and handle or subsequently measure items in a manner such that unauthorized removals of individual items or any quantity of SNM from items will be detected. Exempted from this requirement are items in solution with a concentration of less than 5 grams of uranium-235 per liter and items of waste destined for burial or incineration;

(7) Conduct and document shipper-receiver difference comparisons for all SNM receipts on a total shipment basis, and on an individual batch basis when required by part 75 of this chapter, and ensure that any shipper-receiver difference that is statistically significant and exceeds twice the estimated standard deviation of the difference estimator and 500 grams of uranium-235 is investigated and resolved;

(8) Independently assess the effectiveness of the MC&A program at least every 24 months, and document management's action on prior assessment recommendations.

(9) Maintain and follow procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM, which include control of access to, and distribution of, unused seals and records;

(10) Designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SNM possessed under license.

* * * * *

■ 19. Revise § 74.33 to read as follows:

§ 74.33 Nuclear material control and accounting for uranium enrichment facilities authorized to produce special nuclear material of low strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess equipment capable of enriching uranium or operate an enrichment facility, and produce, possess, or use a quantity greater than 350 grams of contained uranium-235 or SNM of low strategic significance (as defined in § 74.4 and shown in appendix A to this part) at any site or contiguous sites, subject to control by the licensee, is subject to the performance objective requirements stated in § 74.3 and to the following performance objectives:

(1) Maintain accurate, current, and reliable information on, and confirm the quantities and locations of source material (SM) in its possession;

(2) Detect, respond to, and resolve any anomaly indicating a possible loss, theft, diversion, or misuse of SM;

(3) Permit rapid determination of whether an actual loss, theft, diversion, or misuse of SM has occurred;

(4) Provide information to aid in the investigation and recovery of missing SM in the event of an actual loss, theft, diversion, or misuse; and

(5) Provide information to aid in the investigation of any unauthorized production of uranium, including unauthorized production of uranium enriched to 10 percent or more in the isotope U-235. (For centrifuge enrichment facilities this requirement does not apply to each cascade during its start-up process, not to exceed the first 24 hours.)

(b) *Implementation.* Each applicant for a license who would, upon issuance of a license under any part of this chapter, be subject to the requirements of paragraph (a) of this section shall:

(1) Submit for approval an MC&A plan describing how the performance objectives of §§ 74.3 and 74.33(a), the program capabilities of § 74.33(c), and the recordkeeping requirements of § 74.33(d) will be met; and

(2) Implement the NRC-approved MC&A plan submitted under paragraph (b)(1) of this section prior to:

(i) The cumulative receipt of 5,000 grams of U-235 contained in any combination of natural, depleted, or enriched uranium; or

(ii) The NRC's issuance of a license to test or operate the enrichment facility, whichever occurs first.

(c) *Program capabilities.* To achieve the general performance objectives stated and referenced in paragraph (a) of this section, the MC&A plan must include the capabilities described in paragraphs (c)(1) through (10) of this section. The licensee shall establish, document, implement and maintain:

(1) A management structure that ensures:

(i) Clear overall responsibility for MC&A functions;

(ii) Independence of MC&A management from production responsibilities;

(iii) Separation of key MC&A responsibilities from each other; and

(iv) Use of approved written MC&A procedures and periodic review of those procedures;

(2) A measurement program that ensures that all quantities of SM and SNM in the accounting records are based on measured values;

(3) A measurement control program that ensures that:

(i) Measurement bias is estimated and minimized through the measurement control program, and any significant biases are eliminated from inventory difference values of record;

(ii) All MC&A measurement systems are controlled so that twice the standard error of the inventory difference (SEID), based on all measurement error contributions, is less than the greater of 5,000 grams of U-235 or 0.25 percent of the U-235 of the active inventory for each total plant material balance; and

(iii) Any measurements performed under contract are controlled so that the licensee can satisfy the requirements of paragraphs (c)(3)(i) and (ii) of this section;

(4) A physical inventory program that provides for:

(i) Performing, unless otherwise required to satisfy part 75 of this chapter, a dynamic (nonshutdown) physical inventory of in-process (e.g., in the enrichment equipment) uranium and U-235 at least every 65 calendar days, and performing a static physical

inventory of all other uranium and total U-235 contained in natural, depleted, and enriched uranium located outside of the enrichment processing equipment at least every 370 calendar days, with static physical inventories being conducted in conjunction with a dynamic physical inventory of in-process uranium and U-235 so as to provide a total plant material balance at least every 370 calendar days; and

(ii) Reconciling and adjusting the book inventory to the results of the static physical inventory and resolving, or reporting an inability to resolve, any inventory difference that is rejected by a statistical test that has a 90-percent power of detecting a discrepancy of a quantity of U-235, established by the NRC on a site-specific basis, within 60 calendar days after the start of each static physical inventory;

(5) A detection program, independent of production, which provides high assurance of detecting and resolving:

(i) Production of uranium enriched to 10 percent or more in the U-235 isotope, to the extent that SNM of moderate strategic significance (as defined in § 74.4) could be produced within any 370 calendar day period;

(ii) Production of uranium enriched to 20 percent or more in the U-235 isotope; and

(iii) Unauthorized production of uranium of low strategic significance (as defined in § 74.4);

(6) An item control system (as defined in § 74.4). The system must ensure that items are stored and handled or subsequently measured in a manner such that unauthorized removal of any quantity of U-235, as individual items or as uranium contained in items, will be detected. Exempted from this requirement are items in solution with a concentration of less than 5 grams of uranium-235 per liter and items of waste destined for burial or incineration;

(7) A system for conducting and documenting shipper-receiver difference comparisons for all source material and SNM receipts on a total shipment basis, and on an individual batch basis when required by part 75 of this chapter, to ensure that any shipper-receiver difference that is statistically significant and exceeds twice the estimated standard deviation of the difference estimator and 500 grams of uranium-235 is investigated and resolved;

(8) An assessment program that:

(i) Independently assesses the effectiveness of the MC&A program at least every 24 months;

(ii) Documents the results of the above assessment;

(iii) Documents management's findings on whether the MC&A program is currently effective; and

(iv) Documents any actions taken on recommendations from prior assessments;

(9) Procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM, which include control of access to, and distribution of, unused seals and records;

(10) Material balance areas and item control areas, and shall assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SM and SNM possessed under license.

(d) Recordkeeping.

(1) Each licensee shall establish records that will demonstrate that the performance objectives stated and referenced in paragraph (a) of this section and the program capabilities of paragraph (c) of this section have been met and maintain these records in an auditable form, available for inspection, for at least 3 years, unless a longer retention time is required by part 75 of this chapter.

(2) Records that must be maintained pursuant to this part may be the original or a reproduced copy or a microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. The record may also be stored in electronic media with the capability for producing, on demand, legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures.

(3) The licensee shall maintain adequate safeguards against tampering with and loss of records.

■ 20. In § 74.41, revise paragraphs (a), (b), and (c) to read as follows:

§ 74.41 Nuclear material control and accounting for special nuclear material of moderate strategic significance.

(a) *General performance objectives.* (1) Each licensee who is authorized to possess and use SNM of moderate strategic significance (as defined in § 74.4 and shown in appendix A of this part) or 1 kilogram or more but less than 5 kilograms of SSNM (as defined in § 74.4 and shown in appendix A to this part) in irradiated fuel reprocessing operations at any site or contiguous sites subject to control by the licensee, is subject to the performance objective requirements stated in § 74.3.

(2) Production or utilization facilities licensed under part 50 or 52 of this chapter; licensees using reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants; and operations involving waste disposal, are not subject to the requirements of subpart D of this part.

(b) *Implementation.* Each applicant for a license, and each licensee that, upon application for modification of its license, would become newly subject to paragraph (a) of this section shall submit for approval an MC&A plan describing how the performance objectives of § 74.3 and the requirements of paragraph (c) of this section will be met. The MC&A plan shall be implemented when a license is issued or modified to authorize the activities being addressed in paragraph (a) of this section, or by the date specified in a license condition.

(c) *Program capabilities.* To achieve the § 74.3 performance objectives, the MC&A plan must include the capabilities described in §§ 74.43 and 74.45, and must incorporate checks and balances that are sufficient to detect falsification of data and reports that could conceal diversion of SNM by:

(1) A single individual, including an employee in any position; or

(2) Collusion between two individuals, one or both of whom have authorized access to SNM.

■ 21. In § 74.43, revise paragraphs (b)(3), (b)(5), (b)(6), (b)(7), and (c)(3); add new paragraph (c)(9); and revise paragraph (d)(5) to read as follows:

§ 74.43 Internal controls, inventory, and records.

* * * * *

(b) * * *

(3) The licensee shall provide for the adequate review, approval, and use of written MC&A procedures that are identified in the approved MC&A plan as being critical to the effectiveness of the described system.

* * * * *

(5) The licensee shall establish, document, implement, and maintain an item control system as defined in § 74.4. The system must ensure that items are stored and handled or subsequently measured in a manner such that unauthorized removals of individual items or any quantity of material (as defined in § 74.4) from items will be detected.

(6) Exempted from the requirements of paragraph (b)(5) of this section are items in solution with a concentration

of less than 5 grams of U-235 per liter, and items of waste destined for burial or incineration.

(7) Conduct and document shipper-receiver difference comparisons for all SNM receipts,

* * * * *

(c) * * *

(3) Maintain and follow procedures for tamper-safing (as defined in § 74.4) of containers or vaults (as defined in § 74.4) containing SNM which include control of access to, and distribution of, unused seals and records;

* * * * *

(9) Designate material balance areas and item control areas, and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SNM possessed under license.

* * * * *

(d) * * *

(5) Establish records that will demonstrate that the performance objectives of § 74.3 and § 74.41(a)(1), the system capabilities of paragraphs (b) and (c) of this section, and § 74.45(b) and (c) have been met, and maintain these records in an auditable form, available for inspection, for at least 3 years, unless a longer retention time is specified by § 74.19(b), part 75 of this chapter, or by a specific license condition.

■ 22. In § 74.45, revise paragraph (c)(4) to read as follows:

§ 74.45 Measurements and measurement control.

* * * * *

(c) * * *

(4) Establish and maintain a measurement control system so that for each inventory period the standard error of the inventory difference (SEID) is less than 0.125 percent of the active inventory, and assure that any MC&A measurements performed under contract are controlled so that the licensee can satisfy this requirement.

* * * * *

■ 23. Revise § 74.51 to read as follows:

§ 74.51 Nuclear material control and accounting for strategic special nuclear material.

(a) *General performance objectives.* (1) Each licensee who is authorized to possess and use five or more formula kilograms of strategic special nuclear material (SSNM), as defined in § 74.4 and shown in appendix A to this part, at any site or contiguous sites subject to control by the licensee is subject to the performance objective requirements stated in § 74.3, and to the following performance objectives:

(i) Ongoing confirmation of the presence of SSNM in assigned locations;

(ii) Timely detection of the possible abrupt loss of five or more formula kilograms of SSNM from an individual unit process; and

(iii) Rapid determination of whether an actual loss of five or more formula kilograms of SSNM occurred.

(2) Production or utilization facilities licensed under part 50 or 52 of this chapter, independent spent fuel storage installations licensed under part 72 of this chapter; and any licensee operations involving waste disposal, are not subject to the requirements of subpart E of this part.

(b) *Implementation.* Each applicant for a license, and each licensee that, upon application for modification of its license, would become newly subject to paragraph (a) of this section shall submit for approval an MC&A plan describing how the performance objectives of § 74.3 and paragraph (a) of this section will be achieved, and how the requirements of paragraph (c) of this section will be met. The MC&A plan shall be implemented when a license is issued or modified to authorize the activities being addressed in paragraph (a) of this section, or by the date specified in a license condition.

(c) *Program capabilities.* To achieve the general performance objectives specified in § 74.3 and paragraph (a) of this section, the MC&A plan must provide the capabilities described in §§ 74.53, 74.55, 74.57 and 74.59 and must incorporate checks and balances that are sufficient to detect falsification of data and reports that could conceal diversion of SNM or SSNM by:

(1) A single individual, including an employee in any position; or

(2) Collusion between two individuals, one or both of whom have authorized access to SNM or SSNM.

(d) *Inventories.* Notwithstanding § 74.59(f)(1), licensees shall perform at least 3 physical inventories at intervals not to exceed 65 calendar days after implementation of the NRC-approved MC&A plan and shall continue to perform such inventories at intervals not to exceed 65 calendar days until performance acceptable to the NRC has been demonstrated and the Commission has issued formal approval to perform physical inventories at intervals not to exceed 185 calendar days. Licensees who have prior experience with process monitoring and/or can demonstrate acceptable performance against all MC&A plan commitments may request authorization to perform inventories at intervals not to exceed 185 calendar days at an earlier date.

■ 24. In § 74.53, revise the introductory text of paragraph (a), and paragraphs (a)(3), (a)(4), and (c)(1) to read as follows:

§ 74.53 Process monitoring.

(a) Licensees subject to § 74.51 shall monitor internal transfers, storage, and processing of SSNM. The process monitoring must achieve the detection capabilities described in paragraph (b) of this section for all SSNM except:

* * * * *

(3) SSNM with an estimated measurement standard deviation greater than 5 percent that is either input or output material associated with a unit that processes less than five formula kilograms over a period of 95 calendar days; and

(4) SSNM involved in research and development operations that process less than five formula kilograms during a period of seven calendar days.

* * * * *

(c) * * *

(1) Perform material balance tests on a lot or a batch basis, as appropriate, or at intervals not to exceed 30 calendar days, whichever is sooner, and investigate any difference greater than 200 grams of plutonium or U-233 or 300 grams of U-235 that exceeds three times the estimated standard error of the inventory difference;

* * * * *

■ 25. In § 74.57, revise the introductory text of paragraph (c) to read as follows:

§ 74.57 Alarm resolution.

* * * * *

(c) Each licensee shall notify the NRC Headquarters Operations Center by telephone of any MC&A alarm that remains unresolved beyond the time period specified for its resolution in the licensee's MC&A plan. Notification must occur within 24 hours except when a holiday or weekend intervenes in which case the notification must occur on the next scheduled workday. The licensee may consider an alarm to be resolved if:

* * * * *

■ 26. In § 74.59, revise paragraph (e)(7), the introductory text of paragraph (f)(1), and paragraphs (f)(2)(i), (h)(2)(ii), and (h)(5) to read as follows:

§ 74.59 Quality assurance and accounting requirements.

* * * * *

(e) * * *

(7) Investigate and take corrective action, as appropriate, to identify and reduce associated measurement biases when, for like material types (i.e., measured by the same measurement system), the net cumulative shipper/

receiver differences accumulated over a period not to exceed 185 calendar days results in a value greater than one formula kilogram or 0.1 percent of the total amount received.

* * * * *

(f) * * *

(1) Except as required by part 75 of this chapter, perform a physical inventory at least every 185 calendar days and within 45 calendar days after the start of the ending inventory:

* * * * *

(2) * * *

(i) Development of procedures for tamper-safing of containers or vaults containing SSNM not in process that include adequate controls to assure the validity of assigned SSNM values and that include control of access to, and distribution of, unused seals and records;

* * * * *

(h) * * *

(2) * * *

(ii) Any scrap measured with a standard deviation greater than 5 percent of the measured amount is recovered so that the results are segregated by inventory period and recovered within 185 calendar days of the end of the inventory period in which the scrap was generated except where it can be demonstrated that the scrap measurement uncertainty will not cause noncompliance with § 74.59(e)(5).

* * * * *

(5) Designate material balance areas and item control areas and assign custodial responsibility for each of these areas in a manner that ensures that such responsibility can be effectively executed for all SSNM possessed under license.

■ 27. Add appendix A to part 74 to read as follows:

Appendix A to Part 74—Categories of Special Nuclear Material

Notes:

1. Sealed sources as defined in § 74.4 are excluded from the quantities in the table.

2. Irradiated fuel, which by virtue of its original fissile material content is included as Category I or II before irradiation, is reduced one category level, during the period of time that the radiation level from the fuel exceeds 1 Sv per hour (100 rads per hour) at 1 meter, unshielded.

Material	Isotopic composition	Category I (Subpart E)	Category II (Subpart D)	Category III (Subpart C)
Plutonium	All plutonium (element)	2,000 grams or more	Less than 2,000 grams, but more than 500 grams.	500 grams or less, but more than 15 grams.
Uranium-233	All U-233 enrichments	2,000 grams or more	Less than 2,000 grams, but more than 500 grams.	500 grams or less, but more than 15 grams.
Uranium-235	Uranium enriched to 20% or more in isotope U–235.	5,000 grams or more	Less than 5,000 grams, but more than 1,000 grams.	1,000 grams or less, but more than 15 grams.
	Uranium enriched to 10%, but less than 20%, in isotope U-235.		10,000 grams or more	Less than 10,000 grams, but more than 1,000 grams.
	Uranium enriched above 0.711%, but less than 10%, in isotope U-235.			10,000 grams or more.

The formulae to calculate a quantity of SSNM as defined in § 74.4 are as follows:

- Category I, 5000 grams or more of SSNM
  - grams = grams contained U-235 + 2.5 (grams U-233 + grams Pu)
- Category II, less than 5000 grams but more than 1000 grams of SSNM
  - grams = grams contained U-235 + 2 (grams U-233 + grams Pu)
- Category III, 1000 grams or less but more than 15 grams of SSNM
  - grams = grams contained U-235 + grams U-233 + grams Pu.

■ 28. The authority citation for part 150 continues to read as follows:

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

Authority: Atomic Energy Act secs. 161, 181, 223, 234 (42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594 (2005).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161). Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

■ 29. In § 150.17 revise paragraphs (a) and (b) to read as follows:

§ 150.17 Submission to commission of nuclear material status reports.

(a) Except as specified in paragraph (d) of this section and § 150.17a, all licensees who possess or who had possessed in the previous reporting period, under an Agreement State license, one gram or more of irradiated or non-irradiated special nuclear material are required to submit both a Material Balance Report and a Physical Inventory Listing Report of these materials to the NMMSS in accordance with the instructions in paragraph (a)(1) of this section. Both reports shall be submitted between January 1 and March 31 of each year.

(1) Each licensee shall prepare and submit the reports described in this section as follows:

(i) Reports must be submitted for each Reporting Identification Symbol (RIS) account, including all special nuclear material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost.

(ii) Each licensee shall prepare and submit the reports described in this section as specified in the instructions in both NUREG/BR–0007 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees.''

(iii) This prescribed computer-readable report replaces the DOE/NRC Form 742, Material Balance Report, and DOE/NRC Form 742C, Physical Inventory Listing Report, which have been previously submitted in paper form.

(iv) Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001 or by email to *RidsNmssFcss.Resource@nrc.gov.*

(2) The Commission may permit a licensee to submit the reports at other times for good cause. Such requests must be submitted in writing to Chief, Material Control and Accounting Branch, Division of Fuel Cycle Safety

and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The licensee must continue to report as required until such request is granted.

(3) Any licensee who is required to submit routine Material Status Reports under § 75.35 of this chapter (pertaining to implementation of the U.S./IAEA Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) through (b) of this section).

(4) Each licensee subject to the requirements of this section shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of notification of a discrepancy identified by the NRC.

(b) Except as specified in paragraph (d) of this section and § 150.17a, each person possessing, or who had possessed in the previous reporting period, at any one time and location, under an Agreement State license:

(1) One kilogram or more of uranium or thorium source material with foreign obligations, shall document holdings as of September 30 of each year and submit the material status reports to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under part 74 of this chapter. This statement must be submitted to the address specified in the reporting instructions in NUREG/BR–0007, and include the RIS assigned by the Commission.

(2) One kilogram or more of uranium or thorium source material in the operation of enrichment services, down blending uranium that has an initial enrichment of the U-235 isotope of 10 percent or more, or in the fabrication of mixed-oxide fuels shall complete and submit, in computer-readable format, Material Balance and Physical Inventory Listing Reports concerning source material that the licensee has received, produced, possessed, transferred, consumed, disposed, or lost. Reports must be submitted for each RIS account including all holding accounts. Each licensee shall prepare and submit these reports as specified in the instructions in NUREG/BR–0007 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees.'' These reports must document holdings as of September 30 of each year and be submitted to the Commission within 30 days. Alternatively, these reports may be submitted with the licensee's material status reports on special nuclear material filed under part 74 of this chapter. Copies of the reporting instructions may be obtained by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001, or by email to *RidsNmssFcss.Resource@nrc.gov.* Each licensee required to report material balance, and inventory information, as described in this part, shall resolve any discrepancies identified during the report review and reconciliation process within 30 calendar days of the notification of a discrepancy identified by the NRC.

