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Presidential Documents

Title 3—

The President

Memorandum of January 5, 2012

Delegation of a Certain Function and Authority Conferred Upon the President by Section 1235(c) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the function and authority conferred upon the President by section 1235(c) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383, to make the specified report to the Committees on Armed Services, Foreign Relations, Homeland Security and Governmental Affairs, and Appropriations of the Senate and the Committees on Armed Services, Foreign Affairs, Oversight and Government Reform, and Appropriations of the House of Representatives.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, January 5, 2012

[FR Doc. 2012–1544
Filed 1–23–12; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2012–04 of January 6, 2012

Presidential Determination on the Eligibility of South Sudan To Receive Defense Articles and Defense Services Under the Foreign Assistance Act of 1961, as Amended, and the Arms Export Control Act, as Amended

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 503(a) of the Foreign Assistance Act of 1961, as amended, and section 3(a)(1) of the Arms Export Control Act, as amended, I hereby find that the furnishing of defense articles and defense services to the Republic of South Sudan will strengthen the security of the United States and promote world peace.

You are authorized and directed to transmit this determination to the Congress and to arrange for the publication of this determination in the *Federal Register*.

THE WHITE HOUSE,
Washington, January 6, 2012

[FR Doc. 2012–1545
Filed 1–23–12; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of January 10, 2012

Certification Concerning U.S. Participation in the United Nations Mission in South Sudan Consistent With Section 2005 of the American Servicemembers' Protection Act

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, and consistent with section 2005 of the American Servicemembers' Protection Act of 2002 (Public Law 107–206; 22 U.S.C. 7421 *et seq.*), concerning the participation of members of the Armed Forces of the United States in certain United Nations peacekeeping and peace enforcement operations, I hereby certify that members of the U.S. Armed Forces participating in the United Nations Mission in South Sudan are without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court (ICC) because the Republic of South Sudan is not a party to the ICC and has not invoked the jurisdiction of the ICC pursuant to Article 12 of the Rome Statute.

You are authorized and directed to publish this determination in the *Federal Register*.

THE WHITE HOUSE,
Washington, January 10, 2012

[FR Doc. 2012–1546
Filed 1–23–12; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Executive Order 13597 of January 19, 2012

Establishing Visa and Foreign Visitor Processing Goals and the Task Force On Travel and Competitiveness

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve visa and foreign visitor processing and travel promotion in order to create jobs and spur economic growth in the United States, while continuing to protect our national security, it is hereby ordered as follows:

Section 1. *Policy.* The travel and tourism industry is one of our Nation's leading service sectors and sources of exports. However, the U.S. market share of spending by international travelers fell from 17 percent to 11 percent of the global market from 2000 to 2010, more than a 30 percent decrease in our share of the global market. This decrease was due primarily to increased international competition, changing patterns in global development, and, to some degree, more stringent security requirements imposed after 2001. Given the importance of the travel and tourism industry to the U.S. economy and job creation, a coordinated policy, consistent with protecting our national security, is needed to support a prosperous and secure travel and tourism industry in the United States.

Steady progress has been made since 2010, when my Administration launched the National Export Initiative and the Travel Promotion Act was signed into law. While our processes for moving people and goods across our borders are now both more secure and more efficient, new initiatives are needed to enable us to better capitalize on the economic opportunities presented by a dynamic 21st century travel and tourism industry.

Sec. 2. *Visa and Foreign Visitor Processing.* (a) The Assistant to the President for Homeland Security and Counterterrorism shall, consistent with Presidential Policy Directive 1 or any successor documents and in coordination with the Assistant to the President and Cabinet Secretary, maintain an interagency process for coordinating the implementation of regulatory improvements and the evaluation of legislative proposals to enhance and expedite travel to and arrival in the United States by foreign nationals, consistent with national security requirements.

(b) The Secretaries of State and Homeland Security, in consultation with the Assistant to the President for Homeland Security and Counterterrorism, the Director of the Office of Management and Budget, and the heads of such agencies as appropriate, shall develop an implementation plan, within 60 days of the date of this order, describing actions to be undertaken, including those that build upon efforts underway, to achieve the following:

(i) increase nonimmigrant visa processing capacity in China and Brazil by 40 percent over the coming year;

(ii) ensure that 80 percent of nonimmigrant visa applicants are interviewed within 3 weeks of receipt of application, recognizing that resource and security considerations and the need to ensure provision of consular services to U.S. citizens may dictate specific exceptions;

(iii) increase efforts to expand the Visa Waiver Program and travel by nationals of Visa Waiver Program participants; and

(iv) expand reciprocal recognition programs for expedited travel, such as the Global Entry program.