* * * * *

Dated at Rockville, Maryland, this October 23, 2013.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2013–25617 Filed 11–7–13; 8:45 am]

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Part III

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

Improve Tracking of Workplace Injuries and Illnesses; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1952

[Docket No. OSHA–2013–0023]

RIN 1218–AC49

Improve Tracking of Workplace Injuries and Illnesses

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule.

SUMMARY: The purpose of this rulemaking is to improve workplace safety and health through the collection of useful, accessible, establishment-specific injury and illness data to which OSHA currently does not have direct, timely, and systematic access. With the information acquired through this proposed rule, employers, employees, employee representatives, the government, and researchers will be better able to identify and abate workplace hazards. OSHA is proposing to amend its recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are already required to keep under OSHA's regulations for recording and reporting occupational injuries and illnesses. The proposed rule amends the regulation on the annual OSHA injury and illness survey of ten or more employers to add three new electronic reporting requirements. The proposed rule does not add to or change any employer's obligation to complete and retain injury and illness records under OSHA's regulations for recording and reporting occupational injuries and illnesses. The proposed rule also does not add to or change the recording criteria or definitions for these records. The proposed rule only modifies employers' obligations to transmit information from these records to OSHA or OSHA's designee.

DATES: *Comments:* Comments must be submitted by February 6, 2014.

ADDRESSES: *Comments:* You may submit comments, identified by docket number OSHA–2013–0023, or regulatory information number (RIN) 1218–AC49, by any of the following methods:

Electronically: You may submit comments electronically at *http://www.regulations.gov,* which is the federal e-rulemaking portal. Follow the instructions on the Web site for making electronic submissions;

Fax: If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA docket office at (202) 693–1648;

Mail, hand delivery, express mail, messenger, or courier service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket Number OSHA–2013–0023, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and docket office's normal business hours, 8:15 a.m.–4:45 p.m.

Instructions for submitting comments: All submissions must include the docket number (Docket No. OSHA–2013–0023) or the RIN (RIN 1218–AC49) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA docket office for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to docket number OSHA–2013–0023, at *http://regulations.gov.* All submissions are listed in the *http://regulations.gov* index. However, some information (e.g., copyrighted material) is not publicly available to read or download through that Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA docket office.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, is available at OSHA's Web site at *http://www.osha.gov.*

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202)–693–1999; email: *meilinger.francis2@dol.gov.*

For general and technical information on the proposed rule: Miriam Schoenbaum, OSHA Office of Statistical Analysis, Room N–3507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1841; email: *schoenbaum.miriam@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA is proposing to amend its recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are already required to keep under OSHA's regulations for recording and reporting occupational injuries and illnesses. This proposed rule would amend the regulation on the annual OSHA injury and illness survey of ten or more employers to add three new electronic reporting requirements. First, OSHA will require establishments that are required to keep injury and illness records under OSHA's regulations for recording and reporting occupational injuries and illnesses, and that had 250 or more employees in the previous year, to electronically submit information from these records to OSHA or OSHA's designee on a quarterly basis. Second, OSHA will require establishments that are required to keep injury and illness records under OSHA's regulations for recording and reporting occupational injuries and illnesses, had 20 or more employees in the previous year, and are in certain designated industries to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee on an annual basis. The second submission requirement will replace OSHA's annual injury and illness survey, authorized by the current version of the regulation. Third, OSHA will require all employers who receive notification from OSHA to electronically submit specified information from their Part 1904 injury and illness records to OSHA or OSHA's designee.

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I. Legal Authority

OSHA is issuing this proposed rule pursuant to authority expressly granted by sections 8 and 24 of the Occupational Safety and Health Act (the ''OSH Act'' or ''Act'') (29 U.S.C. 657, 673). Section 8(c)(1) requires each employer to ''make, keep and preserve, and make available to the Secretary [of Labor] or the Secretary of Health and Human Services, such records regarding his activities relating to this Act as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses'' (29 U.S.C. 657(c)(1)). Section 8(c)(2) directs the Secretary to prescribe regulations ''requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job'' (29 U.S.C. 657(c)(2)). Finally, section 8(g)(2) of the OSH Act broadly empowers the Secretary to ''prescribe such rules and regulations as he may deem necessary to carry out [his] responsibilities under this Act'' (29 U.S.C. 657(g)(2)).

Section 24 of the OSH Act (29 U.S.C. 673) contains a similar grant of authority. This section requires the Secretary to ''develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics'' and ''compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses . . .'' (29 U.S.C. 673(a)). Section 24 also requires employers to ''file such reports with the Secretary as he shall prescribe by regulation'' (29 U.S.C. 673(e)). These reports are to be based on ''the records made and kept pursuant to section 8(c) of this Act'' (29 U.S.C. 673(e)).

Further support for the Secretary's authority to require employers to keep and submit records of work-related illnesses and injuries can be found in the Congressional Findings and Purpose at the beginning of the OSH Act (29 U.S.C. 651). In this section, Congress declares the overarching purpose of the Act to be ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions'' (29 U.S.C. 651(b)). One of the ways in which the Act is meant to achieve this goal is ''by providing for appropriate reporting procedures. . . [that] will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem'' (29 U.S.C. 651(b)(12)).

The OSH Act authorizes the Secretary of Labor to issue two types of occupational safety and health rules: Standards and regulations. Recordkeeping requirements promulgated under the Act are characterized as regulations (*see* 29 U.S.C. 657 (using the term ''regulations'' to describe recordkeeping requirements)). Standards aim to correct particular identified workplace hazards, while regulations further the general enforcement and detection purposes of the OSH Act (e.g., *Workplace Health & Safety Council* v. *Reich,* 56 F.3d 1465, 1468 (D.C. Cir. 1995) (citing *Louisiana Chemical Ass'n,* 657 F.2d 777, 781–82 (5th Cir. 1981)); *United Steelworkers of America* v. *Auchter,* 763 F.2d 728, 735 (3d Cir. 1985)).

This proposed regulation does not infringe on employers' Fourth Amendment rights. The Fourth Amendment protects against searches and seizures of private property by the government, but only when a person has a ''legitimate expectation of privacy'' in the object of the search or seizure (*Rakas* v. *Illinois,* 439 U.S. 128, 143–47 (1978)). There is little or no expectation of privacy in records that are required, by the government, to be kept and made available (*Free Speech Coalition* v. *Holder,* 729 F.Supp.2d 691, 747, 750–51 (E.D. Pa. 2010) (citing cases); *U.S.* v. *Miller,* 425 U.S. 435, 442–43 (1976); *cf. Shapiro* v. *U.S.,* 335 U.S. 1, 33 (1948) (no Fifth Amendment interest in required records)). Accordingly, the Fourth Circuit held, in *McLaughlin* v. *A.B. Chance,* that an employer has little expectation of privacy in the records of occupational injuries and illnesses kept pursuant to OSHA regulations, and must disclose them to the Agency on request (842 F.2d 724, 727–28 (4th Cir. 1988)).

Even if there were an expectation of privacy, the Fourth Amendment prohibits only *unreasonable* intrusions by the government (*Kentucky* v. *King,* 131 S.Ct. 1839, 1856 (2011)). The proposed information submission requirement is reasonable. The requirement serves a substantial government interest in the health and safety of workers, has a strong statutory basis, and rests on reasonable, objective criteria for determining which employers must report information to OSHA (see *New York* v. *Burger,* 482 U.S. 691, 702–703 (1987)). See the discussion in sections I, above, and II.d., below.

OSHA notes that two courts held, contrary to *A.B. Chance,* that the Fourth Amendment required prior judicial review of the reasonableness of an OSHA field inspector's demand for access to injury and illness logs before the agency could issue a citation for denial of access (*McLaughlin* v. *Kings Island,* 849 F.2d 990 (6th Cir. 1988)*; Brock* v. *Emerson Elec. Co.,* 834 F.2d 994 (11th Cir. 1987)). Those decisions are inapposite here. The courts based their rulings on a concern that field enforcement staff had unbridled discretion to choose the employers and circumstances in which they would demand access. The *Emerson Electric* court specifically noted that in situations where ''businesses or individuals are required to report particular information to the government on a regular basis[,] a uniform statutory or regulatory reporting requirement [would] satisf[y] the Fourth Amendment concern regarding the potential for arbitrary invasions of privacy'' (834 F.2d at 997, fn.2). This proposed rule, like that hypothetical, would establish general reporting requirements based on objective criteria and would not vest field staff with any discretion. The employers that are required to report data, the information they must report, and when they must report it are clearly identified in the text of the rule and in supplemental notices that will be published pursuant to the Paperwork Reduction Act. The proposed rule is similar in these respects to the existing rule that authorizes reporting pursuant to the OSHA Data Initiative and is reasonable under the Fourth Amendment (see 62 FR 6434, 6437–38 (Feb. 11, 1997) for a discussion of Fourth Amendment issues in the final rule on Reporting Occupational Injury and Illness Data to OSHA).

II. Background

OSHA estimates that this rule will have economic costs of $11.9 million per year, including $10.5 million per year to the private sector, with costs of $183 per year for affected establishments with 250 or more employees and $9 per year for affected establishments with 20 or more employees in designated industries. The Agency believes that the annual benefits, while unquantified, significantly exceed the annual costs.

Benefits include:

- Better compliance with OSHA's statutory directive ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources'' (29 U.S.C. 651(b)) ''by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem'' (29 U.S.C. 651(b)(12)).
- Increased workplace safety as a result of expanded OSHA access to timely, establishment-specific injury/illness information. OSHA access to this information will allow OSHA to use its resources more effectively by enabling the Agency to identify the workplaces where workers are at greatest risk, in general and/or from specific hazards, and to target its compliance assistance and enforcement efforts accordingly.
- Increased workplace safety as a result of making timely, establishment-specific injury/illness information public and easily available to employers. Public access to this information will encourage employers to maintain and improve workplace safety/health in order to support their reputations as good places to work and/or do business with. Employers will also be able to compare their own injury/illness rates to those of other employers.
- Increased workplace safety as a result of making timely, establishment-specific injury/illness information public and easily available to employees, employee representatives, and potential employees. Public access to this information will allow current employees to compare their workplaces to the best workplaces for safety and health and will allow potential employees to make more informed decisions about potential places of employment.
- Increased workplace safety as a result of making timely, establishment-specific injury/illness information public and easily available to customers and potential customers. Public access to this information will allow members of the public to make more informed decisions about current and potential companies with which to do business.
- Improved research on occupational safety and health. Public access to timely, establishment-specific injury and illness information will allow researchers to identify patterns of injuries or illnesses that are masked by the aggregation of injury/illness data in existing data sources.

a. Recordkeeping Rule

In 1971, OSHA promulgated 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illnesses (Part 1904). This rule requires the recording of work-related injuries and illnesses that involve death, loss of consciousness, days away from work, restriction of work, transfer to another job, medical treatment other than first aid, or diagnosis of a significant injury or illness by a physician or other licensed health care professional (29 CFR 1904.7).

Between 1994 and 2001, OSHA completely revised Part 1904. Amended recordkeeping regulations went into effect in 1994 (*Reporting fatalities and multiple hospitalization incidents to OSHA,* 29 CFR 1904.39) and 1997 (*Annual OSHA injury and illness survey of ten or more employers,* 29 CFR 1904.41). The bulk of the revisions occurred in 2001, when OSHA issued a final rule amending its requirements for the recording and reporting of occupational injuries and illnesses (29 CFR Parts 1904 and 1952), along with the forms employers use to record those injuries and illnesses (66 FR 5916 (Jan. 19, 2001)).

Under 29 CFR 1904.1 and 1904.2, three categories of employers are required to keep OSHA injury and illness records:

1. Employers under OSHA jurisdiction with 11 or more employees, unless the establishment is classified in a partially-exempt industry (specific low-hazard retail, service, finance, insurance, or real estate industries, listed in Appendix A to 29 CFR 1904 Subpart B).

2. Employers with ten or fewer employees, if OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records under § 1904.41 (*Annual OSHA injury and illness survey of ten or more employers*) or § 1904.42 (*Requests from the Bureau of Labor Statistics for data*).

3. Establishments in partially-exempt industries, if OSHA or BLS informs them in writing that they must keep records under § 1904.41 (*Annual OSHA injury and illness survey of ten or more employers*) or § 1904.42 (*Requests from the Bureau of Labor Statistics for data*).

The recordkeeping rule currently covers approximately 750,000 employers with approximately 1,500,000 establishments. Under § 1904.29, covered employers must complete Form 301 (*Injury and Illness Incident Report*) for each injury and illness at a covered establishment and record each injury and illness on Form 300 (*Log of Work-Related Injuries and Illnesses*). In addition, each year, the employers must use the information from these forms to complete Form 300A (*Summary of Work-Related Injuries and Illnesses*) for each covered establishment.

The records required by the recordkeeping rule provide OSHA and consultants in OSHA's On-Site

Consultation Program with important information. However, OSHA currently does not acquire the information in these records unless the establishment receives an inspection or is part of the OSHA Data Initiative.

At the beginning of an inspection, an OSHA representative reviews the establishment's injury and illness records to help focus the inspection on the safety and health hazards suggested by the records. OSHA consultants conduct a similar review when an establishment has requested a consultation. Also, as discussed below, OSHA currently uses establishment-specific injury and illness information obtained through the OSHA Data Initiative to help target the most hazardous worksites and the worst safety and health hazards. Finally, detailed, aggregate injury and illness data published by the BLS Survey of Injuries and Illnesses help OSHA identify and characterize occupational safety and health problems and allocate enforcement and compliance assistance resources.

b. Data Collections

Currently, two Department of Labor data collections request and compile employers' injury and illness records: The annual OSHA Data Initiative (ODI), conducted by OSHA, and the annual Survey of Occupational Injuries and Illnesses (SOII), conducted by BLS. This rulemaking affects the ODI by replacing the current version of § 1904.41. It does not change the authority of the SOII, which is conducted pursuant to § 1904.42.

1. OSHA Data Initiative (ODI)

OSHA's mission is to assure safe and healthful working conditions for working men and women. The primary purpose of the ODI is to enable OSHA to focus its efforts on individual workplaces with ongoing serious safety and health problems, as identified by the occupational injury and illness rates at those workplaces. Authority for the ODI comes from § 1904.41 *(Annual OSHA injury and illness survey of ten or more employers).*

The ODI consists of larger establishments (20 or more employees) in the manufacturing industry and in an additional 70 non-manufacturing industries. These are industries with historically high rates of occupational injury and illness. Currently, there are over 160,000 unique establishments that are subject to participation in the ODI. The ODI is designed so that each eligible establishment receives the ODI survey at least once every three-year cycle. Each year, the ODI sends the survey to approximately 80,000 establishments (1.1% of all establishments nationwide), which typically account for approximately 700,000 injuries and illnesses (19% of injuries and illnesses nationwide).

The ODI survey collects the following data from Form 300A (*Summary of Work-Related Injuries and Illnesses*) from each establishment:

- Number of cases (total number of deaths, total number of cases with days away from work, total number of cases with job transfer or restrictions, and total number of other recordable cases);
- Number of days (total number of days away from work and total number of days of job transfer or restriction);
- Injury and illness types (total numbers of injuries, skin disorders, respiratory conditions, poisonings, hearing loss, and all other illnesses);
- Establishment information (name, street address, industry description, SIC or NAICS code, and employment information (annual average number of employees, total hours worked by all employees last year));
- Signature (company executive's signature, title, telephone number, and date).

Employers may submit their data on paper forms or electronically. OSHA then calculates establishment-specific injury and illness rates and uses them in its Site-Specific Targeting (SST) enforcement program and High Rate Letter outreach program. The Agency also makes the establishment-specific data available to the public through its Web site at *http://www.osha.gov/pls/odi/establishment_search.html* and through President Obama's Open Government Initiative at *Data.gov* (*http://www.data.gov/raw/1461*).

The proposed rule replaces the ODI with the new language proposed for § 1904.41(a)(2). This section will require all establishments that are required to keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in certain designated industries to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee on an annual basis.

2. BLS Survey of Occupational Injuries and Illnesses

The primary purpose of the SOII is to provide annual information on the rates and numbers of work-related non-fatal injuries and illnesses in the United States of America, and on how these statistics vary by incident, industry, geography, occupation, and other characteristics. The Confidential Information Protection and Statistical Efficiency Act of 2002 (Pub. L. 107–347, Dec. 17, 2002) prohibits BLS from releasing establishment-specific data to the general public or to OSHA.

Authority for the SOII comes from § 1904.42 (*Requests from the Bureau of Labor Statistics for data*). Each year, BLS collects data from Form 300A (*Summary of Work-Related Injuries and Illnesses*), Form 301 (*Injury and Illness Incident Report*), and Form 300 (*Log of Work-Related Injuries and Illnesses*) from a scientifically-selected probability sample of about 230,000 establishments, covering nearly all private-sector industries, as well as state and local government. Employers may submit their data on paper forms or electronically. As stated above, the proposed rule will not affect the authority for the SOII.

c. OSHA Access to Establishment-Specific Injury and Illness Information

OSHA currently is able to acquire establishment-specific injury and illness information directly from employers in three limited ways.

First, OSHA acquires establishment-specific injury and illness information from employers through inspections. OSHA inspectors examine all records kept under Part 1904, including detailed information about specified injuries. However, each year, OSHA inspects only a small percentage of all establishments under OSHA jurisdiction. For example, in 2010, OSHA and its state partners inspected approximately 1% of establishments under OSHA jurisdiction (approximately 98,000 inspections, out of 7.5 million total establishments). Although OSHA does keep some of the Part 1904 records collected during inspections in its enforcement files, the information contained in them is too limited to be used in the ways OSHA expects to use the injury/illness information it will collect under the current proposal.

Second, OSHA acquires establishment-specific injury and illness information from employers through the ODI. However, because the ODI collects only summary data, it does not enable OSHA to identify specific hazards or problems in establishments in the ODI. In addition, the data are not timely. The injury/illness information OSHA uses in each year's Site-Specific Targeting Program comes from the previous year's ODI, which collected injury/illness data from the year before that. As a result, OSHA's targeting is typically based on injury/illness data that are two or three years old. Finally, the group of 80,000 establishments in each year's ODI is not a statistically-representative sample

either of establishments eligible to be included in the ODI or of establishments overall.

Finally, OSHA acquires establishment-specific injury and illness information from employers through § 1904.39, which requires employers to report all employee deaths from work-related incidents to OSHA. Employers must also report all multiple-hospitalization events, defined by § 1904.39 as in-patient hospitalizations of three or more employees as a result of a work-related incident.

These most-severe workplace injuries and illnesses are fortunately rare. OSHA receives fewer than 2,000 establishment-specific reports of fatalities each year and fewer than 20 establishment-specific reports of multiple-hospitalization events. OSHA responds to each of these reports with an investigation and, as appropriate, an inspection.

On June 22, 2011, OSHA published a Notice of Proposed Rulemaking that would amend the requirements of § 1904.39 to require employers to report all work-related in-patient hospitalizations and amputations to OSHA, in addition to all employee deaths (76 FR 36414 (June 22, 2011)). OSHA estimated that the new reporting requirements would result in a total of 210,000 additional establishment-specific reports of these severe injuries to OSHA. Even this larger number of reports, however, would represent less than one in ten of the roughly 3 million annual recordable injury and illness cases. In addition, the data would represent only the most severe injuries.

Given the above, OSHA currently does not acquire establishment-specific injury and illness information from an establishment in a particular year unless the establishment was inspected, was part of the ODI, and/or reported a fatality or multiple-hospitalization event.

As noted above, OSHA also acquires aggregate information from the injury and illness records collected through the BLS SOII. However, SOII data also have a time lag of almost a year, with data for a given year not available until November of the following year. More importantly, the SOII data available to OSHA do not identify the specific establishments where the injuries and illnesses occurred.

d. Benefits of Electronic Data Collection

The main purpose of this rulemaking is to improve workplace safety and health through the collection and use of timely, establishment-specific injury and illness data. With the information acquired through this proposed rule, employers, employees, employee representatives, the government, and researchers will be better able to identify and remove workplace hazards.

The proposed rule will support OSHA's statutory directive to ''assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources'' (29 U.S.C. 651(b)) ''by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem'' (29 U.S.C. 651(b)(12)).

It will greatly expand OSHA's access to the establishment-specific information employers are already required to record under Part 1904. As described in the previous section, OSHA currently does not have timely, systematic access to this information. OSHA has access to establishment-specific injury and illness information in a particular year only if the establishment was inspected, was part of the ODI, and/or reported a fatality or a multiple hospitalization event. In addition, the injury and illness data collected through the ODI are summary data only and not timely. The fatality/multiple hospitalization event data do not include the establishment's injury and illness records unless OSHA also conducts an inspection.

The rule's provisions requiring regular electronic submission of injury and illness data will allow OSHA to acquire a much larger database of timely, establishment-specific information about injuries and illnesses in the workplace. This information will help OSHA use its resources more effectively by enabling OSHA to identify the workplaces where workers are at greatest risk.

For example, OSHA could refer employers who report high overall injury/illness rates to OSHA's free on-site consultation program. OSHA could also send hazard-specific educational materials to employers who report high rates of injuries or illnesses related to those hazards. OSHA could use the information to identify emerging hazards, support an Agency response, and reach out to employers whose workplaces might include those hazards.

The proposed new collection would provide establishment-specific injury and illness data for analyses that are not currently possible with the data sets from inspections, the ODI, and reporting of fatalities and multiple-hospitalization events. For example, OSHA could analyze the data collected under this proposed system to answer the following questions:

1. What are the lowest injury/illness rates for establishments in a particular high-hazard industry?
2. What are the long-term changes over time in injuries and illnesses in a particular industry?
3. What is the effect of an OSHA intervention program targeted at a particular industry or particular industry-related hazard on injuries/illnesses in that industry?
4. What are the injury/illness outcomes of an OSHA intervention, as determined by a case-control study?
5. What are the common hazards in low-rate establishments compared to high-rate establishments in a particular industry?
6. How do injuries and illnesses in a particular industry vary by season?
7. How do injuries and illnesses in a particular industry vary by geographical location of the establishment?

In addition, OSHA plans to post the injury and illness data online, as encouraged by President Obama's Open Government Initiative (for example, see *www.whitehouse.gov/open).* The Agency believes that public access to timely, establishment-specific injury and illness data will improve workplace safety and health.

Specifically, the online posting of establishment-specific injury and illness information will encourage employers to improve and/or maintain workplace safety/health to support their reputations as good places to work or do business with. Many corporations now voluntarily report their workplace injury and illness rates in annual ''Sustainability Reports'', in order to show investors, stakeholders, and the public that they are committed to positive social values, including workplace safety. However, under OSHA's current recording and reporting requirements, employers have access only to their own data, aggregate injury/illness data in the SOII, summary data from establishments in the ODI, and fatality/multiple-hospitalization event reports. Using data collected under the proposed rule, employers could compare injury rates and hazards at their establishments to those at comparable establishments and set workplace safety/health goals benchmarked to the establishments they consider most comparable.

Online availability of establishment-specific injury and illness information will also encourage employees to contribute to improvements in workplace safety/health. Under § 1904.35, employees, former employees, their personal

representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records at their workplace, with some limitations. They also have access to the limited injury/illness information, discussed above, that is currently available to the public—the aggregate injury/illness data in the SOII, summary data from establishments in the ODI, and fatality/multiple-hospitalization event reports. In addition, § 1904.32 requires employers to post a copy of the establishment's annual summary in each establishment in a conspicuous place where notices to employees are customarily posted. This provision allows employees automatic access to the summary data without requiring employees to request the data from their employer.

Using data collected under the proposed rule, employees would be able to compare their own workplaces to the safest workplaces in their industries. This could encourage employees in more hazardous workplaces to work towards improvements by showing them that the improvements are possible, while demonstrating the results of workplace safety/health efforts to employees in the less-hazardous workplaces. Further, while the current access provisions of the regulation provide employees the right to access the information on the Part 1904 recordkeeping forms, evidence shows that few employees exercise this right. During 2,836 inspections conducted between 1996 and 2011 to assess the injury and illness recordkeeping practices of employers, 2,599 of the recordkeepers interviewed (92%) indicated that employees never requested access to the records required under Part 1904. OSHA believes that employees will access and make use of the data more frequently when the information is available without having to request the information from their employers. Uninhibited access to the information will allow employees to better identify hazards within their own workplace and to take actions to have the hazards abated.

Potential employees currently have access only to the limited injury/illness information currently available to the public—aggregate injury/illness data in the SOII, summary data from establishments in the ODI, and fatality/multiple-hospitalization event reports. Using data collected under the proposed rule, potential employees could examine the injury and illness records of establishments where they are interested in working, to help them make a more informed decision about a future place of employment. This would also encourage employers with more hazardous workplaces in a given industry to improve workplace safety and health, since potential employees, especially the ones whose skills are most in demand, might be reluctant to work at more hazardous establishments.

The general public also currently has access only to aggregate injury/illness data in the SOII, summary data from establishments in the ODI, and fatality/multiple hospitalization event reports. Using data collected under the proposed rule, members of the public will be able to make more informed decisions about current and potential places to do business with. For example, potential customers might choose to patronize only the businesses in a given industry with the lowest injury/illness rates. Such decisions by customers would also encourage establishments with higher injury/illness rates in a given industry to improve workplace safety in order to become more attractive to potential customers.

Finally, researchers also currently have access only to the limited injury/illness data described above. Using data collected under the proposed rule, researchers might identify previously unrecognized patterns of injuries and illnesses across establishments where workers are exposed to similar hazards. Such research would be especially useful in identifying hazards that result in a small number of injuries or illnesses in each establishment but a large number overall, due to a wide distribution of those hazards in a particular area, industry, or establishment type. Data made available under the proposed rule may also allow researchers to identify patterns of injuries or illnesses that are masked by the aggregation of injury/illness data in the SOII.

Workplace safety and health professionals might use data published under the proposed rule to identify establishments whose injury/illness records suggest that the establishments would benefit from their services. In general, online access to this large database of injury and illness information will support the development of innovative ideas for improving workplace safety and will allow everybody with a stake in workplace safety to participate in improving occupational safety and health.

This regulation may also improve the accuracy of the reported data. Section 1904.32 already requires company executives subject to Part 1904 requirements to certify that they have examined the annual summary (Form 300A) and reasonably believe, based on their knowledge of the process by which the information was recorded, that the annual summary is correct and complete. OSHA recognizes that most employers are diligent in complying with this requirement. However, a minority of employers is less diligent; in recent years, one third or more of violations of § 1904.32, and up to one tenth of all recordkeeping (Part 1904) violations, have involved this certification requirement. If this minority of employers knows that their data must be submitted to the Agency and may also be examined by members of the public, they may pay more attention to the requirements of Part 1904, which could lead both to improvements in the quality and accuracy of the information and to better compliance with § 1904.32.

Finally, the National Advisory Council on Occupational Safety and Health (NACOSH) has indicated its support of the efforts of OSHA in consultation with NIOSH to modernize the system for collection of injury and illness data to assure that it is timely, complete, and accurate, as well as both accessible and useful to employers, employees, responsible government agencies, and members of the public.

e. Publication of Electronic Data

OSHA intends to make the data it collects public. The publication of specific data elements will in part be restricted by provisions under the Freedom of Information Act (FOIA) and the Privacy Act, as well as specific provisions within Part 1904. OSHA may make the following data from the various forms (Docket exhibit OSHA–2013–0023–0001) available in a searchable online database:

Form 300A (Summary Form)—All data fields could be made available. These data are currently collected under the ODI and during inspections and are released under FOIA requests. The annual summary form is also posted at workplaces under § 1904.32(a)(4).and § 1904.32(b)(5). OSHA currently posts establishment-specific injury and illness rates calculated from the data collected through the ODI on OSHA's public Web site at *http://www.osha.gov/pls/odi/establishment_search.html.* Form 300A does not contain any personally identifiable information.

Form 300 (the Log)—Except for Column B (the employee's name), all fields could be made available. These data are generally released under FOIA requests. Section 1904.29(b)(10) prohibits release of employees' names and personal identifiers contained in the forms to individuals other than the government, employees, former

employees, and authorized representatives. OSHA does not currently conduct a systematic collection of the information on this form. However, the Agency does review the form during inspections and occasionally collects the form for enforcement case files.

Form 301 (Incident Report)—All fields on the right-hand side of the form (items 10 through 18) could typically be made available. These data are generally released in response to FOIA requests. Sections 1904.35(b)(v)(A) and (B) prohibit the release of information in items 1 through 9 to individuals other than the employee or former employee who suffered the injury or illness and his or her personal representatives. OSHA does not currently conduct a systematic collection of the information on this form. However, the Agency does review the form during some inspections and occasionally collects the form for enforcement case files.

It should be noted that other agencies post establishment-specific health and safety data with personal identifiers, including names. For example, the Mine Safety and Health Administration (MSHA) publishes coded information pertaining to each accident, illness, or injury reported to MSHA on MSHA Form 7000–1, including employee gender and age, as well as narratives associated with specific accidents/injuries for a particular year. An example of information published by MSHA can be viewed at *http://www.msha.gov/drs/drshome.htm.* Further, MSHA publishes a Preliminary Accident Report for fatalities, which includes the employee's name, age, and a description of the accident. MSHA also publishes an Accident Investigation Report that provides the names of other employees involved in the fatal incident.

The Federal Railroad Administration (FRA) posts headquarters-level Accident Investigation Reports filed by railroad carriers under 49 U.S.C. 20901 or made by the Secretary of Transportation under 49 U.S.C. 20902; in the case of highway-rail grade crossing incidents, these reports include personally-identifiable information (age and gender of the person(s) in the struck vehicle).

Finally, the Federal Aviation Administration (FAA) posts National Transportation Safety Board (NTSB) reports about aviation accidents. These reports include personally-identifiable information about employees, including job history and medical information. OSHA invites public comment on which data reported under the proposed the rule it would be useful to publish as part of OSHA's online database of establishment-specific injury and illness information. OSHA also invites public comment on whether there are additional steps the Agency should take to protect employee privacy interests.

III. Stakeholder Meetings and Public Comments

To help OSHA gather information about electronic submission of establishment-specific injury and illness data, OSHA held one stakeholder meeting in Washington, DC, on May 25, 2010, and two in Chicago, Illinois, on June 3, 2010. Topics included:

- Scope of the data to be collected
- Uses of the data to be collected
- Methods of data collection
- Economic impacts

In addition, as part of the stakeholder meeting notification, OSHA requested public comment. Comments were submitted for Docket No. OSHA–2010–0024. Summaries of the stakeholder meetings are available on OSHA's Recordkeeping Page at *http://www.osha.gov/recordkeeping/stakeholdermeeting.html* and under Docket No. OSHA–2010–0024 at *http://www.regulations.gov.* Major points brought up by individual stakeholders include:

- As long as the data submission process is simple and straightforward, an OSHA requirement for electronic submission of information from injury and illness records will not be a burden for most large employers, because large employers already keep their records electronically.
- The electronic submission system must be easy to use and should be compatible with workers' compensation systems and data submittal for the SOII.

IV. Summary and Explanation of the Proposed Rule

OSHA is proposing to amend its recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are already required to keep under Part 1904. The proposed rule would amend 29 CFR 1904.41 to add three new electronic reporting requirements (*proposed § 1904.41—Electronic submission of injury and illness records to OSHA).*

First, OSHA will require establishments that are required to keep injury and illness records under Part 1904, and had 250 or more employees in the previous calendar year, to electronically submit information from these records to OSHA or OSHA's designee, on a quarterly basis (*proposed § 1904.41(a)(1)—Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees*).

Second, OSHA will require establishments that are required to keep injury and illness records under Part 1904, had 20 or more employees in the previous calendar year, and are in certain designated industries, to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee, on an annual basis (*proposed § 1904.41(a)(2)—Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries*). The second submission requirement will replace OSHA's annual illness and injury survey, authorized by the current version of 29 CFR 1904.41.

Third, OSHA will require all employers who receive notification from OSHA to electronically submit specified information from their Part 1904 injury and illness records to OSHA or OSHA's designee (*proposed § 1904.41(a)(3)—Electronic submission of Part 1904 records upon notification*).

a. Description of Proposed Revisions

1. § 1904.41(a)(1)—Quarterly Electronic Submission of Part 1904 Records by Establishments With 250 or More Employees

OSHA proposes to add a requirement that establishments with 250 or more employees (including full-time, part-time, temporary, and seasonal workers) at any time during the previous calendar year must electronically submit to OSHA or OSHA's designee, on a quarterly basis, all information from the records that they keep under Part 1904. This information includes the individual entries on the OSHA Form 300 and the information entered on each OSHA Form 301. The summary data from OSHA Form 300A will be submitted annually. This requirement will not apply to establishments with 250 or more employees that are partially exempt from keeping injury and illness records under § 1904.2 (*Partial exemption for establishments in certain industries*). OSHA has preliminarily determined that it is appropriate to require quarterly data submission from establishments with 250 or more employees. The Agency believes that these establishments will find quarterly submission to be a relatively small burden, when compared to the benefits to worker safety and health that frequent submission can provide.

OSHA will provide a secure Web site for the data collection. Employers will register their establishments and be

assigned a login ID and password. The Web site will allow for both direct data entry and submission of data through a batch file upload, as appropriate. OSHA invites public comment on the design of the electronic reporting system and the implementation of the electronic reporting requirement.

The proposed rule does not add to or change any employer's obligations to complete and retain the injury and illness records. Part 1904 already requires employers at establishments with 250 or more employees to keep injury and illness records, unless they are exempt under § 1904.2 (*Partial exemption for establishments in certain industries*). The proposed rule also does not add to or change the recording criteria or definitions for these records. The only difference between the proposed rule and the current rule is that employers who keep injury and illness records under Part 1904, and had 250 or more employees at any time in the previous calendar year, will have to submit their records electronically, to OSHA or OSHA's designee, on a quarterly basis.

2. § 1904.41(a)(2)—Annual Electronic Submission of OSHA Annual Summary Form (Form 300A) by Establishments With 20 or More Employees in Designated Industries

OSHA proposes to add a requirement that establishments with 20 or more employees, in designated industries, must electronically submit the information from the OSHA summary form (Form 300A) to OSHA or OSHA's designee, on an annual basis. This will replace the current requirement in § 1904.41(a) that employers that receive OSHA's annual survey form must fill it out and send it in. The requirement for the information from the OSHA annual summary form (Form 300A) will replace the data requirements listed separately in current § 1904.41(a)(1) (number of workers employed), § 1904.41(a)(2) (number of hours worked by employees), and § 1904.41(a)(3) (requested information from Part 1904 records).

OSHA has chosen to require annual submission of Form 300A data from these establishments, as opposed to annual or quarterly submission of Form 300 and Form 301 data, because it recognizes that more frequent submissions of more data would impose an additional burden on these establishments, some of which may not have on-site access to the Internet. The Agency believes that annual submission of Form 300A data will provide researchers with valuable data from these establishments in a relatively timely manner.

OSHA will provide a secure Web site for the data collection. Employers will register their establishments and be assigned a login ID and password. The Web site will allow for both direct data entry and submission of data through a batch file upload, as appropriate. OSHA invites public comment on the design of the electronic reporting system and the implementation of the electronic reporting requirement.

The designated industries represent all industries covered by Part 1904 with a 2009 Days Away From Work, Job Restriction, or Job Transfer (DART) rate in the BLS SOII of 2.0 or greater, excluding four selected transit industries where local government is a major employer. On average, establishments in these industries experience 2 or more serious injuries and illnesses per 100 full time employees. The designated industries, which will be published as Appendix A to Part 1904 Subpart E, will be as follows:

NAICS	Industry
11	Agriculture, Forestry, Fishing and Hunting.
22	Utilities.
23	Construction.
31–33	Manufacturing.
42	Wholesale Trade.
4413	Automotive Parts, Accessories, and Tire Stores.
4421	Furniture Stores.
4422	Home Furnishings Stores.
4441	Building Material and Supplies Dealers.
4442	Lawn and Garden Equipment and Supplies Stores.
4451	Grocery Stores.
4521	Department Stores.
4529	Other General Merchandise Stores.
4533	Used Merchandise Stores.
4543	Direct Selling Establishments.
4811	Scheduled Air Transportation.
4832	Inland Water Transportation.
4841	General Freight Trucking.
4842	Specialized Freight Trucking.
4855	Charter Bus Industry.
4871	Scenic and Sightseeing Transportation, Land.
4872	Scenic and Sightseeing Transportation, Water.
4881	Support Activities for Air Transportation.
4882	Support Activities for Rail Transportation.
4883	Support Activities for Water Transportation.
4884	Support Activities for Road Transportation.
4889	Other Support Activities for Transportation.
4921	Couriers.
4922	Local Messengers and Local Delivery.
4931	Warehousing and Storage.
5152	Cable and Other Subscription Programming.
5311	Lessors of Real Estate.
5321	Automotive Equipment Rental and Leasing.
5322	Consumer Goods Rental.
5323	General Rental Centers.
5617	Services to Buildings and Dwellings.

NAICS	Industry
5621	Waste Collection.
5622	Waste Treatment and Disposal.
5629	Remediation and Other Waste Management Services.
6216	Home Health Care Services.
6221	General Medical and Surgical Hospitals.
6222	Psychiatric and Substance Abuse Hospitals.
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals.
6231	Nursing Care Facilities.
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities.
6233	Community Care Facilities for the Elderly.
6239	Other Residential Care Facilities.
6243	Vocational Rehabilitation Services.
7112	Spectator Sports.
7131	Amusement Parks and Arcades.
7132	Gambling Industries.
7211	Traveler Accommodation.
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.
8123	Drycleaning and Laundry Services.

The proposed rule does not add to or change any employer's obligations to complete and retain the injury and illness records. Part 1904 already requires employers at establishments with 20 or more employees to keep injury and illness records, including the OSHA summary unless they are partially-exempt under § 1904.2 (*Partial exemption for establishments in certain industries*). None of the designated industries is partially-exempt under § 1904.2 (*Partial exemption for establishments in certain industries*). The proposed rule also does not add to or change the recording criteria or definitions for these records. The only difference between the proposed rule and the current rule is that establishments that keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in the designated industries, will have to submit the information from the OSHA annual summary form (Form 300A) electronically, to OSHA or OSHA's designee, once a year.

As stated above, the industry list for this proposed section of the rule is based on an analysis of CY 2009 BLS DART rates. More current BLS injury and illness data will be available at the time of the final rulemaking. When developing the final rule, OSHA intends to use the must current BLS data available for determining the final industry coverage. See section IV.b.3 of this preamble for a solicitation for comment on this issue.

3. § 1904.41(a)(3)—Electronic Submission of Part 1904 Records Upon Notification

OSHA proposes to add a requirement that all employers who receive a notification from OSHA must submit information from their Part 1904 injury and illness records electronically to OSHA or OSHA's designee, for the time period and at the intervals specified by the notification. Employers will not have to submit injury and illness data to OSHA under this section unless they are notified.

OSHA will announce individual data collections through publication in the **Federal Register** and the OSHA newsletter and through announcements on its Web site. Establishments that are required to submit the data will also be notified by mail.

Each notification will be part of an individual data collection designed to obtain specified injury and illness data from a specified group of employers at a specified time interval. Individual data collections will provide OSHA with the timely, establishment-specific information necessary for identifying emerging hazards, characterizing specific areas of concern, or targeting inspections and outreach activities under an OSHA emphasis program.

The individual data collection might be limited. For example, to obtain information on occupational skin disorders in summer road construction, OSHA might request all Form 301 data for recordable skin disorder cases in establishments in the highway, street, and bridge construction industry (NAICS 23731) in June, July, and August of a particular year.