This plan should also identify other appropriate measures that will enhance and expedite travel to and arrival in the United States by foreign nationals, consistent with national security requirements, as well as any potential challenges in achieving the stated goals of this subsection.

(c) Within 180 days of the date of this order, and periodically thereafter, the Secretaries of State and Homeland Security shall jointly submit through the Assistant to the President for Homeland Security and Counterterrorism a report to the President describing the progress on achieving the goals set forth in this section (as well as areas of concern or barriers to achieving those goals) to ensure the country remains secure while increasing travel and tourism to the United States.

(d) The Secretary of Commerce shall establish and maintain a publicly available website that provides updated metrics from across the Federal Government to assist industry and travelers in understanding the current status of the industry and its relevance to the economy, statistics on visa processes in key travel and tourism markets, and entry times into the United States.

Sec. 3. *Task Force on Travel and Competitiveness.* (a) A Task Force on Travel and Competitiveness (Task Force) is hereby established to develop the National Travel and Tourism Strategy described in this section. The Secretaries of Commerce and the Interior shall serve as Co-Chairs of the Task Force. The Task Force shall also include the heads of the following executive departments and agencies (agencies), or senior level officials designated by them:

(i) Department of State;

(ii) Department of the Treasury;

(iii) Department of Agriculture;

(iv) Department of Labor;

(v) Department of Transportation;

(vi) Department of Homeland Security;

(vii) Army Corps of Engineers;

(viii) Office of the United States Trade Representative;

(ix) Export-Import Bank; and

(x) Other agencies invited to participate by the Task Force Co-Chairs.

(b) The Secretaries of Commerce and the Interior, in consultation with the Director of the Office of Management and Budget, the Assistant to the President for Homeland Security and Counterterrorism, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy, shall coordinate the overall work of the Task Force and assist its members in performing the responsibilities described herein.

(c) The Task Force shall develop a National Travel and Tourism Strategy with recommendations for new policies and initiatives to promote domestic and international travel opportunities throughout the United States with the goal of increasing the United States market share of worldwide travel, including obtaining a greater share of long-haul travel from Brazil, China, and India. Such recommendations shall include, among other things, strategies to promote visits to the United States public lands, waters, shores, monuments, and other iconic American destinations, thereby expanding job creation in the United States. The Task Force shall also consider recommendations to promote and expand travel and tourism opportunities in rural communities. In addition, the National Travel and Tourism Strategy shall identify any barriers to increasing the United States market share of worldwide travel, and any other related areas of concern. The Task Force shall deliver the National Travel and Tourism Strategy to the President within 90 days of the date of this order.

(d) The Task Force, through the Secretary of Commerce, shall also coordinate with the Corporation for Travel Promotion (currently doing business

as Brand USA, a nonprofit corporation established by the Travel Promotion Act of 2009 to promote travel to the United States) and the Tourism Policy Council, established by the United States National Tourism Organization Act of 1996. The Secretary of Commerce shall serve as the liaison between the Task Force and the United States Travel and Tourism Advisory Board (Board) chartered by the Secretary and shall consider the Board's advice in his or her role with the Task Force.

(e) The Tourism Policy Council coordinates policies concerning travel promotion and ensures consistency and cooperation among agencies, as set forth in the United States National Tourism Organization Act of 1996. The Task Force shall consult with the Tourism Policy Council where appropriate to facilitate the development of the National Travel and Tourism Strategy.

Sec. 4. *General Provisions.* (a) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
January 19, 2012.

[FR Doc. 2012–1568
Filed 1–23–12; 8:45 am]
Billing code 3295–F2–P

Rules and Regulations

Federal Register

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Tuesday, January 24, 2012

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

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

RIN 0575–AC81

Direct Single Family Housing Loans and Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: Through this action, the Rural Housing Service (RHS) amends its regulations for the Direct Single Family Housing Loans by reinstating language in the Single Family Housing (SFH) recapture regulation to enable full repayment of the entire subsidy in event of foreclosure or deed-in-lieu of foreclosure (voluntary conveyance). This action clarifies that in the event of foreclosure or deed-in-lieu of foreclosure (voluntary conveyance) the RHS will recapture the full subsidy from the value of the property.

DATES: *Effective:* February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Michael S. Feinberg, Chief, Loan Origination Branch, Single Family Housing Direct Loan Division, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW., Washington, DC 20250–0783, Telephone: (202) 720–1474.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Paperwork Reduction Act of 1995

There are no new reporting and recordkeeping requirements associated with this rule.