The data collection could also be more general. For example, OSHA might request all of the data recorded under Part 1904 from establishments in the primary metals industry (NAICS 331) in the past year.

OSHA will provide a secure Web site for the data collection. The data collection notification will provide the location of the Web site and will ask notified employers to register their establishments for the specified data collection. OSHA will assign employers with registered establishments a login ID and password for that data collection. The Web site will allow for both direct data entry and submission of data through a batch file upload, as appropriate. OSHA invites public comment on the design of the electronic reporting system and the implementation of the electronic reporting requirement.

For each new data collection conducted under this proposed section, the Agency will request OMB approval under separate Paperwork Reduction Act (PRA) control numbers. OSHA currently uses this process for the ODI data collection conducted under the current § 1904.41, which OMB currently approves under the control number 1218–0209.

The proposed rule does not add to or change any employer's obligation to complete and retain injury and illness records under Part 1904 (approved by OMB under Control Number 1218–0176 ''Recordkeeping and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904)''). Employers that are required to keep injury and illness records under Part 1904 will not have to keep any additional records as a result of this proposed rule. Employers that are normally exempt from keeping injury and illness records under § 1904.1 (*Partial exemption for employers with 10 or fewer employees*) and/or § 1904.2 (*Partial exemption for establishments in certain industries*) are already required by the current version of § 1904.41 (*Annual OSHA injury and illness survey of ten or more employers*) to keep records if OSHA informs them

in writing to do so, and the proposed rule continues this requirement.

The proposed rule also does not add to or change the recording criteria or definitions for these records. The only difference between the proposed rule and the current rule is that notified employers will have to submit the requested records electronically.

4. § 1904.41, Paragraphs (b)(1)–(b)(6)

These parts of the proposed rule answer the following questions:

- Does every employer have to send data to OSHA (*§ 1904.41, Paragraph (b)(1)*)?
- How will I be notified that I have to submit the data (*§ 1904.41, Paragraph (b)(2)*)?
- How often do I have to submit the data (*§ 1904.41, Paragraph (b)(3)*)?
- How do I submit the data (*§ 1904.41, Paragraph (b)(4)*)?
- Do I have to submit data if I am normally exempt from keeping OSHA injury and illness records (*§ 1904.41, Paragraph (b)(5)*)?
- Do I have to submit data if I am located in a State-Plan State (*§ 1904.41, Paragraph (b)(6)*)?

5. § 1952.4(d)

OSHA proposes to revise this section, currently related to State participation in the Annual OSHA Injury/Illness Survey as authorized by the current § 1904.41, to state that Federal OSHA will collect the data as described in § 1904.41(a) through (c) and make the data available to the States and to stipulate that States must adopt identical requirements for enforcement purposes. This revision is proposed to align with the proposed revisions of *§* 1904.41(a), *§ 1904.41(b), and § 1904.41*(c), as explained above. This is consistent with § 18(c)(7) of the OSH Act, which requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect. Section 18(c)(8) of the OSH Act provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

b. Issues, Alternatives, and Questions

1. Issues

Section 8(g) of the OSH Act, which authorizes OSHA to issue recordkeeping and other regulations, also provides that ''(t)he Secretary and Secretary of Health and Human Services are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section'' (29 U.S.C. 657(g)(1)). OSHA currently publishes, on OSHA.gov, establishment-level injury and illness statistics gathered under the annual ODI survey. To make these data useful to employers, employees, and the public in dealing with safety and health issues, OSHA intends to continue to make selected data from the new electronic reporting requirements available on OSHA.gov.

Proposed new provisions would require certain employers to electronically submit their illness and injury information to OSHA. OSHA invites public comment on the implementation of the electronic submission requirement, including whether it should take effect immediately or be phased in over a certain period of time at the beginning. Employer-maintained OSHA Form 300 logs are already subject to public disclosure under 29 CFR 1904.35(a)(2), which requires these logs to be disclosed to employees and their representatives, except that details of certain ''privacy concern'' cases may be kept confidential (see § 1904.29(b)(6)–(9)). OSHA 301 forms, which contain more detail about individual injuries, are available only to the injured employees or their representatives.

OSHA currently intends to make public all of the collected data that neither FOIA, the Privacy Act, nor specific Part 1904 provisions prohibit from release. However, OSHA welcomes public input on the question of which categories of information, from which OSHA-required form, it would be useful to publish. Whichever body of data is presented, however, OSHA will ensure that the names of employees with recorded injuries or illnesses are removed from any published information. OSHA invites public comment on whether there are additional steps the Agency should take to protect employee privacy interests.

The information required to be submitted under the proposed rule is not of a kind that would include confidential commercial information. The information is limited to the number and nature of injuries or illnesses experienced by employees at particular establishments, and the data necessary to calculate injury/illness rates, i.e., the number of employees and the hours worked at an establishment. Details about a company's products or production processes are not included on the OSHA recordkeeping forms, nor do the forms request financial information. The basic employee safety and health data required to be recorded do not involve trade secrets, and public availability of such information would not enable a competitor to obtain a competitive advantage. Many employers already routinely disclose the number of employees at an establishment. As the court noted in *New York Times Co.* v. *U.S. Dept. of Labor,* most employers do not view injury/illness rates as confidential (340 F.Supp.2d 394, 403 (S.D.N.Y. 2004)). Further, § 1904.32(a)(4) already requires information about number of employees and hours worked to be publicly disclosed to employees through the posting of the OSHA Form 300A (annual summary form) in the workplace, and the release of this information does not cause competitive harm *(New York Times Co.,* 340 F.Supp.2d at 401–403). The Secretary has carefully considered this question following the decision in the *New York Times Co.* case, and has concluded that the information contained on the OSHA recordkeeping forms does not constitute confidential commercial information. Members of the public are invited to express their views on this issue during the comment period.

2. Alternatives

OSHA considered the following alternatives.

i. Alternative A—Monthly Submission Under Proposed § 1904.41(a)(1)

The proposed § 1904.41(a)(1) requires quarterly submission from establishments with 250 or more employees. OSHA considered requiring monthly submission instead. Monthly submission would provide more timely data. On the other hand, this alternative would increase the reporting burden on employers at these establishments by increasing the number of times required to log in to the data collection system from four to twelve. Note that this alternative would not change the amount of data that employers would be required to report, but merely how often they would be required to report the data. OSHA welcomes public comment on this alternative.

ii. Alternative B—Annual Submission Under Proposed § 1904.41(a)(1)

The proposed § 1904.41(a)(1) requires quarterly submission from establishments with 250 or more employees. OSHA considered requiring annual submission instead. Annual submission would reduce the reporting burden on employers at these establishments by decreasing the number of times required to log into the data collection system from four to one. Note that this alternative would not change the amount of data that employers would be required to report,

but merely how often they would be required to report the data.

On the other hand, this alternative would reduce the timeliness of the data. First, cases from the beginning of the year would not be reported until the end of the year. Second, receiving, cleaning, and analyzing the submission of a year's worth of data all at once, rather than at regular intervals during the year, would affect OSHA's ability to make the data available to the public in a timely fashion. OSHA welcomes public comment on this alternative.

iii. Alternative C—One-Year Phase-in of Electronic Reporting Under Proposed § 1904.41(a)(1)

The proposed § 1904.41(a)(1) requires electronic reporting for establishments with 250 or more employees. OSHA considered a phase-in of the electronic reporting requirement, under which these establishments would have the option of submitting data on paper forms for the first year this proposed rule was in effect. A one-year phase-in would give time for these establishments to adjust to electronic reporting.

On the other hand, according to information provided by stakeholders at the stakeholder meetings held by OSHA in 2010, almost all establishments of this size are already maintaining their Part 1904 records electronically. (For a summary of stakeholder information, see the comments submitted for Docket No. OSHA–2010–0024. Also, summaries of the stakeholder meetings are available on OSHA's Recordkeeping Page at *http://www.osha.gov/recordkeeping/stakeholdermeeting.html* and under Docket No. OSHA–2010–0024 at *http://www.regulations.gov.)*

As a result, if OSHA's electronic data submission system is designed to be compatible with other electronic systems that track and report establishment-specific injury and illness data, these establishments are unlikely to need the adjustment period this alternative would provide. In addition, paper submission would impede OSHA's ability to make the data public in timely way, because the data on the paper forms would have to be entered manually into the electronic data system. OSHA welcomes public comment on this alternative.

iv. Alternative D—Three-Year Phase-in of Electronic Reporting Under Proposed § 1904.41(a)(2)

The proposed § 1904.41(a)(2) requires electronic reporting for establishments with 20 or more employees in designated industries. OSHA considered a phase-in of the electronic reporting requirement, under which these establishments would have the option of submitting data on paper forms for the first three years this proposed rule was in effect. A three-year phase-in would give time for these establishments to adjust to electronic reporting. On the other hand, paper submission would impede OSHA's ability to make the data public in timely way, because the data on the paper forms would have to be entered manually into the electronic data system. OSHA welcomes public comment on this alternative. It should be noted the current ODI allows for both paper and electronic submission. Approximately 30% of respondents submit their data by paper. This level of paper submission has been consistent for the past three years.

v. Alternative E—Widen the Scope of Establishments Required To Report Under Proposed § 1904.41(a)(1)

The proposed § 1904.41(a)(1) applies to establishments with 250 or more employees. OSHA considered widening the scope of establishments required to report under this proposed section to establishments with 100 or more employees. This would more than triple the number of establishments required to report under this proposed section, increasing the number from 38,000 to 129,000. It would increase the number of injury and illness cases with incident report (OSHA Form 301) and Log (OSHA Form 300) data by nearly 50%, from 890,000 to 1,325,000.

This alternative would greatly increase the amount of timely, establishment-specific injury/illness information available to the public. On the other hand, it would also greatly increase the number of establishments subject to the burden of quarterly reporting of records kept under Part 1904. OSHA welcomes public comment on this alternative.

vi. Alternative F—Narrow the Scope of Establishments Required To Report Under Proposed § 1904.41(a)(1)

The proposed § 1904.41(a)(1) applies to establishments with 250 or more employees. OSHA considered narrowing the scope of establishments required to report under this proposed section to establishments with 500 or more employees. This would decrease the number of establishments required to report under this proposed section by more than half, reducing the number from 38,000 to 13,800. It would also decrease the number of injury and illnesses cases with incident report (OSHA Form 301) and Log (OSHA Form 300) data by a third, from 890,000 to 590,000.

This alternative would greatly reduce the number of establishments subject to the burden of quarterly reporting of records kept under Part 1904. On the other hand, it would also greatly reduce the amount of timely, establishment-specific injury/illness information available to the public. OSHA welcomes public comment on this alternative.

vii. Alternative G—Three-Step Process of Implementing the Reporting Requirements Under Proposed § 1904.41(a)(1) and (2)

OSHA considered a three-step process of implementing the reporting requirements under the proposed § 1904.41(a)(1) and (2).

The proposed § 1904.41(a)(1) applies to establishments with 250 or more employees, except establishments that are partially exempt from keeping injury and illness records under current § 1904.2 (partial exemption for establishments in certain industries).

The proposed § 1904.41(a)(2) applies to establishments with 20 or more employees in designated industries, i.e., high-hazard industry groups (classified at the four-digit level in the North American Industry Classification System (NAICS)) and/or high-hazard industry sectors (classified at the two-digit level in NAICS). (Note that, by definition, none of these establishments would be partially exempt under § 1904.2.)

For this proposed alternative, high-hazard industry groups (four-digit NAICS) have rates of injuries and illnesses involving days away from work, restricted work activity, or job transfer (DART) that are greater than 2.0. High-hazard industry sectors (two-digit NAICS) include agriculture, forestry, fishing, and hunting; utilities; construction; manufacturing; and wholesale trade.

In the first step of this three-step implementation process, reporting would be required only from the establishments in proposed § 1904.41(a)(1) and (2) that are in high-hazard industry groups (four-digit NAICS with a DART rate greater than or equal to 2.0).

Thus, initially, reporting would be required from two categories of establishments:

1. Establishments with 250 or more employees, in a high-hazard industry group (four-digit NAICS). An establishment with 250 or more employees that is not in a high-hazard industry group (four-digit NAICS) would not be required to report.

2. Establishments with 20 or more employees, in a high-hazard industry group (four-digit NAICS). An

establishment that had 20 or more employees and is in a high-hazard industry sector (two-digit NAICS), but not in a high-hazard industry group (four-digit NAICS), would not be required to report.

In the second step of the three-step implementation process, OSHA would conduct an analysis, after a specified period of time, to assess the effectiveness, adequacy, and burden of the reporting requirements in the first step. The results of this analysis would then guide OSHA's next actions. For example, the results might support expanding the requirements to include all of the establishments in proposed § 1904.41(a)(1) and (2). Alternatively, the results might support modifying or eliminating the requirements for certain groups of employers or industries.

The third step of the three-step implementation process would therefore depend on the results of OSHA's analysis. For the purposes of this alternative, OSHA assumes that the third step would require reporting from all of the establishments in proposed § 1904.41(a)(1) and (2). That is, the third step would add reporting from two categories of establishments:

1. Establishments with 250 or more employees that are not in high-hazard industry groups (four-digit NAICS) and are not partially-exempt. Establishments with 250 or more employees that are in high-hazard industry groups (two-digit NAICS) would already be reporting under the first step.

2. Establishments with 20 or more employees that are in high-hazard industry sectors (two-digit NAICS) but are not in high-hazard industry groups (four-digit NAICS). Establishments with 20 or more employees that are in high-hazard industry groups (four-digit NAICS) would already be reporting under the first step.

This three-step alternative would initially focus the regulation more narrowly on establishments in the highest-hazard industries. During the first step, the number of reporting establishments with 250 or more employees would be over two-fifths less (22,000 establishments, compared to 38,000 in proposed § 1904.41(a)(1)), and the number of reporting establishments with 20 or more employees in designated industries would be one-quarter less (335,000 establishments, compared to 440,000 in proposed § 1904.41(a)(2)).

On the other hand, this alternative would also initially reduce the public's access to timely, establishment-specific injury/illness information about the two categories of establishments that would not be required to report until the third step of the process, depending on the results of the analysis in the second step. There would be 16,000 establishments subject to proposed § 1904.41(a)(1) that would not report until the third step, and there would be 105,000 establishments subject to proposed § 1904.41(a)(2) that would not report until the third step.

In addition, the three-step implementation process would place a burden of uncertainty on these establishments, which would not be required to report under the first step but might be required to report under the third step, depending on the results of the analysis in the second step.

OSHA welcomes public comment on this alternative.

viii. Alternative H—Narrow the Scope of the Reporting Requirements Under Proposed § 1904.41(a)(1) and (2)

The proposed § 1904.41(a)(1) applies to all establishments with 250 or more employees in all industries covered by the recordkeeping rule.

The proposed § 1904.41(a)(2) applies to establishments with 20 or more employees in designated industries, i.e., high-hazard industry groups (classified at the four-digit level in the North American Industry Classification System (NAICS)) and/or high-hazard industry sectors (classified at the two-digit level in NAICS). High-hazard industry groups (four-digit NAICS) are defined as industries with rates of injuries and illnesses involving days away from work, restricted work activity, or job transfer (DART) that are greater than or equal to 2.0. High-hazard industry sectors (two-digit NAICS) include agriculture, forestry, fishing, and hunting; utilities; construction; manufacturing; and wholesale trade.

An alternative approach to defining the industry scope of these two sections is to limit the industry coverage to include only industry groups that meet a designated DART cut-off. This approach would not include coverage of designated industry sectors as a criterion. Thus, reporting would be required from two categories of establishments:

1. Establishments with 250 or more employees, in a high-hazard industry group (four-digit NAICS) (quarterly reporting). An establishment with 250 or more employees that is not in a high-hazard industry group (four-digit NAICS) would not be required to report.

2. Establishments with 20 or more employees, in a high-hazard industry group (four-digit NAICS) (annual reporting). An establishment with 20 or more employees that is not in a high-hazard industry group (four-digit NAICS), would not be required to report.

This alternative would focus the regulation more narrowly on establishments in the highest-hazard industries. Using this approach, OSHA applied cut-off DART rates of 2.0 and 3.0 to 2009 BLS and CBP data and calculated the following coverage:

	Establishments with 20 or more employees	Establishments with 250 or more employees	Injuries and illnesses in establishments with 250 or more employees
Proposed regulatory text	440,000	38,000	890,000
DART ≥2.0	335,000	22,000	667,000
DART ≥3.0	152,000	10,000	229,000

Using a DART rate cut-off of 2.0, the following 55 industry groups that are subject to § 1904.41(a)(1) and § 1904.41(a)(2) under the main proposal would not be covered under this alternative:

2009 DART <2.0

Recordkeeping covered NAICS (2007)	Industry	2009 DART
1131	Timber Tract Operations	1.7
1132	Forest Nurseries and Gathering of Forest Products	1.7
1133	Logging	1.9
1141	Fishing	0.7
1142	Hunting and Trapping	0.5
2211	Electric Power Generation, Transmission and Distribution	1.5
2362	Nonresidential Building Construction	1.7
2372	Land Subdivision	0.8
2379	Other Heavy and Civil Engineering Construction	1.4
3122	Tobacco Manufacturing	1.9
3131	Fiber, Yarn, and Thread Mills	1.6
3132	Fabric Mills	1.4
3141	Textile Furnishings Mills	1.9
3149	Other Textile Product Mills	1.9
3151	Apparel Knitting Mills	1.5
3152	Cut and Sew Apparel Manufacturing	1.3
3159	Apparel Accessories and Other Apparel Manufacturing	1.6
3169	Other Leather and Allied Product Manufacturing	1.7
3221	Pulp, Paper, and Paperboard Mills	1.4
3231	Printing and Related Support Activities	1.6
3241	Petroleum and Coal Products Manufacturing	0.9
3251	Basic Chemical Manufacturing	1.1
3252	Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	1.4
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	1.8
3254	Pharmaceutical and Medicine Manufacturing	1.1
3255	Paint, Coating, and Adhesive Manufacturing	1.9
3259	Other Chemical Product and Preparation Manufacturing	1.3
3274	Lime and Gypsum Product Manufacturing	1.6
3311	Iron and Steel Mills and Ferroalloy Manufacturing	1.8
3322	Cutlery and Handtool Manufacturing	1.8
3332	Industrial Machinery Manufacturing	1.6
3333	Commercial and Service Industry Machinery Manufacturing	1.9
3335	Metalworking Machinery Manufacturing	1.7
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	1.5
3341	Computer and Peripheral Equipment Manufacturing	0.4
3342	Communications Equipment Manufacturing	0.8
3343	Audio and Video Equipment Manufacturing	0.6
3344	Semiconductor and Other Electronic Component Manufacturing	0.9
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	0.8
3346	Manufacturing and Reproducing Magnetic and Optical Media	1.1
3352	Household Appliance Manufacturing	1.7
3359	Other Electrical Equipment and Component Manufacturing	1.6
3364	Aerospace Product and Parts Manufacturing	1.8
3391	Medical Equipment and Supplies Manufacturing	1.2
4232	Furniture and Home Furnishing Merchant Wholesalers	1.6
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers	1.1
4236	Electrical and Electronic Goods Merchant Wholesalers	1.0
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	1.5
4238	Machinery, Equipment, and Supplies Merchant Wholesalers	1.6
4241	Paper and Paper Product Merchant Wholesalers	1.7
4242	Drugs and Druggists' Sundries Merchant Wholesalers	1.4
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	1.1
4246	Chemical and Allied Products Merchant Wholesalers	1.6
4247	Petroleum and Petroleum Products Merchant Wholesalers	1.8
4251	Wholesale Electronic Markets and Agents and Brokers	1.0

Using a DART rate cut-off of 3.0, the following 133 industry groups that are subject to § 1904.41(a)(1) and § 1904.41(a)(2) under the main proposal would not be covered under this alternative:

2009 DART <3.0

Recordkeeping covered NAICS (2007)	Industry	2009 DART
1113	Fruit and Tree Nut Farming	2.6
1114	Greenhouse, Nursery, and Floriculture Production	2.7
1119	Other Crop Farming	2.2

2009 DART <3.0—Continued

Recordkeeping covered NAICS (2007)	Industry	2009 DART
1121	Cattle Ranching and Farming	2.7
1122	Hog and Pig Farming	2.8
1124	Sheep and Goat Farming	2.8
1125	Aquaculture	2.8
1131	Timber Tract Operations	1.7
1132	Forest Nurseries and Gathering of Forest Products	1.7
1133	Logging	1.9
1141	Fishing	0.7
1142	Hunting and Trapping	0.5
1151	Support Activities for Crop Production	2.8
1152	Support Activities for Animal Production	2.7
1153	Support Activities for Forestry	2.0
2211	Electric Power Generation, Transmission and Distribution	1.5
2212	Natural Gas Distribution	2.5
2361	Residential Building Construction	2.1
2362	Nonresidential Building Construction	1.7
2371	Utility System Construction	2.4
2372	Land Subdivision	0.8
2373	Highway, Street, and Bridge Construction	2.4
2379	Other Heavy and Civil Engineering Construction	1.4
2382	Building Equipment Contractors	2.3
2383	Building Finishing Contractors	2.7
2389	Other Specialty Trade Contractors	2.4
3112	Grain and Oilseed Milling	2.6
3118	Bakeries and Tortilla Manufacturing	2.9
3119	Other Food Manufacturing	2.8
3122	Tobacco Manufacturing	1.9
3131	Fiber, Yarn, and Thread Mills	1.6
3132	Fabric Mills	1.4
3133	Textile and Fabric Finishing and Fabric Coating Mills	2.0
3141	Textile Furnishings Mills	1.9
3149	Other Textile Product Mills	1.9
3151	Apparel Knitting Mills	1.5
3152	Cut and Sew Apparel Manufacturing	1.3
3159	Apparel Accessories and Other Apparel Manufacturing	1.6
3162	Footwear Manufacturing	2.9
3169	Other Leather and Allied Product Manufacturing	1.7
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing	2.4
3221	Pulp, Paper, and Paperboard Mills	1.4
3222	Converted Paper Product Manufacturing	2.0
3231	Printing and Related Support Activities	1.6
3241	Petroleum and Coal Products Manufacturing	0.9
3251	Basic Chemical Manufacturing	1.1
3252	Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing	1.4
3253	Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing	1.8
3254	Pharmaceutical and Medicine Manufacturing	1.1
3255	Paint, Coating, and Adhesive Manufacturing	1.9
3256	Soap, Cleaning Compound, and Toilet Preparation Manufacturing	2.1
3259	Other Chemical Product and Preparation Manufacturing	1.3
3261	Plastics Product Manufacturing	2.5
3272	Glass and Glass Product Manufacturing	2.8
3274	Lime and Gypsum Product Manufacturing	1.6
3279	Other Nonmetallic Mineral Product Manufacturing	2.8
3311	Iron and Steel Mills and Ferroalloy Manufacturing	1.8
3313	Alumina and Aluminum Production and Processing	2.7
3322	Cutlery and Handtool Manufacturing	1.8
3324	Boiler, Tank, and Shipping Container Manufacturing	2.8
3325	Hardware Manufacturing	2.5
3326	Spring and Wire Product Manufacturing	2.3
3327	Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	2.1
3328	Coating, Engraving, Heat Treating, and Allied Activities	2.8
3329	Other Fabricated Metal Product Manufacturing	2.2
3331	Agriculture, Construction, and Mining Machinery Manufacturing	2.3
3332	Industrial Machinery Manufacturing	1.6
3333	Commercial and Service Industry Machinery Manufacturing	1.9
3334	Ventilation, Heating, Air-Conditioning, and Commercial Refrigeration Equipment Manufacturing	2.5
3335	Metalworking Machinery Manufacturing	1.7
3336	Engine, Turbine, and Power Transmission Equipment Manufacturing	1.5
3339	Other General Purpose Machinery Manufacturing	2.1
3341	Computer and Peripheral Equipment Manufacturing	0.4

2009 DART <3.0—Continued

Recordkeeping covered NAICS (2007)	Industry	2009 DART
3342	Communications Equipment Manufacturing	0.8
3343	Audio and Video Equipment Manufacturing	0.6
3344	Semiconductor and Other Electronic Component Manufacturing	0.9
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing	0.8
3346	Manufacturing and Reproducing Magnetic and Optical Media	1.1
3351	Electric Lighting Equipment Manufacturing	2.0
3352	Household Appliance Manufacturing	1.7
3353	Electrical Equipment Manufacturing	2.0
3359	Other Electrical Equipment and Component Manufacturing	1.6
3363	Motor Vehicle Parts Manufacturing	2.6
3364	Aerospace Product and Parts Manufacturing	1.8
3365	Railroad Rolling Stock Manufacturing	2.4
3369	Other Transportation Equipment Manufacturing	2.4
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing	2.8
3372	Office Furniture (including Fixtures) Manufacturing	2.4
3379	Other Furniture Related Product Manufacturing	2.5
3391	Medical Equipment and Supplies Manufacturing	1.2
3399	Other Miscellaneous Manufacturing	2.0
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	2.2
4232	Furniture and Home Furnishing Merchant Wholesalers	1.6
4233	Lumber and Other Construction Materials Merchant Wholesalers	2.8
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers	1.1
4236	Electrical and Electronic Goods Merchant Wholesalers	1.0
4237	Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers	1.5
4238	Machinery, Equipment, and Supplies Merchant Wholesalers	1.6
4239	Miscellaneous Durable Goods Merchant Wholesalers	2.1
4241	Paper and Paper Product Merchant Wholesalers	1.7
4242	Drugs and Druggists' Sundries Merchant Wholesalers	1.4
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers	1.1
4245	Farm Product Raw Material Merchant Wholesalers	2.2
4246	Chemical and Allied Products Merchant Wholesalers	1.6
4247	Petroleum and Petroleum Products Merchant Wholesalers	1.8
4249	Miscellaneous Nondurable Goods Merchant Wholesalers	2.1
4251	Wholesale Electronic Markets and Agents and Brokers	1.0
4413	Automotive Parts, Accessories, and Tire Stores	2.5
4421	Furniture Stores	2.5
4422	Home Furnishings Stores	2.1
4442	Lawn and Garden Equipment and Supplies Stores	2.3
4521	Department Stores	2.6
4533	Used Merchandise Stores	2.7
4832	Inland Water Transportation	2.2
4871	Scenic and Sightseeing Transportation, Land	2.4
4872	Scenic and Sightseeing Transportation, Water	2.2
4881	Support Activities for Air Transportation	2.7
4882	Support Activities for Rail Transportation	2.9
4884	Support Activities for Road Transportation	2.8
4922	Local Messengers and Local Delivery	2.5
5152	Cable and Other Subscription Programming	2.4
5311	Lessors of Real Estate	2
5321	Automotive Equipment Rental and Leasing	2.2
5322	Consumer Goods Rental	2.7
5617	Services to Buildings and Dwellings	2.4
5629	Remediation and Other Waste Management Services	2.1
6216	Home Health Care Services	2.0
6221	General Medical and Surgical Hospitals	2.8
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals	2.9
7132	Gambling Industries	2.0
7211	Traveler Accommodation	2.6
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	2.6
8123	Drycleaning and Laundry Services	2.5

OSHA welcomes public comment on this alternative.

ix. Alternative I—Enterprise-Wide Submission

OSHA is considering a provision to require some enterprises with multiple establishments to collect and submit some Part 1904 data for those establishments. This provision would apply to enterprises with a minimum threshold number of establishments (such as five or more) that are required

to keep records under Part 1904. These enterprises would be required to collect OSHA Form 300A (log summary) data from each of their establishments that are required to keep injury/illness records under Part 1904. The enterprise would then submit the data from each establishment to OSHA. For example, if an enterprise had seven establishments required to keep injury/illness records under Part 1904, the enterprise would submit seven sets of data, one for each establishment.

This requirement would apply to enterprises with multiple levels within the organization. For example, if XYZ Chemical Inc. owns three establishments, but is itself owned by XYZ Inc., which has several wholly owned subsidiaries, then only XYZ Inc. would have to report, but would have to report for all establishments it controls. It should be noted that these requirements would only apply to establishments within the jurisdiction of OSHA and subject to the recordkeeping rule. Establishments within the corporate structure but located on foreign soil would not be subject to the requirement.

An enterprise-wide approach to workplace safety and health is useful for both OSHA and the enterprise. OSHA has several enterprise-wide programs, including corporate-wide settlement agreements, VPP corporate recognition, Partnerships, and the Severe Violator Enforcement Program (SVEP). OSHA believes that enterprise-wide programs can significantly improve workplace safety and health, especially in cases of employers with multiple establishments that have similar real or potential hazards. In addition, roughly 100 multi-establishment enterprises currently ask to submit their ODI data through one corporate contact. For these enterprises, OSHA mails the ODI surveys for all of the establishments to the corporate contact, which collects the data from the establishments and then submits the data to OSHA.

OSHA believes that the requirement for enterprise-wide submission of injury and illness data would provide two benefits not available under proposed § 1904.41(a)(2) (Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries).

First, the provision would improve employer awareness and oversight of workplace safety and health at the enterprise level. Many multi-establishment enterprises already collect and analyze establishment-level injury and illness data, but many do not. In some cases, multi-establishment enterprises only learn of an establishment's failure to provide safe and healthful working conditions as a result of a major incident or an OSHA enforcement action. Under this portion of the proposal, all multi-establishment enterprises subject to the requirement would be obligated to collect establishment-level data. This would enable the enterprises to monitor the safety and health performance of their establishments more intelligently and to deploy existing safety and health resources more effectively.

Second, this provision would enable OSHA to calculate enterprise-wide injury and illness rates, as well as the establishment-specific rates OSHA would be able to calculate under proposed § 1904.41(a)(1) (Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees) and proposed § 1904.41(a)(2) (Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries). Using enterprise-level data, OSHA could identify and work with enterprises that have high rates and/or large numbers of injuries and illnesses, either enterprise-wide or at multiple specific establishments. This would allow OSHA to leverage a limited number of interventions into improved compliance and reductions in injuries and illnesses. The interventions could include focused inspections, targeted inspections, referrals to state on-site consultation programs, enhanced compliance assistance, partnerships, and other activities.

In addition, enterprise-wide collection is a logical extension of the current requirement in § 1904.32(b)(3) for a company executive's certification of the annual summary for the establishment. According to § 1904.32(b)(4), the certifying company executive must be either the owner of the company, an officer of the corporation, the highest-ranking company official working at the establishment, or the immediate supervisor of the highest-ranking company official working at the establishment. While, as discussed above, many multi-establishment enterprises already examine their establishments' annual summaries, others do not. Correct and complete data are necessary for OSHA, employers, and employees to identify, understand, and control hazards in the workplaces, as well as for safety and health professionals to analyze trends, identify emerging hazards, and develop solutions.

Issues

(1) Definition of the Relationship Between the Enterprise and the Establishment(s)

Under this provision, an enterprise with multiple establishments would collect Part 1904 injury and illness data from those establishments. However, although Part 1904 currently includes a definition of an ''establishment'', there is no definition of an ''enterprise'' in Part 1904. Therefore, to implement this provision, OSHA would have to define the term ''enterprise''.

Under § 1904.46, an establishment is ''a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.''

The Statistics of U.S. Businesses (SUSB) program at the U.S. Census Bureau uses the same definition of an establishment as a single physical location where business is conducted or where services or industrial operations are performed. The SUSB is an annual series that provides detailed annual data for U.S. business establishments by geography, industry, and establishment size.

There is currently no definition of an enterprise in Part 1904. However, the SUSB defines an enterprise as ''a business organization consisting of one or more domestic establishments that were specified under common ownership or control.'' [1] For firms with only one establishment, the enterprise and the establishment are the same. For firms with more than one establishment, each multi-establishment company forms one enterprise.

Using this definition of an enterprise would require OSHA also to define what constitutes ''ownership or control''. This definition would need to be clear and easy to use, and it would also need to minimize the chance of multiple submissions of injury/illness data for the same establishment.

One possible measure of ownership or control is the enterprise's percentage of ownership of the establishment. In this case, the definition could be ''For the

[1] Statistics of U.S. Businesses, Definitions, United States Census Bureau *http://www.census.gov/econ/susb/definitions.html.*

purposes of this section, if an enterprise has an ownership share greater than 50% in an establishment, it is considered to have ownership or control of that establishment.'' For example, if Corporation A owns a majority of the stock of subsidiary Corporation B, the establishments owned and operated by Corporation B would be considered part of the Corporation A enterprise.

Instead of ''enterprise'', the U.S. Equal Employment Opportunity Commission (EEOC) uses the term ''multi-establishment employer'' and defines it as an employer ''doing business at more than one establishment''.[2] For multi-establishment employers, the ''headquarters office'' must collect the forms from the establishments, or the ''parent corporation'' must collect the forms from its ''subsidiary holdings''. The EEOC defines ''parent corporation'' as ''any corporation which owns all or the majority stock of another corporation so that the latter stands in the relation to it of a subsidiary.''

OSHA would consider using some of these definitions for the purpose of this section. However, other measures and definitions are possible. OSHA welcomes comments on this issue.

(2) Other Issues

OSHA has identified two other issues that may affect the feasibility and burden associated with an enterprise-wide collection.

Occupation: For calculating burden, OSHA ordinarily assumes that recordkeeping tasks at the establishment level are performed by human resource specialists (BLS Standard Occupation Code 13–1071). However, the proposed provision would require recordkeeping tasks at the enterprise level. OSHA seeks information on the occupation or occupations that would best describe the people who would perform these tasks at the enterprise level.

Duplication: The Paperwork Reduction Act (PRA) requires agencies to identify and minimize any duplication in the collection of information. The enterprise-wide reporting provision, in combination with proposed § 1904.41(a)(2), could lead to the possibility that establishment-specific data would be submitted to the Agency more than once. For example, an establishment might submit its summary data to OSHA in compliance with proposed § 1904.41(a)(2), while the enterprise submitted the same data to OSHA in compliance with this proposed provision. One solution to this problem would be regulatory text explaining that the establishment is not required to submit data under § 1904.41(a)(2) if the enterprise is required to submit the establishment's data under the proposed provision. However, the Agency recognizes that figuring out who should submit the establishment's data would require coordination between a multi-establishment enterprise and its establishments. OSHA seeks information on the burden associated with this coordination.

Possible Additional Regulatory Text

1904.41(a)(4) Annual electronic submission of OSHA annual summary form (Form 300A) by enterprises with five (5) or more establishments. If your enterprise had ownership or control of five (5) or more establishments covered by the recordkeeping rule during the entirety of the previous calendar year, you must electronically send to OSHA or OSHA's designee, once a year, the information from the completed annual summary form (Form 300A) for each controlled establishment, including the enterprise location. The information must be submitted no later than March 2 of the year after the calendar year covered by the form.

1904.41(b)(7) What is the definition of ''ownership or control'' in § 1904.41(a)(4)? Ownership or control means that the enterprise has an ownership share of greater than 50% in the establishment.

1904.41(b)(8) If § 1904.41(a)(4) requires the enterprise to submit an establishment's summary data, does the establishment also have to submit the summary data under § 1904.41(a)(1)(v) or § 1904(a)(2)? No, the summary data (Form 300A) for the establishment should only be submitted once, by the enterprise. However, establishments subject to § 1904.41(a)(1) must submit all of the other information required by that provision.

1904.41(b)(9) If an establishment is partially exempted from the recordkeeping requirements under § 1904.2, does the enterprise have to submit data for that establishment? No, the enterprise is only required to submit data from establishments required to maintain the injury and illness records.

Questions

OSHA seeks comment on the following questions:

- How hard is it for a multi-establishment enterprise to identify all of the establishments under its ownership or control?
- Are there types of multi-establishment firms or multi-level firms for which this would represent a greater burden than for others?
- Would the burden on multi-establishment enterprises to collect and submit their OSHA data be more, less, or the same as the burden to collect and submit data from their establishments to the EEOC?
- Which occupation or occupations would describe the employee(s) likely to perform the task of identifying all of the establishments under its ownership or control?
- How probable is it that the employee(s) likely to perform this task for OSHA's requirements would be performing the same task for the EEOC's requirements?
- Which occupation or occupations would describe the employee(s) likely to perform the task of collecting, compiling, and submitting the establishment-specific annual summary data from each establishment under the enterprise's ownership or control?
- How should OSHA define ''ownership or control''?
- At least how many establishments should an enterprise have in order to be subject to a requirement for enterprise-wide submission of establishment-specific data?
- Would the burden of enterprise-wide collection increase as the number of establishments per enterprise increases, and if so, how?
- Should the requirement include a minimum establishment size? For example, the requirement could apply to enterprises with 5 or more establishments, but only if each establishment has 10 or more employees.
- Should the requirement include a minimum enterprise-wide employment size? For example, the requirement could apply only if total employment for the whole enterprise, including all of the establishments belonging to the enterprise, is 50 employees or more.
- To what extent do enterprises already collect establishment-specific injury/illness data from all of their establishments?
- To what extent do enterprises already collect other establishment-specific data from all of their establishments for the purpose of reporting the data to the government?
- Do enterprises generally know their corporate linkage identifiers (i.e., their Universal DUNS number)? How much additional burden would it be for the enterprise to provide this information?
- What special circumstances apply to organizations such as holding companies and private equity firms? Do these types of organizations play a role

[2] EEO–01: How to File, *http://www.eeoc.gov/employers/eeo1survey/howtofile.cfm, accessed 11/5/2012.*

in the occupational safety and health of the companies they control?

• What other identifiers do enterprises currently use, or could enterprises use, for submitting data to the government?

3. Questions

OSHA welcomes comments and data from the public regarding any aspect of the proposed requirement for electronic submission of Part 1904 injury and illness records. More specifically, the following questions are relevant to this rulemaking:

• What are the implications of requiring all data to be submitted electronically? This proposed rule would be among the first in the federal government without a paper submission option.

• More current BLS injury and illness data will be available at the time of the final rulemaking. Use of newer data may result in changes to the proposed industry coverage. Should OSHA use the most current data available in determining coverage for its final rule? Would this leave affected entities without proper notice and the opportunity to provide substantive comment?

• Should the electronic submission requirement be phased in, with a paper submission option available for a certain period of time at the beginning for some or all of the establishments subject to the proposed rule, or should the electronic submission requirement take effect immediately?

• What are the implications of a phased-in electronic submission requirement versus an immediate electronic submission requirement for establishments subject to proposed § 1904.41(a)(1) *Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees*?

• What are the implications of a phased-in electronic submission requirement versus an immediate electronic submission requirement for establishments subject to proposed § 1904.41(a)(2) *Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries*?

• How should the electronic data submission system be designed? How can OSHA create a system that is easy to use and compatible with other electronic systems that track and report establishment-specific injury and illness data?

• Should the electronic data submission system be designed to include updates? § 1904.33(b) requires employers to update OSHA Logs to include newly-discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously-recorded injuries and illnesses.

• How can OSHA use the electronic submission requirement to improve the accuracy of injury and illness records by encouraging careful reporting and recording of work-related injuries and illnesses?

• How should OSHA design an effective quality assurance program for the electronic submission of injury and illness records?

• What additional steps, if any, should the Agency take to protect employee privacy interests?

• Are there views on the issue of OSHA recordkeeping forms and confidential commercial information?

• Which categories of information, from which OSHA-required form, would it be useful to publish?

• What analytical tools could be developed and provided to employers to increase their ability to effectively use the injury and illness data they submit electronically?

• How can OSHA help employers, especially small-business employers, to comply with the requirements of electronic data submission of their injury and illness records? Would training help, and if so, what kind?

• Should this data collection be limited to the records required under Part 1904? Are there other required OSHA records that could be collected and made available to the public in order to improve workplace safety and health?

• For the proposed § 1904.41(a)(1) (*Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees*), what would be the advantages and disadvantages of making submission monthly, rather than quarterly?

• For the proposed § 1904.41(a)(1) (*Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees*), what would be the advantages and disadvantages of making submission annual, rather than quarterly?

• For the proposed § 1904.41(a)(1) (*Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees*), is 250 or more employees the appropriate size criterion? How much burden would this impose on establishments with 250–500 employees? If the size criterion were lowered to 100 or more employees, how much burden would this impose on establishments with 100–250 employees?