E-Government Act Compliance

The RHS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Programs Affected

The programs affected by this proposed rule are 10.410, Low to Moderate Income Housing Loans, and 10.417, Very Low-Income Housing Repair Loans and Grants.

Intergovernmental Consultation

For the reasons set forth in the final rule published at 7 CFR part 3015, subpart V, and the related notice (48 FR 29115), these programs are not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule reinstates a requirement on Agency applicants and borrowers; however, the requirement of full subsidy recapture in event of foreclosure or voluntary conveyance will apply solely to the individual applicants and borrowers of Section 502 Direct Single Family Housing financing and will not apply to small entities. There will be no significant information collection or regulatory requirements imposed on small entities under this rule.

Federalism

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local Governments. Therefore, consultation with the States is not required.

Background

In the event of a foreclosure or deed in lieu of foreclosure (voluntary conveyance), the original recapture regulation promulgated on October 1, 1979, (7 CFR part 1951, subpart I (1980)) provided for recapture of the full amount of subsidy granted in determining the balance owed. However, when the Section 502 SFH direct loan program was restructured on November 22, 1996, the revised recapture regulation, 7 CFR 3550.162, omitted this provision. Therefore, because of the omission of the critical language in the regulation, full recovery is not currently supported by regulatory authority.

Foreclosure or deed in lieu of foreclosure is a last resort to protect the Government's interest after all other servicing actions have failed. Recovery of some or the entire payment subsidy provided to direct single family housing borrowers or ''recapture'' is provided for by statute in 42 U.S.C. 1490a (a)(1)(D). The statute gives the Secretary broad discretion in determining the amount of the subsidy recapture.

A proposed rule was published on March 5, 2010, [75 FR 10194—10195] to provide clear regulatory authority in 7 CFR part 3550 for full recovery of the payment assistance subsidy that the borrower has received in the event of foreclosure or deed in lieu of foreclosure. This final rule further clarifies the subsidy repayment requirement in event of foreclosure or deed in lieu of foreclosure by restoring the original regulatory authority and policy of full recovery of the subsidy in these situations in 7 CFR 3550.162(b)(2). The Subsidy Repayment Agreement (Form RD 3550–12) signed by the borrower has been revised accordingly to reflect the language of the regulation.

This rule also clarifies in 7 CFR 3550.162(b)(2) that the borrower will not be personally liable for any deficiency in repayment of the full subsidy to the Agency and the Agency will not seek to recover unpaid subsidy from assets of the borrower other than the property which was security for the loan. This policy was stated in the original recapture regulation promulgated on October 1, 1979, but unintentionally omitted from 7 CFR 3550.162 when the program was restructured in 1996.

No comments were received on the Proposed Rule; however, the Agency made a several changes to the proposed rule for organization and clarification purposes. The Agency revised paragraph (a) to clarify that ''payment subsidy'' includes subsidy from the former interest credit program, and that foreclosure and deed in lieu of foreclosure are examples of situations in which ''the borrower transfers title or ceases to occupy the property.'' The Agency also clarified that recapture would include the amount of principal reduction attributed to subsidy (PRAS), except in cases of foreclosure and deed in lieu of foreclosure. PRAS would have benefitted borrowers with loans receiving interest credit subsidy between October 1, 1979 and December 31, 1989. This limited recapture of PRAS is consistent with the Subsidy Repayment Agreement used during that time.

The Agency also moved some language from proposed paragraph (a) to paragraph (b)(2) to more clearly distinguish its recapture procedure for foreclosure and deed in lieu of foreclosure from other situations. The Agency further explained its current policy on how liquidation proceeds are to be applied to a borrower's debt to make clear that no preference is made to recover subsidy from security proceeds.

Subparagraph (b)(1)(General) was clarified for non-foreclosure/deed in lieu of foreclosure cases, to reference the calculation for value appreciation under the applicable Subsidy Repayment Agreement (SRA). These agreements have been revised over the years and will be enforced according to their terms and current regulations to the extent not inconsistent with the applicable agreements. The paragraph also was clarified to specify current Agency procedure that upon Agency request borrowers will provide property appraisals, including those for any capital improvements, or arm's length sales contracts to establish market value for determining value appreciation. Agency appraisal standards are found in 7 CFR 3550.62.