• Should the designated industries for proposed § 1904.41(a)(2) (Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries) remain the same each year, or should the list be adjusted each year to reflect the most current BLS injury and illness data? If so, how could OSHA best inform affected establishments about the adjustments?

• How can OSHA help employees and potential employees use the data collected under this proposed rule?

V. Preliminary Economic Analysis and Regulatory Flexibility Certification

a. Introduction

Executive Orders 12866 and 13563 require that OSHA estimate the benefits, costs, and net benefits of proposed regulations. Executive Orders 12866 and 13563, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act also require OSHA to estimate the costs, assess the benefits, and analyze the impacts of certain rules that the Agency promulgates. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

OSHA estimates that this rule will have economic costs of $11.9 million per year, including $10.5 million per year to the private sector, with costs of $183 per year for affected establishments with 250 or more employees and $9 per year for affected establishments with 20 or more employees in designated industries. The Agency believes that the annual benefits, while unquantified, significantly exceed the annual costs.

The proposed rule is not a ''significant regulatory action'' under Executive Order 12866 or the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)), and it is not a ''major rule'' under the Congressional Review Act (5 U.S.C. 801 *et seq.*). The Agency estimates that the rulemaking imposes far less than $100 million in annual economic costs. In addition, it does not meet any of the other criteria specified by UMRA or the Congressional Review Act for a significant regulatory action or major rule. This Preliminary Economic

Analysis (PEA) addresses the costs, benefits, and economic impacts of the proposed rule.

The proposed rule will make three changes to the existing recording and reporting requirements in Part 1904.

First, OSHA will require establishments that are required to keep injury and illness records under Part 1904, and that had 250 or more employees in the previous year, to electronically submit information from all of these required records to OSHA or OSHA's designee, on a quarterly basis.

Second, OSHA will require establishments that are required to keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in certain designated industries, to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee, on an annual basis. This requirement will replace OSHA's annual illness and injury survey, authorized by the current version of 29 CFR 1904.41.

Third, OSHA will require all employers who receive notification from OSHA to electronically submit information from their injury and illness records to OSHA or OSHA's designee.

The proposed rule does not add to or change any employer's obligation to complete, retain, and certify injury and illness records. The proposed rule also does not add to or change the recording criteria or definitions for these records. The only change is that, under certain circumstances, employers will be obligated to transmit information from these records to OSHA in an electronic format (either a file or by a secure Web page). Many employers are already doing this through the OSHA Data Initiative and the BLS Survey of Occupational Injuries and Illnesses.

The electronic submission of information to OSHA would be a relatively simple and quick matter. In most cases, submitting information to OSHA would require several basic steps: (1) Logging on to OSHA's web-based submission system; (2) entering basic establishment information into the system; (3) copying the required injury and illness information from the establishment's paper forms into the electronic submission forms; and (4) hitting a button to submit the information to OSHA. In many cases, especially for large establishments, OSHA data are already kept electronically, so step 3, which is likely the most time-intensive, would not be necessary. In those cases, the establishment would be able to submit its electronic information, in the format in which it is kept, to OSHA without having to transfer it into OSHA's online format. The submission system, as anticipated, would also save an establishment's information from one submission to the next, so step 2 might be eliminated for most establishments after the first submission.

b. Costs

1. § 1904.41(a)(1)—Quarterly Electronic Submission of Part 1904 Records by Establishments With 250 or More Employees

To obtain the estimated cost of electronic data submission per establishment, OSHA began by multiplying the compensation per hour (in dollars) of the person expected to perform the task of electronic submission by the time required for the electronic data submission. OSHA then multiplied this cost per establishment by the estimated number of establishments that would be required to submit data, to obtain the total estimated costs of this part of the proposed rule.

To estimate the compensation of the person expected to perform the task of electronic data submission, OSHA assumed that recordkeeping tasks are most commonly performed by a Human Resource, Training, and Labor Relations Specialist, Not Elsewhere Classified (Human Resources Specialist). OSHA made the same assumption in the PEA for the proposed rule on restoring a column to the OSHA 300 Log that employers would use to record work-related musculoskeletal disorders (MSDs) (75 FR 10738–10739 (March 9, 2010)). OSHA estimated compensation using May 2008 data from the BLS Occupational Employment Survey (OES), reporting a mean hourly wage of $28 for Human Resources Specialists, and June 2009 data from the BLS National Compensation Survey, reporting a mean fringe benefit factor of 1.43 for civilian workers in general. OSHA multiplied the mean hourly wage ($28) by the mean fringe benefit factor (1.43) to obtain an estimated total compensation (wages and benefits) for Human Resources Specialists of $40.04 per hour ([$28 per hour] × 1.43).

OSHA recognizes that not all firms assign the responsibility for recordkeeping to a Human Resources Specialist. For example, a smaller firm may use a bookkeeper, while a larger firm may use an occupational safety and health specialist. However, OSHA believes that the calculated cost of $40.04 per hour is a reasonable estimate of the hourly compensation of a representative recordkeeper. OSHA welcomes comments on the issue of hourly compensation costs for representative recordkeepers.

For time required for the data submission, OSHA used the estimated unit time requirements reported by BLS in their paperwork burden analysis for the Survey of Occupational Injuries and Illnesses (SOII) (OMB Control Number 1220–0045, expires October 31, 2013).[3] BLS estimated 10 minutes per recordable injury/illness case for electronic submission of the information on Form 301 (*Injury and Illness Incident Report*). BLS also estimated 10 minutes per establishment, total, for electronic submission of the information on both Form 300 (*Log of Work-Related Injuries and Illnesses*) and 300A (*Summary of Work-Related Injuries and Illnesses*). OSHA believes that this may overestimate the time required for electronic submission of Form 300 and 300A information to OSHA, because each establishment's annual submissions will consist of four submissions of Form 300 information but only one submission of Form 300A information. However, OSHA assumes that most of the time required for submission of Form 300A information will be spent on the submission process (i.e., logging on and off the data submission site, assuring the accuracy of log-on information, and so on), rather than on entry of the limited amount of information on the form. Therefore, OSHA considers it appropriate to use the BLS estimate.

Using the information on estimated hourly compensation of recordkeepers and estimated time required for data submission, OSHA calculated that the estimated cost per establishment with 250 or more workers for quarterly data submission of the information on Forms 300 and 300A would be $26.69 per year ([10 minutes per data submission] × [1 hour per 60 minutes] × [$40.04 per hour] × [4 data submissions per year]). In addition, the estimated cost per recordable injury/illness case would be $6.67 ([10 minutes per case] × [1 hour per 60 minutes] × [$40.04 per hour]).

To calculate the total estimated costs of this part of the proposed rule, OSHA used establishment and employment counts from the U.S. Census County Business Patterns (CBP), and injury and illness counts from the BLS Survey of Occupational Injuries and Illnesses

[3] The ODI paperwork analysis (1218–0209) takes an average time of 10 minutes per response for submitting Form 300A data. The ODI does not require submission of Form 301 data. The 10 minute estimate form the ODI is equal to the 10 minute estimate from the BLS SOII for submission of the same data.

(SOII).[4] CBP data show that there are 38,094 establishments with 250 or more employees in the industries covered by this section. These establishments would be required to electronically report detailed injury and illness information on a quarterly basis under the proposed rule. The CBP data also indicate that these large establishments employ 35.8% of all employees in the covered industries. The BLS data show a total of 2,486,500 injuries and illnesses that occurred in the covered industries. To calculate the number of injuries and illnesses that will be reported by covered establishments with 250 or more employees, OSHA assumed that total recordable cases in establishments with 250 or more employees would be proportional to their percentage of employment within the industry. Thus, OSHA estimates that 890,288 injury and illness cases will be reported per year by establishments with 250 or more employees that are covered by this section.

OSHA then calculated an estimated total cost of quarterly data submission of non-case information of $1,016,729 ([38,094 establishments required to submit data quarterly] × [$26.69 for electronic data submission per year]). In addition, OSHA calculated an estimated total cost of quarterly data submission of case information of $5,938,221 ([890,288 injury/illness cases per year at affected establishments] × [$6.67 per injury/illness case]). Summing these two costs yields a total cost of $6,954,950 per year ($1,016,729 + $5,938,221), for an average cost per affected establishment of $183 per year.

OSHA is interested in comments on all aspects of this preliminary estimate. In addition, these cost estimates assume that all establishments with 250 or more employees will be able to report electronically with existing facilities and equipment. OSHA welcomes any examples of such establishments that cannot report electronically with existing facilities and equipment or data sources showing that such establishments exist.

These cost estimates also include establishments currently included in the OSHA Data Initiative. OSHA did not calculate a comparison between the current costs of annual submission of some Part 1904 recordkeeping information under the ODI and the costs of quarterly electronic data submission of all Part 1904 recordkeeping information under the proposed rule. However, for establishments that are already included in the current ODI, the additional costs of quarterly electronic data reporting under this part of the proposed rule will be less than the calculated $183 per year.

2. § 1904.41(a)(2)—Annual Electronic Submission of OSHA Annual Summary Form (Form 300A) by Establishments With 20 or More Employees in Designated Industries

As in the previous section on quarterly electronic submission of Part 1904 records from establishments with 250 or more employees, OSHA first obtained the estimated cost of electronic data submission per establishment by multiplying the compensation per hour (in dollars) for the person expected to perform the task of electronic data submission by the time required for the electronic data submission. OSHA then multiplied this cost by the estimated number of establishments that would be required to submit data, to obtain the total estimated costs of this part of the proposed rule.

As in the previous section, for compensation per hour, OSHA used the calculated cost of $40.04 per hour as a reasonable estimate of the hourly compensation of a representative recordkeeper.

OSHA used the BLS estimate of 10 minutes per establishment for electronic submission of the information on Forms 300 (*Log of Work-Related Injuries or Illnesses*) and 300A (*Summary of Work-Related Injuries and Illnesses*) to estimate the time required for this submission. This may be an overestimate, because the requirement in this part of the proposed rule is for electronic submission of information from Form 300A only. However, OSHA assumes that most of the time required for submission of Form 300A information will be spent on the submission process (i.e., logging on and off the data submission site, assuring the accuracy of log-on information, and so on), rather than on entry of the limited amount of information on the form. Therefore, OSHA considers it appropriate to use the BLS estimate.

The estimated cost per establishment for electronic submittal under this part of the proposed rule is thus $6.67 per year ([$40.04 per hour] × [10 minutes per data submission] × [1 hour per 60 minutes] × [one data submission per year]).

To estimate the number of establishments affected, OSHA assumed that this part of the proposed rule would require annual electronic data submission from establishments with 20 or more employees in the non-exempt industries listed in the proposed rule. Under these criteria, 440,863 establishments would be subject to this part of the proposed rule.

However, many of these establishments are already submitting these data to OSHA through the current OSHA Data Initiative (ODI). 47,700 establishments of the 68,600 establishments in the 2010 ODI (70%) submitted their data electronically. Because these establishments are already submitting the data required by this part of the proposed rule, in the manner required by this part of the proposed rule, it is reasonable to assume that this part of the proposed rule will not result in any new costs for these 47,700 establishments. OSHA has no reason to think that establishments in the ODI are any different in terms of recordkeeping compliance rates from the expanded number of establishments affected by this proposed rule. The reason for this is that the underlying population for both the ODI sample and this expanded reporting sample are part of the same universe: Establishments already required to keep records.

As a result, if all of the affected establishments have on-site access to a computer and an adequate Internet connection, OSHA estimates that the direct labor cost of this part of the proposed rule would be $2,622,397 ([$6.67 per establishment per year] −([440,863 establishments affected under the proposed rule] −[47,700 establishments already submitting electronically to the ODI])).

However, as noted above, 30% of establishments in the 2010 ODI did not submit data electronically. One possible reason for this choice is that, for some of the establishments affected by this part of the proposed rule, it is difficult to submit data electronically. Most agencies currently allow non-electronic filing of information, and some businesses continue to use this option, despite strong encouragement by agencies to file electronically.

OSHA searched for but was unable to find information on the proportion of all businesses without access to a computer and the Internet. However, OSHA did find a survey, conducted by a contractor for the Office of Advocacy of the Small Business Administration (SBA) in the spring of 2010, on the use of Internet connectivity by small businesses, called ''The Impact of Broadband Speed and Price on Small Business'' (*http://www.sba.gov/sites/default/files/rs373tot_0.pdf*). This survey suggests that at least 90 percent of small businesses surveyed use the Internet at their business. Further, the survey noted that 75 percent of all small businesses not using the Internet were small

[4] For the CBP see: *http://www.census.gov/econ/cbp/*. For the SOII see: *http://www.bls.gov/iif/oshsum.htm*.

businesses with five or fewer employees. Given the survey's estimates that 50 percent of small businesses have fewer than 5 employees, this means that 95 percent of all small businesses with five or more employees have Internet connections. OSHA believes that even this 95 percent is an underestimate for two reasons. First, the survey is three years old, and during the past three years the cost of both computer equipment and Internet access has fallen (for example, since May 2008 the BLS Personal Computer Index has fallen by 12 percent; *http://data.bls.gov/timeseries/CUSR0000SEEE01?output_view=pct_3mths*). Second, the survey is of small entities, not establishments. OSHA can show that a significant proportion of small establishments are a part of non-small entities, and those larger entities are even more likely to have computers and Internet connections.

It also needs to be noted that the minimum establishment size affected by this proposed rule is 20 employees. It is reasonable to assume that even a smaller percentage of firms with 20 or more employees lack a computer with an Internet connection.

OSHA was able to find only two current Federal Government data collection programs that require data to be submitted electronically.

- Effective January 1, 2010, the Department of Labor's Employee Benefits Security Administration requires the electronic filing of all Form 5500 Annual Returns/Reports of Employee Benefit Plan and all Form 5500–SF Short Form Annual Returns/Reports of Small Employee Benefit Plan for 2009 and 2010 plan years, as well as any required schedules and attachments, using EFAST2-approved third-party software or iFile. EFAST2 is an all-electronic system designed by the Department of Labor, Internal Revenue Service, and Pension Benefit Guaranty Corporation to simplify and expedite the submission, receipt, and processing of the Form 5500 and Form 5500–SF. These forms must be electronically filed each year by employee benefit plans to satisfy annual reporting requirements under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code. Under EFAST2, filers choose between using EFAST2-approved vendor software or a free limited-function web application (IFILE) to prepare and submit the Form 5500 or Form 5500–SF. Completed forms are submitted via the Internet to EFAST2 for processing.
- Under the mandatory electronic filing provisions (11 CFR 104.18) of the Federal Election Commission (FEC), effective January 1, 2001, any political committee or other person that is required to file reports with the FEC and that receives contributions or makes expenditures in excess of $50,000 in the current calendar year, or has reason to expect to do so, must submit its reports electronically.

All other current data collection programs identified by OSHA provide a non-electronic option for data submission, including the OSHA Data Initiative (ODI); various databases at the Environmental Protection Agency, including the Toxics Release Inventory Program (TRI); and programs administered by the Internal Revenue Service, the Bureau of Labor Statistics, and the U.S. Census Bureau (including business data).

As noted above, even a dated survey from 2010 found that 95 percent of small businesses with 5 or more employees had a computer with an Internet connection. The Department of Commerce estimated in 2009 that 69% and 64% of U.S. households, respectively, had any kind of Internet access and broad-band Internet access specifically (National Telecommunications and Information Administration, U.S. Department of Commerce, ''Table 2 Households using the Internet in and outside the home, by selected characteristics: Total, Urban, Rural, Principal City, 2009 (Numbers in Thousands)'', *http://www.ntia.doc.gov/legacy/data/CPS2009_Tables.html*). In addition, households with higher incomes and levels of education were more likely to have Internet access at home, and home Internet access among employed householders was 78%, compared to 65% among unemployed householders and 52% among householders not in the labor force.

It seems reasonable to assume that business owners, as a group, have higher incomes and labor force participation rates than the U.S. population as a whole. And data from the 2007 Survey on Small Business Owners, conducted by the U.S. Census Bureau, show that business owners have higher levels of education; 74% of the business owners had at least some post-high school education and 45% had at least a bachelor's degree, compared to 55% and 30% among the general U.S. population aged 25 and older in 2010 (U.S. Census, ''Table 1. Educational Attainment of the Population 18 Years and Over, by Age, Sex, Race, and Hispanic Origin: 2010'', *http://www.census.gov/hhes/socdemo/education/data/cps/2010/Table1-01.xls*, accessed June 15, 2011). Further, a small business owner without an office or home computer may own a smart phone, which could easily be used for transmitting the data in this very simple form.

To account for the lack of direct data on computers and Internet access among small businesses and the presumed increase in Internet usage since the indirect data were obtained, OSHA will estimate that 95% of the 440,863 establishments subject to this part of the proposed rule (i.e., 418,820 establishments) have access to a computer with an Internet connection, either at home or at work. OSHA believes that the actual percentage of establishments with Internet access at the office, home, or by smart phone is larger than this estimated value. OSHA welcomes comment on this issue. The remaining 22,043 establishments would have to either buy additional equipment and/or services or use off-site facilities, such as public libraries. OSHA preliminarily estimates that finding and using such off-site facilities would add an hour (including transportation and waiting time) to the time required by the recordkeeper to submit the data electronically. This would lead to additional costs of $882,607 per year ([440,863 establishments] × [5% of these establishments] × [1 hour for finding and using off-site facilities] × [$40.04 per hour]). OSHA is interested in comments on all aspects of this preliminary estimate.

The total costs of this part of the proposed rule are the direct labor cost of electronic submittal ($2,622,397) for the 393,163 establishments subject to the rule and not already electronically submitting the data to OSHA through the ODI, plus the additional cost for 5% of the affected 440,863 establishments of going off-site to submit the data electronically ($882,607). A last cost of $189,935, for those establishments that do not currently certify their records, is discussed below. Thus, the total cost is $3,695,939 per year, or an approximate estimated average of $9.40 per affected establishment ([$3,695,939 per year]/([440,863 establishments affected under the proposed rule] − [47,700 establishments already submitting electronically to the ODI])).

Note that these cost estimates include establishments that would already be submitting these data under the proposed requirement for quarterly electronic submission of Part 1904 records by establishments with 250 or more employees. Of the 38,094 establishments that would be affected by the proposed requirement for quarterly submission of records by establishments with 250 or more employees, 17,491 would also be affected by the proposed requirement

for annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries. However, the cost estimate has already removed many of these 17,491 establishments as part of the 47,700 establishments subject to this part of the proposed rule and currently submitting annual information electronically to OSHA through the ODI. The number of establishments that would be affected by both the quarterly submission requirement and the annual submission requirement, and that are not currently submitting information electronically to OSHA through the ODI, is probably too small to make a significant difference in the calculated costs of $3.7 million per year.

A small percentage of establishments currently subject to Part 1904 do not fully comply with the requirement in § 1904.32(a)(3) to certify the accuracy of each year's records. OSHA determined, based on inspection data, that in 2010 about 1.6 percent of establishments undergoing inspection had violations of the recordkeeping certification requirement. OSHA has estimated costs and a paperwork burden for the time these employers would spend reviewing their data for certification purposes. Because this data collection would make it obvious to these employers that a record has not been certified, OSHA included the full costs of certification for those not in compliance with § 1904.32(a)(3) as a cost of this rule. The number of those that do not comply may be estimated by multiplying 1.6 percent times 360,863 establishments subject to the rule but not currently in the ODI (440,863 total establishments minus 80,000 in ODI). The resulting figure is only 5,774 establishments not currently in compliance. The cost for these non-compliers to comply with § 1904.32(a)(3) by completing certification is $189,935. This is calculated by multiplying 30 minutes by 5,774 establishments (resulting in 2,887 hours) times the adjusted hourly wage for a certifying official ($65.79). This wage reflects the hourly wage plus benefits of an Industrial Production Manager (OES 11–3051), the same occupation used for certification of records in other OSHA recordkeeping regulations. OSHA invites comments on whether 1.6 percent is the actual certification non-compliance rate for firms subject to Part 1904, and on whether the adjusted wage of $65.79 is, on average, the correct wage rate for individuals certifying annual recordkeeping logs.

OSHA believes, and current ICRs support, that 30 minutes is the appropriate amount of time required, on average, for certification. However, it is possible to exhibit a range of time requirements. If, for example, the certifying officials are especially productive at certification, perhaps because the injury and illness records are well-maintained or because they are able to work off existing finalized summary reports sent to Workers' Compensation insurance agencies, then it may only take 15 minutes, on average, to complete the certification. In that case, the total cost would be just $94,967. On the other hand, perhaps the certifying officials have become less productive since the previous ICRs. If it now takes a certifying official one hour instead of 30 minutes to certify, then the total cost for non-complying establishments would be $379,870.

3. § 1904.41(a)(3)—Electronic Submission of Part 1904 Records Upon Notification

This part of the proposed rule has no immediate costs or economic impacts. Under this part of the proposed rule, an establishment will be required to submit data electronically if OSHA notifies the establishment to do so as part of a specified data collection. Each specified data collection would be associated with its own particular costs, benefits, and economic impacts, which OSHA would estimate as part of obtaining OMB approval for the specified data collection under the Paperwork Reduction Act of 1995.

4. Budget Costs to the Government for the Creation of the Reporting System, Helpdesk Assistance, and Administration of the Electronic Submission Program

While OSHA has not typically included the cost of administering a new regulation in the preliminary economic analysis, in this document the Agency has included such costs because they represent a significant fraction of the total costs of the regulation. These costs will be offset by budget savings from the discontinuation of the current ODI survey. The program lifecycle costs can be categorized into IT hardware and software costs, helpdesk costs, and OSHA program management personnel costs. OSHA received estimates for the lifecycle costs from three sources: an OSHA contractor, the BLS, and OSHA offices.

According to OSHA's Office of Web Services, the creation of the reporting system hardware and software infrastructure will have an initial cost of $1,545,162. Annualized over 10 years at seven percent interest, this is $219,996 per year.

BLS provided a unit cost estimate of 28 cents per transaction. This would amount to $372,000 per year for about 1.3 million transactions. Adding annual help desk costs of $200,000 would make the total $572,000.

The contractor and OSHA's Office of Web Services provided higher budget estimates. The contractor suggested that annual costs could be as high as $953,000, while the OSHA Office of Web Services suggested a cost of $626,000 per year. OSHA will also continue to require three full-time-equivalent workers (FTEs) to administer the new electronic recordkeeping system. OSHA believes these FTEs will cost the government $150,000 each, including salary and benefits, for a total of $450,000 per year. Added to the BLS cost of $572,000 and the annualized start-up cost of $220,000, this would amount to $1,242,000, or just over $1.2 million, and less than the budget of the current ODI. Adding the FTE costs to the contractor and OSHA Office of Web Services estimates, along with the annualized start-up cost yields a range of between $1.2 million and $1.6 million per year. For its best estimate, OSHA will use the BLS estimated costs per transaction, because this estimate is based on actual experience with implementing a similar program.

5. Total Costs of the Rule

As shown in the table below, the total costs of the proposed rule would be an estimated $11.9 million per year.

TABLE V–1—TOTAL COSTS OF THE PROPOSED RULE

Cost element	Annual costs
Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees	$6,954,950
Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries	3,695,939
This includes:	
Cost for annual electronic submission	2,622,397

TABLE V–1—TOTAL COSTS OF THE PROPOSED RULE—Continued

Cost element	Annual costs
Cost for establishments without a computer	883,607
Cost for establishments with non-certified records	189,935
Electronic submission of Part 1904 records upon notification	*0
Total Private Sector Costs	10,650,889
Total Government Costs	1,242,000
Total	11,892,889

*This part of the proposed rule has no immediate costs or economic impacts. Under this part of the proposed rule, an establishment would be required to submit data electronically if OSHA notified the establishment to do so as part of a specified data collection. Each specified data collection would be associated with its own particular costs, benefits, and economic impacts, which OSHA would estimate as part of obtaining OMB approval for the specified data collection under the Paperwork Reduction Act of 1995.

The above costs include the costs (estimated to be $189,935) for establishments that are currently out of compliance with the existing certification requirements to come into compliance with these requirements before electronically submitting their data to OSHA. However, OSHA did not include costs related to another possibility—namely, that this proposal would result in increased costs for meeting OSHA recordkeeping requirements by employers who currently certify that their records are accurate, because these employers will take more pains to ensure accuracy if the records are electronically submitted to OSHA. There are several reasons why OSHA assumes no added burden for these employers who already certify that their records are accurate.

First, as noted, the proposed rule does not add to or change any employer's obligation to complete, retain, and certify injury and illness records. The proposed rule also does not add to or change the recording criteria or definitions for these records. The only change is that, under certain circumstances, employers will be obligated to transmit information from these records to OSHA in an electronic format (either a file or by a secure Web page). Many employers are already doing this through the OSHA Data Initiative; these employers have not commented, either on the rule or on the paperwork analyses, that they incurred additional costs beyond those that OSHA estimated (see for example the ODI ICR 200912–1218–012 and the SOII ICR 201209–1220–001).

Second, employers are already required to examine and certify the information they collect, under penalty of perjury. Employers who are already sufficiently satisfied with the accuracy of their records to accept the risk of a criminal penalty are unlikely to do more simply because they must electronically submit the records to OSHA. Therefore, the prospect of submitting their data to OSHA would not provide any additional incentive to carefully record injuries and illnesses.

Third, injury and illness records kept under Part 1904 are already available to OSHA and the public in a variety of ways. The annual summary data must be posted where employees can see it. Employees or their representatives can also obtain and publicize most of the information from these records at any time, if they so wish. These are the people who are most likely to recognize if the records are inaccurate. Finally, OSHA Compliance Officers routinely review these records when they perform workplace inspections. While OSHA inspections are a rare event for the typical business, they are much more common for firms with over twenty employees in the kinds of higher-hazard industries subject to this rule.

Nevertheless, OSHA welcomes comment on the issue of whether employers newly required to submit records to OSHA may spend additional time assuring the accuracy of their records, beyond what they spend now. If all 360,000 facilities (440,863 minus 80,000) not now submitting data to ODI were to spend an extra half hour for a human resources specialist to double-check the data prior to submission, then the costs of this rule would increase by $7.2 million. While this would be a substantial addition to the costs of the rule, such an addition would not alter OSHA's conclusion that this is neither an economically-significant rule nor a rule that would impose significant costs on a substantial number of small businesses.

c. Benefits

OSHA anticipates that establishments' electronic submission of establishment-specific injury/illness data will improve OSHA's ability to identify, target, and remove safety and health hazards, thereby preventing workplace injuries, illnesses, and deaths. In addition, OSHA believes that the data submission requirements of the proposed rule will improve the quality of the information and lead employers to increase workplace safety.

Finally, the Agency plans to make the injury and illness data public, as encouraged by President Obama's Open Government Initiative. Online access to these data will allow the public, including employees and potential employees, researchers, employers, and workplace safety consultants, to use and benefit from the data. It will support the development of innovative ideas and allow everybody with a stake in workplace safety to participate in improving occupational safety and health. The data collected by BLS is mostly used in the aggregate. While BLS makes micro data available in a restricted way to researchers, OSHA will make micro data, including case data, available to researchers and the public with far fewer restrictions.

The BLS SOII is used as a basis for much of the research on workplace safety and health in the US. Typical examples include Economic Burden of Occupational Injury and Illness in the United States, by J. Paul Leigh (2011); Analyzing the Equity and Efficiency of OSHA Enforcement, by Wayne B. Gray and John T. Scholz (1991); Establishment Size and Risk of Occupational Injury, by Dr. Arthur Oleinick MD, JD, MPH, Jeremy V. Gluck Ph.D., MPH, and Kenneth E. Guire (1995); and Occupational Injury Rates in the U.S Hotel Industry, by Susan Buchanan *et al.* in the American Journal of Industrial Medicine (2010). Some of these studies, such as Gray and Sholtz, use establishment data previously only available on site at BLS.

The data base resulting from this proposed rule would provide for the use of establishment-specific data without having to work under the restrictions imposed by BLS for the use of confidential data. It would also provide data on injury and illness classifications that are not currently available from any source, including the BLS SOII. Specifically, under this collection, there would be case-specific data for injuries

and illnesses that do not involve days away from work. The BLS case and demographic data is limited to cases involving days away from work and a small subset of cases involving restricted work activity.

In order to determine possible monetary benefits to this rule, OSHA calculated the value of statistical life (VSL) using Viscusi & Aldy's (2003) meta-analysis of studies in the economics literature that use a willingness-to-pay methodology to estimate the imputed value of life-saving programs. The authors found that each fatality avoided was valued at approximately $7 million in 2000 dollars. Using the GDP Deflator (U.S. Bureau of Economic Analysis, 2010), OSHA estimated that this $7 million base number in 2000 dollars yields an estimate of $8.7 million in 2009 dollars for each fatality avoided.

Many injuries and fatalities can be prevented at minimal costs. For example, the costs of greater use of already-purchased personal protective equipment are minimal, yet many fatalities described in OSHA's IMIS system could have been prevented through the use of available personal protective equipment. This includes fatalities related to falls when a person was wearing fall protection but did not have the lanyard attached and to electric shocks where arc protection was available or left in the truck. For such minimal-cost preventative measures, assuming they have costs of prevention of less than $1 million per fatality prevented and using the VSL of $8.7 million and other parameters typically used in OSHA benefits, if the proposed rule leads to either 1.5 fewer fatalities or 0.025% fewer injuries per year, the rule's benefits will be equal to or greater than the costs. Many accident-prevention measures will have some costs, but even if these costs are 75 percent of the benefits, the proposed rule would have benefits exceeding costs if it prevented 4.8 fatalities or 0.8% fewer injuries per year. OSHA expects the rule's beneficial effects to exceed these values.

d. Regulatory Alternatives

1. Estimated Additional Costs for Alternative I—Enterprise-Wide Submission

OSHA estimated costs for corporate reporting for three different scope options for this requirement. All of the scope options are for enterprises with five or more establishments, but the options vary with respect to the size of establishment that the enterprise would need to include in the enterprise report.

According to Dun and Bradstreet (2012), there are 28,127 enterprises with five or more establishments subject to OSHA recordkeeping requirements. These enterprises have a total of 584,662 establishments.

Under the first scope option, labeled ''Establishments with 1 or more'' in Table V–2, enterprises would be required to include in their report all establishments subject to reporting requirements, regardless of the establishments' number of employees. This option would require reporting for 584,662 establishments.

OSHA also examined an option that would require reporting only for establishments with 11 or more employees, labeled ''Establishments with 11 or more'' in Table V–2. This option would require reporting for 291,425 establishments.

A third option, ''Establishments with 20 or more'' in Table V–2, would require reporting only for establishment with 20 or more employees. This option would require reporting by 223,592 establishments.

Note that the D&B estimate for the number of establishments with 20 or more employees is close to OSHA's estimate of establishments with 20 or more employees. The reason the number differs from the 440,000 establishments with 20 or more employees used elsewhere in the PEA is that the D&B estimate is only for establishments that have 20 or more employees and are part of a larger enterprise with five or more establishments subject to recordkeeping requirements.

For all three options, OSHA has assumed that the number of enterprises that would need to provide enterprise-wide reports is 28,127, as noted in Footnote 1 in Table V–2, below. This assumption is necessary because the data OSHA received from Dun and Bradstreet only provided information on the total number of enterprises with five or more establishments required to keep records and on the total number of establishments controlled by these enterprises that had either eleven or more employees or twenty or more employees. OSHA did not receive information on the numbers of enterprises that control only larger establishments, such as establishments employing 11 or more employees or establishments employing 20 or more employees. However, OSHA expects that the number of enterprises with five or more establishments employing 11 or more employees is smaller than 28,127 and that the number of enterprises with five or more establishments employing 20 or more employees is smaller still. As a result, OSHA's estimates of costs for the second option (''Establishments with 11 or more'') and third option (''Establishments with 20 or more'') are probably overestimates.

OSHA estimates that:

(1) Each establishment will need 10 minutes to transmit its OSHA records to its parent enterprise. The Agency would not require these establishments to transmit their records electronically to the parent enterprise. They would also be allowed to use the mail, telephone, or fax. Note that establishments in the affected NAICS codes are already complying with Part 1904 recordkeeping requirements. Thus, the enterprise-wide reporting requirement would only change their recordkeeping procedures by requiring them to transmit their OSHA log once a year to their parent enterprise, instead of to OSHA.

(2) the parent enterprise will need 10 minutes per establishment to collate, review, and, if necessary, convert to electronic format the records from each of their affected establishments.

(3) the parent enterprise will need an additional 10 minutes for the required electronic transmittal of the records to OSHA.

For the purposes of this analysis, OSHA has assumed that no parent enterprise currently consolidates and reviews injury and illness records from establishments it controls. This assumption probably results in a significant overestimate of the costs.

Given the scope alternatives and the estimates outlined above, the costs for each alternative are shown in Table V–2. The highest-cost option is the first option, ''Establishments with 1 or more''. The yearly costs for this alternative, in addition to those already in the NPRM, are a total of $6,688,924.

These costs are calculated by subtracting the number of establishments with reporting costs already included elsewhere in the PEA (223,592 establishments) from the total number of affected establishments (584,662), resulting in a net of 361,070 establishments. 361,070 establishments multiplied by 10 minutes (1/6 of an hour) of reporting time per establishment multiplied by a wage rate of $40.04 per hour [361,070 x 1/6 x $40.04] produces a cost of $2,409,540.

The wage rate of $40.04 is used because OSHA assumes that a Human Resources Specialist will do the establishment transmittal and the enterprise review and transmittal. In the main cost analysis of the PEA, OSHA noted that in some establishments a bookkeeper might do this sort of work, and in others a health and safety specialist might do it. OSHA welcomes

comments on the occupations that would send and receive records at the establishment and enterprise level, and the hourly wage rate for those occupations.

There are also the additional costs of enterprise-level review and submittal of the data to OSHA; the enterprise review cost is calculated by 584,662 establishments multiplied by 10 minutes per establishment multiplied by $40.04 per hour. This produces a cost of $3,901,644. The cost of enterprise transmittal to OSHA is $187,700 (28,127 enterprises multiplied by 10 minutes per enterprise multiplied by $40.04 per hour).

Finally, in the PEA, OSHA recognizes that a very small percent (1.6 percent) of establishments do not currently comply with OSHA regulations by certifying and reviewing their OSHA records. While the rate of non-compliance may be lower among establishments that are part of large, multi-establishment enterprises, OSHA has used the same 1.6-percent estimate of non-compliance at the establishment level in this analysis. As in the PEA, a wage plus benefit rate of $65.79 per hour, for an Industrial Production Manager, is used to determine the cost of certification for those establishments not in compliance. That final additional cost is reported in the last row of Table V–2.

Following the same calculation process, for the second option, ''Establishments with 11 or more'', there are almost 300,000 fewer establishments, and the additional cost would be roughly $4 million less, or $2,620,851.

For the third option, ''Establishments with 20 or more'', all of the establishments with 20 or more employees would already be required to report to OSHA in this NPRM, regardless of the enterprise-wide reporting requirement. Under the enterprise-wide reporting requirement, these establishments would instead report to their parent enterprise, and the only cost incurred would be to that parent enterprise, including the cost of enterprise review and submission.

TABLE V–2—ADDITIONAL COSTS FOR CORPORATE REPORTING, ENTERPRISES WITH FIVE OR MORE ESTABLISHMENTS

	Establishments with 1 or more: Provide enterprise-wide report including all establishments with 1 or more employees	Establishments with 11 or more: Provide enterprise-wide report including all establishments with 11 or more employees	Establishments with 20 or more: Provide enterprise-wide report including all establishments with 20 or more employees
Number of Establishments	584,662	291,425	223,592
Baseline (Number of Establishments Already in the PEA)	223,592	223,592	223,592
Net Number of Establishments Newly Required to Report	361,070	67,833	0
Number of Enterprises [1]	28,127	28,127	28,127
Establishment Reporting and Review Cost [2]	$2,409,540	$452,672	[3] $0
Enterprise Review Cost [4]	$3,901,644	$1,944,776	$1,492,104
Enterprise Electronic Reporting Cost [5]	$187,700	$187,700	$187,700
Recordkeeping Certification Cost (for establishments that should currently certify but do not)	$190,038	$35,702	$0
Total Incremental Cost of Corporate Reporting	$6,688,924	$2,620,851	$1,679,804

[1] Number of enterprises is constant across size categories, per D&B data.
[2] Estimated time requirements for establishments: 10 minutes to transmit to the enterprise.
[3] For the ''Establishments with 20 or more'' option, those establishments already incurred review, digitization, and transmittal costs in the PEA.
[4] Estimated time requirements for enterprises: 10 minutes to collate, review, and digitize per establishment reporting.
[5] 10 minutes to transmit to OSHA at the enterprise level.

2. Benefits of Alternative I—Enterprise-Wide Submission

As stated in the PEA, OSHA believes that the submission of establishment injury and illness data to the controlling enterprise will have benefits by improving the ability of OSHA to identify, target, and remove safety and health hazards by targeting enterprises as well as establishments. In addition, OSHA believes that the submission of data from establishments to their parent enterprises will improve the quality of the information available and lead to increased worker safety.

The resources that reduce workplace injuries and illnesses most effectively are found at the establishment and enterprise level. Submission of establishment data to the enterprise will improve communication and reporting between establishments and enterprises. This will alert enterprise managers to safety and health hazards, allowing safety and health resources within the enterprise to be reallocated in a more efficient manner, improving the enterprise's ability to solve establishment safety and health problems.

As noted above, many injuries and fatalities can be prevented at minimal cost. For example, the costs of greater use of already-purchased personal protective equipment are minimal. In terms of workplace fatalities, Option 1 ''Establishments with 1 or more'', with an incremental cost of $6.7 million, would have a net beneficial effect if it averted one additional workplace fatality every year (relative to the rule as proposed). In terms of workplace injuries, Option 1 would have a net beneficial effect if it reduced the number of injuries by an additional 110 per year (or one injury for every 255 enterprises required to participate in corporate reporting). This would represent approximately a 0.00003 percent reduction in the 3 million recordable private-sector injuries each year. Even if the costs of averting fatalities or injuries were 75 percent of the benefits, the proposed alternative would have benefits exceeding the costs if it prevented four additional fatalities or 0.00012% fewer injuries[5]. Obviously, Option 2 (''Establishments with 11 or more'') and Option 3 (''Establishments with 20 or more'') would have even smaller incremental costs. They would therefore have a net beneficial effect with only very small additional numbers of fatalities averted or injuries

[5] These calculations are based on a VSL of $8.7 million and an average cost per workplace injury or illness of $60,000 (Viscusi and Aldy (2003)). In the Option 1 example, one fatality valued at $8.7 million is approximately 25 percent more than the annual cost of Option 1. The logic is precisely the same for injuries prevented. To arrive at a break-even point of 110 injuries prevented, divide the annual cost of $6.6 million by $60,000 per injury.

prevented (relative to the rule as proposed). Option 2 (''Establishments with 11 or more'') would have a net beneficial effect if it averted one additional occupational fatality every 3.3 years, or reduced the number of occupational injuries by an additional 43 per year (or one injury for every 650 enterprises required to participate in enterprise-wide reporting). If the costs of preventing a fatality were 75 percent of the benefits, the benefits would exceed the costs even if just one fatality every nine months were prevented. Option 3 (''Establishments with 20 or more'') would have a net beneficial effect if it averted one additional fatality every 4.5 years, or reduced the number of injuries by an additional 28 per year (or one injury for every 1,000 enterprises required to participate in enterprise-wide reporting). If the costs of preventing an injury were 75 percent of the benefits, the benefits would still exceed the costs if just 112 injuries per year (or one injury per every 250 enterprises) were prevented by participation in enterprise-wide reporting.

OSHA welcomes public comment on Alternative I.

e. Economic Feasibility

OSHA preliminarily concludes that the proposed rule will be economically feasible. For the quarterly reporting requirement, affecting establishments with 250 or more employees, the average cost per affected establishment will be $183 per year. For the annual reporting requirement, affecting establishments with 20 or more employees in designated industries, the average cost per affected establishment will be $9.40 per year. These costs will not affect the economic viability of these establishments.

f. Regulatory Flexibility Certification

The part of the proposed rule requiring quarterly reporting for establishments with 250 or more employees will affect some small firms, according to the definition of small firm used by the Small Business Administration (SBA). In some sectors, such as construction, where SBA's definition only allows relatively smaller firms, there are unlikely to be any firms with 250 or more employees that meet SBA small-business definitions. In other sectors, such as manufacturing, a small minority of SBA-defined small businesses will be subject to this rule. Thus, this part of the proposed rule will affect only a small percentage of all small firms. However, because some small firms will be affected, especially in manufacturing, OSHA has examined the impacts on small businesses of the costs of this rule. OSHA's procedures for assessing the significance of proposed rules on small businesses suggest that costs greater than 1% of revenues or 5% of profits may result in a significant impact on a substantial number of small businesses. To meet this level of significance at an estimated annual average cost of $183 per affected establishment per year, annual revenues for an establishment with 250 or more employees would have to be less than $18,300, and annual profits would have to be less than $3,660. These are extremely unlikely combinations of revenue and profits for firms of this size and would only occur for a very small number of firms in severe financial distress.

The part of the proposed rule requiring annual electronic submission of data from establishments with 20 or more employees in designated industries will also affect some small firms. As stated above, costs greater than 1% of revenues or 5% of profits may result in a significant economic impact on a substantial number of small businesses. To meet this level of significance at an estimated annual average cost of $9.40 per affected establishment per year, annual revenues for an establishment with 20 or more employees would have to be less than $900, and annual profits would have to be less than $180. These are extremely unlikely combinations of revenue and profits for establishments of this size.

As a result of these considerations, per § 605 of the Regulatory Flexibility Act, OSHA proposes to certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. Thus, OSHA has not prepared an initial regulatory flexibility analysis. OSHA is interested in comments on this certification.

VI. OMB Review Under the Paperwork Reduction Act of 1995

This proposed rule would revise an existing collection of information, as defined and covered by the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations.

Docket exhibit OSHA 2013–0023–0001 shows examples of user interfaces for the current electronic reporting system associated with the ODI and an expanded interface to collect case-specific data. OSHA currently expects that the user interfaces for the electronic reporting system proposed by this rule would be similar to these user interfaces. Screen shots of this interface can also be viewed on OSHA's Web site at *http://www.osha.gov/recordkeeping/proposed_data_form.html.* OSHA invites public comment on these user interfaces, including suggestions on any interface features that would minimize the burden of reporting the required data.

Under Control Number 1218–0176, OSHA currently has OMB approval, under the PRA, to conduct an information collection that requires employers to maintain information on work-related fatalities, injuries, and illnesses, and to submit this information to OSHA. The proposed rule would also have these requirements.

The proposed rule would amend 29 CFR 1904.41 to add three new electronic reporting requirements for injury and illness information employers are already required to keep under 29 CFR Part 1904. First, OSHA would require establishments that are required to keep injury and illness records under Part 1904, and that had 250 or more employees in the previous year, to submit information from these records to OSHA or OSHA's designee, electronically, on a quarterly basis. Second, OSHA would require establishments that are required to keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in certain designated industries to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee on an annual basis. The second submission requirement would replace OSHA's annual illness and injury survey, authorized by the current version of 29 CFR 1904.41. Third, OSHA would require all employers who receive notification from OSHA to electronically submit specified information from their injury and illness records to OSHA or OSHA's designee.

In accordance with 44 U.S.C. 3507(d), OSHA prepared and submitted a revised Information Collection Request (ICR) for this proposed regulation to OMB for review. OSHA solicits comments on the proposed revised collection of information requirements and the estimated burden hours associated with these requirements, including comments on the following items:

(a) Whether the proposed collection of information is necessary for the proper performance of OSHA's functions, including whether the information has practical utility;

(b) the accuracy of OSHA's burden estimate (time and cost);

(c) ways to enhance the quality, utility, and clarity of the information collected;

(d) ways to minimize the burden of the collection of information on employers, including the use of

automated collection techniques or other forms of information technology, and

(e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

As required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(2), the following paragraphs provide information about this ICR.

1. *Title:* 29 CFR Part 1904 Recordkeeping and Reporting Occupational Injuries and Illnesses

2. *Number of respondents:* OSHA proposes to require establishments that are required to keep injury and illness records under Part 1904, and that had 250 or more employees in the previous year, to submit information from these records to OSHA or OSHA's designee, electronically, on a quarterly basis. There are approximately 38,000 establishments that will be subject to this requirement and that will submit detailed case characteristic data on approximately 900,000 occupational injuries and illnesses per year. OSHA also proposes to require establishments that are required to keep injury and illness records under Part 1904, had 20 or more employees in the previous year, and are in certain designated industries to electronically submit the information from the OSHA annual summary form (Form 300A) to OSHA or OSHA's designee on an annual basis. There are approximately 440,000 establishments that will be subject to this requirement. Finally, OSHA proposes to require all employers who receive notification from OSHA to electronically submit specified information from their injury and illness records to OSHA or OSHA's designee. This requirement will only incur a paperwork burden when the agency implements a notice of collection. For each new data collection conducted under this proposed provision, the Agency will request OMB approval under separate PRA control numbers. OSHA currently uses this process for the ODI data collection conducted under the current § 1904.41, which OMB currently approves under Control Number 1218–0209. The total number of respondents to all requirements under Part 1904 is 1,665,374.

3. *Frequency of responses:* Quarterly; Annually; On occasion.

4. *Number of responses:* 1,369,245.

5. *Average time per response:* Time per response varies from 10 minutes for establishments reporting only under 1904.41(a)(2), to multiple hours for large establishments with many recordable injuries and illnesses reporting under 1904.41(a)(1). The average time of response per establishment is 29 minutes.

6. *Estimated total burden hours:* The proposed change will add an additional 228,664 hours of burden to the recordkeeping rule (Part 1904) and bring the total burden for the entire rule to 3,195,901 hours.

7. *Estimated costs (capital-operation and maintenance):* There are no capital costs for the proposed information collection.

Members of the public may comment on the paperwork requirements in this proposed regulation by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, OSHA (Regulation Identifier Number (RIN) 1218–AC50), Office of Management and Budget, Room 10235, Washington, DC 20503; telephone: 202–395–6929; fax: 202–395–6881 (these are not toll-free numbers); email: *OIRA_submission@omb.eop.gov.* Please limit the comments to only the proposed changed provisions of the recordkeeping rule (i.e. proposed § 1904.41).

OSHA encourages commenters also to submit their comments on these paperwork requirements to the rulemaking docket (OSHA–2013–0023), along with their comments on other parts of the proposed regulation. For instructions on submitting these comments to the docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**.

Comments submitted in response to this notice are public records; therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and dates of birth. To access the docket to read or download comments and other materials related to this paperwork determination, including the complete information collection request (ICR), use the procedures described under the section of this notice titled **ADDRESSES**. You may obtain an electronic copy of the complete Information Collection Request (ICR) by going to the Web site at *http://www.reginfo.gov/public/do/PRAMain,* then select ''Department of Labor'' under ''Currently Under Review'', then click on ''submit''. This will show all of the Department's ICRs currently under review, including the ICRs submitted for proposed rulemakings. To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222; email *owen.todd@dol.gov.*

OSHA notes that a federal agency cannot (1) conduct or sponsor a collection of information unless OMB approves it under the PRA, and the information collection displays a currently-valid OMB control number, and (2) require a party to respond to a collection of information unless the collection of information displays a currently-valid OMB control number. Also, notwithstanding any other provision of law, no party shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently-valid OMB control number. OSHA will publish a notice of OMB's action when it publishes the final regulation, or, if not approved by then, when OMB authorizes the information collection requirements under the PRA.

VII. Unfunded Mandates

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*), as well as Executive Order 12875, this proposed rule does not include any federal mandate that may result in increased expenditures by state, local, and tribal governments, or increased expenditures by the private sector of more than $100 million.

VIII. Federalism

The proposed rule has been reviewed in accordance with Executive Order 13132 (64 FR 43255 (Aug. 4, 1999)), regarding federalism. Because this rulemaking involves a ''regulation'' issued under Sections 8 and 24 of the OSH Act, and is not an ''occupational safety and health standard'' issued under § 6 of the OSH Act, the rule will not preempt state law (29 U.S.C. 667(a)). The effect of the proposed rule on states is discussed in section IX. State Plan States.

IX. State Plan States

For the purposes of § 18 of the OSH Act (29 U.S.C. 667) and the requirements of 29 CFR 1904.37 and 1952.4, within 6 months after publication of the final OSHA rule, state-plan states must promulgate occupational injury and illness recording and reporting requirements that are substantially identical to those in 29 CFR Part 1904 ''Recording and Reporting Occupational Injuries and Illnesses.'' All other injury and illness recording and reporting requirements (for example, industry exemptions, reporting of fatalities and hospitalizations, record retention, or employee involvement) that are promulgated by state-plan states may be more stringent than, or supplemental to,

the federal requirements, but, because of the unique nature of the national recordkeeping program, states must consult with OSHA and obtain approval of such additional or more stringent reporting and recording requirements to ensure that they will not interfere with uniform reporting objectives (29 CFR 1904.37(b)(2)), 29 CFR 1952.4(a)).

There are 27 state plan states and territories. The states and territories that cover private sector employers are Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved state plans that apply to state and local government employees only.

X. Public Participation

Because this rulemaking involves a regulation rather than a standard, it is governed by the notice and comment requirements in the Administrative Procedure Act (APA) (5 U.S.C. 553) rather than section 6 of the OSH Act (29 U.S.C. 655) and 29 CFR Part 1911 (both of which only apply to ''promulgating, modifying or revoking occupational safety or health standards'' (29 CFR 1911.1)). Therefore, the OSH Act requirement to hold an informal public hearing (29 U.S.C. 655(b)(3)) on a proposed rule, when requested, does not apply to this rulemaking.

Section 553(b)(1) of the APA requires the agency to issue a ''statement of the time, place, and nature of public rulemaking proceedings'' (5 U.S.C. 553(b)(1)). The APA does not specify a minimum period for submitting comments.

a. Public Submissions

OSHA invites comment on all aspects of the proposed rule. OSHA specifically encourages comment on the questions raised in the issues and questions subsection. Interested persons must submit comments by February 6, 2014. The Agency will carefully review and evaluate all comments, information, and data, as well as all other information in the rulemaking record, to determine how to proceed.

You may submit comments in response to this document (1) electronically at *http://www.regulations.gov,* which is the federal e-rulemaking portal; (2) by fax; or (3) by hard copy. All submissions must identify the agency name and the OSHA docket number (Docket No. OSHA–2013–0023) or RIN (RIN No. 1218–AC49) for this rulemaking. You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or fax submission, you must submit three copies to the OSHA docket office (see **ADDRESSES** section). The additional materials must clearly identify your electronic comments by name, date, and docket number, so that OSHA can attach them to your comments.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of submissions. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA docket office at (202) 693–2350 (TTY (877) 889–5627).

b. Access to Docket

Comments in response to this **Federal Register** notice are posted at *http://www.regulations.gov,* the federal e-rulemaking portal. Therefore, OSHA cautions individuals about submitting personal information such as Social Security numbers and birthdates. Although submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through that Web site. All comments and exhibits, including copyrighted material, are available for inspection and copying at the OSHA docket office. Information on using *http://www.regulations.gov* to submit comments and access dockets is available on that Web site. Contact the OSHA docket office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov.* This document, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.* For specific information about OSHA's Recordkeeping rule, go the Recordkeeping page on OSHA's Web page.

Authority and Signature

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Sections 8 and 24 of the Occupational Safety and Health Act (29 U.S.C. 657, 673), Section 553 of the Administrative Procedure Act (5 U.S.C. 553), and Secretary of Labor's Order No. 41–2012 (77 FR 3912 (Jan. 25, 2012)).

List of Subjects

29 CFR Part 1904

Health statistics, Occupational safety and health, Reporting and recordkeeping requirements, State plans.

29 CFR Part 1952

Health statistics, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements, State plans.

Signed at Washington, DC, on October 31, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated in the preamble, OSHA proposes to amend parts 1904 and 1952 of Chapter XVII of Title 29 as follows:

PART 1904—[AMENDED]

■ 1. The authority citation for part 1904 continues to read as follows:

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

Subpart E—Reporting Fatality, Injury and Illness Information to the Government

■ 2. Add an authority citation to Subpart E of 29 CFR part 1904 to read as follows:

Authority: Sections 8 and 24 of the Occupational Safety and Health Act (29 U.S.C. 657, 673), 5 U.S.C. 553, and Secretary of Labor's Order 1–2012 (77 FR 3912, Jan. 25, 2012).

■ 3. Revise § 1904.41 to read as follows:

§ 1904.41 Electronic submission of injury and illness records to OSHA.

(a) *Basic requirements*—(1) *Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees.* If your establishment is required to keep records under Part 1904 and had 250 or more employees (including full-time, part-time, temporary, and seasonal workers) at any time during the previous calendar year, you must electronically send to OSHA or OSHA's designee, on a quarterly basis, all of the information from the records that you keep under Part 1904.

(i) The data for injuries, illnesses, and fatalities recorded during the period of January through March must be submitted no later than April 30.

(ii) The data for injuries, illnesses, and fatalities recorded during the period

of April through June must be submitted no later than July 31.

(iii) The data for injuries, illnesses, and fatalities recorded during the period of July through September must be submitted no later than October 31.

(iv) The data for injuries, illnesses, and fatalities recorded during the period of October through December must be submitted no later than January 31.

(v) The summary data from OSHA Form 300A must be submitted no later than March 2 of the year after the calendar year covered by the form.

(2) *Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries.* If your establishment had 20 or more employees (including full-time, part-time, temporary, and seasonal workers) at any time during the previous calendar year, and is classified in any of the industries listed in Appendix A to Subpart E of Part 1904, you must electronically send to OSHA or OSHA's designee, once a year, the information from your completed annual summary form (Form 300A). The information must be submitted no later than March 2 of the year after the calendar year covered by the form.

(3) *Electronic submission of Part 1904 records upon notification.* Upon notification, you must electronically send to OSHA or OSHA's designee the requested information, at the specified time interval, from the records that you keep under Part 1904.

(b) *Implementation*—(1) *Does every employer have to send data to OSHA?* No, in any given year, some employers will have to send data to OSHA, and some employers will not. If your establishment is required to keep records under Part 1904 and had 250 or more employees in the previous calendar year, you must submit all of your Part 1904 data to OSHA on a quarterly basis, without notification from OSHA. Also, if your establishment is classified in any of the industries listed in Appendix A to Subpart E of Part 1904 and had 20 or more employees in the previous calendar year, you must submit the information from the annual summary form (Form 300A) to OSHA once a year, without notification from OSHA. This information must be submitted no later than March 2 of the year after the calendar year covered by the form (for example, no later than March 2, 2012, for the 2011 annual summary form). Otherwise, you must only submit injury and illness data to OSHA if you are notified to do so for an individual data collection.

(2) *How will I be notified that I have to submit the data?* Employers required to submit data on a quarterly basis (that is, employers that are required to keep records under Part 1904 and had 250 or more employees in the previous calendar year) will not be notified. Employers required to submit data once a year (that is, employers, in designated industries, that had 20 or more employees in the previous calendar year) will also not be notified. Employers required to submit data as part of an individual data collection will be notified by mail. OSHA will also announce individual data collections through publication in the **Federal Register** and the OSHA newsletter, and announcements on the OSHA Web site.

(3) *How often do I have to submit the data?* Establishments that are required to keep records under Part 1904 and had 250 or more employees in the previous calendar year must submit their Form 300 and Form 301 data on a quarterly basis and their annual summary data, from Form 300A, on an annual basis. Establishments that are in designated industries and had 20 or more employees in the previous calendar year must submit their Form 300A data once a year. Establishments that receive a notification for an individual data collection must submit their data according to the frequency specified in the notification.

(4) *How do I submit the data?* Establishments must submit their data electronically. OSHA will provide a secure Web site for the electronic submission of data. For individual data collections, OSHA will include the Web site's location in the notification for the data collection. The Web site will allow for both direct data entry and submission of data through a batch file upload, as appropriate.

(5) *Do I have to submit data if I am normally exempt from keeping OSHA injury and illness records?* If you are exempt from keeping injury and illness records under § 1904.1 and/or § 1904.2 of this part, you will have to submit data only if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, you must keep the injury and illness records required by Part 1904 and submit data as directed.

(6) *Do I have to submit data if I am located in a State-Plan State?* The requirements for submitting data apply to all employers, including employers in State-Plan States.

■ 4. Add Appendix A to Subpart E of Part 1904 to read as follows:

Appendix A to Subpart E of Part 1904—Designated Industries for Annual Electronic Submission of OSHA Annual Summary Form (Form 300A) by Establishments With 20 or More Employees in Designated Industries

NAICS	Industry
11	Agriculture, Forestry, Fishing and Hunting.
22	Utilities.
23	Construction.
31–33	Manufacturing.
42	Wholesale Trade.
4413	Automotive Parts, Accessories, and Tire Stores.
4421	Furniture Stores.
4422	Home Furnishings Stores.
4441	Building Material and Supplies Dealers.
4442	Lawn and Garden Equipment and Supplies Stores.
4451	Grocery Stores.
4521	Department Stores.
4529	Other General Merchandise Stores.
4533	Used Merchandise Stores.
4543	Direct Selling Establishments.
4811	Scheduled Air Transportation.
4832	Inland Water Transportation.
4841	General Freight Trucking.
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PART 1952—[AMENDED]

■ 4. The authority citation for part 1952 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order 1–2012 (77 FR 3912, Jan. 25, 2012).

■ 5. In § 1952.4, revise paragraph (d) to read as follows:

§ 1952.4 Injury and illness recording and reporting requirements.

* * * * *

(d) As provided in section 18(c)(7) of the Act, State-Plan States must adopt requirements identical to those in 29 CFR 1904.41 in their recordkeeping and reporting regulations as enforceable State requirements. The data collected by OSHA as authorized by § 1904.41 will be made available to the State Plan States. Nothing in any State plan shall affect the duties of employers to comply with § 1904.41.

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Proclamation 9055—Veterans Day, 2013

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The President

Proclamation 9055 of November 5, 2013

Veterans Day, 2013

By the President of the United States of America

A Proclamation

On Veterans Day, America pauses to honor every service member who has ever worn one of our Nation's uniforms. Each time our country has come under attack, they have risen in her defense. Each time our freedoms have come under assault, they have responded with resolve. Through the generations, their courage and sacrifice have allowed our Republic to flourish. And today, a Nation acknowledges its profound debt of gratitude to the patriots who have kept it whole.

As we pay tribute to our veterans, we are mindful that no ceremony or parade can fully repay that debt. We remember that our obligations endure long after the battle ends, and we make it our mission to give them the respect and care they have earned. When America's veterans return home, they continue to serve our country in new ways, bringing tremendous skills to their communities and to the workforce—leadership honed while guiding platoons through unbelievable danger, the talent to master cutting-edge technologies, the ability to adapt to unpredictable situations. These men and women should have the chance to power our economic engine, both because their talents demand it and because no one who fights for our country should ever have to fight for a job.

This year, in marking the 60th anniversary of the Korean War Armistice, we resolved that in the United States of America, no war should be forgotten, and no veteran should be overlooked. Let us always remember our wounded, our missing, our fallen, and their families. And as we continue our responsible drawdown from the war in Afghanistan, let us welcome our returning heroes with the support and opportunities they deserve.

Under the most demanding of circumstances and in the most dangerous corners of the earth, America's veterans have served with distinction. With courage, self-sacrifice, and devotion to our Nation and to one another, they represent the American character at its best. On Veterans Day and every day, we celebrate their immeasurable contributions, draw inspiration from their example, and renew our commitment to showing them the fullest support of a grateful Nation.

With respect for and in recognition of the contributions our service members have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor our Nation's veterans.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim November 11, 2013, as Veterans Day. I encourage all Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers. I call upon Federal, State, and local officials to display the flag of the United States and to participate in patriotic activities in their communities. I call on all Americans, including civic and fraternal organizations, places of worship, schools, and communities to support this day with commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2013–27093
Filed 11–7–13; 11:15 am]
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