Existing policies for deferral of recapture and recapture when the loan is assumed by a third party have been reinserted as paragraphs (c) and (d) of 7 CFR 3550.162. A discount is available when the borrower timely pays recapture at settlement or upon notice instead of deferring payment until the property is sold or vacated. This discount amount is consistent with current 25% discount policy under the Subsidy Repayment Agreement and handbook procedures. No change in policy was intended in the proposed rule on these issues.

A cross-reference to 7 CFR 3550.162 was added to 3550.202(b) concerning the acceleration of past due accounts.

List of Subjects in 7 CFR Part 3550

Accounting, Housing, Loan programs—Housing and community development, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is amended as follows:

PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart D—Regular Servicing

■ 2. Section 3550.162 is revised to read as follows:

§ 3550.162 Recapture.

(a) *Recapture policy.* Borrowers with loans approved or assumed on or after October 1, 1979, will be required to repay subsidy amounts received through payment subsidy (including the former interest credit program) or deferred mortgage assistance in accordance with paragraph (b) of this section. Amounts to be recaptured are due and payable when the borrower transfers title or ceases to occupy the property, including but not limited to, in the event of foreclosure or deed in lieu of foreclosure. Such recapture will include the amount of principal reduction attributed to subsidy (for loans subject to recapture that were approved, and received interest credit, between October 1, 1979, and December 31, 1989), except in cases of foreclosure and deed in lieu of foreclosure.

(b) *Amount to be recaptured.* (1) *General.* The amount to be recaptured is the amount of principal reduction attributed to subsidy plus the lesser of:

(i) The amount of subsidy received; or

(ii) A portion of the value appreciation of the property subject to recapture. In order for value appreciation to be calculated, the borrower will provide a current appraisal, including an appraisal for any capital improvements, or arm's length sales contract as evidence of market value upon Agency request. Appraisals must meet Agency standards under § 3550.62.

(2) *Foreclosure or deed in lieu of foreclosure.* Notwithstanding paragraph (b)(1) of this section, the amount to be recaptured in a foreclosure or deed in lieu of foreclosure is the amount of subsidy received, not including any principal reduction attributed to subsidy. Foreclosure actions will seek to recover such amounts only from the

proceeds of the property. Liquidation proceeds (in the case of foreclosure) or the net recovery value (in the case of deed in lieu of foreclosure) will be applied or credited to the borrower's debt in accordance with the security agreement in the following order:

(i) Recoverable costs (e.g. protective advances, foreclosure costs, late charges).

(ii) Accrued interest.

(iii) Principal.

(iv) Subsidy.

(3) *Value appreciation.* The value appreciation of property with a cross-collateralized loan is based on the market value of the dwelling and lot. If located on a farm, the lot size would be a typical lot for a single family housing property.

(4) *Interest* reduced from the promissory note rate to six percent under the Servicemembers Civil Relief Act (SCRA) is not subject to recapture.

(c) *Deferral of recapture.* If the borrower refinances or otherwise pays in full without transfer of title and continues to occupy the property, the amount of recapture will be calculated in accordance with paragraph (a) of this section but payment of recapture may be deferred, interest free, until the property is sold or vacated. If the recapture amount is deferred, the Agency mortgage can be subordinated when in the Government's best interest but will not be released nor the promissory note satisfied until the Agency is paid in full. In situations where deferral of recapture is an option, recapture will be discounted if paid in full at the time of settlement or timely paid after Agency notification to the borrower that recapture is due.

(d) *Assumed loans.* (1) When a loan subject to recapture is assumed under new rates and terms, the recapture amount may be paid in full by the seller or included in the principal amount assumed by the buyer.

(2) When a loan is assumed under the same rates and terms as the original promissory note, recapture amounts will not be due. When the new borrower transfers title or ceases to occupy the property, all subsidy subject to recapture before and after the assumption is due.

(3) When a borrower has deferred payment of recapture amounts, the deferred recapture amount may be included in the principal amount of the new loan.

Subpart E—Special Servicing

■ 3. Section 3550.202 is amended by adding paragraph (b)(3) to read as follows:

§ 3550.202 Past due accounts.

* * * * *

(b) * * *

(3) *Subsidy recapture.* Acceleration under this section will take into account any subsidy recapture due under § 3550.162.

Dated: January 16, 2012.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2012–1268 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4279

Biorefinery Assistance Guaranteed Loans; Correction

AGENCY: Rural Business-Cooperative Service and Rural Utilities Service, USDA.

ACTION: Interim rule; correction.

SUMMARY: The Agency published a rule in the **Federal Register** on February 14, 2011, establishing a guaranteed loan program for the development and construction of commercial-scale biorefineries and for the retrofitting of existing facilities using eligible technology for the development of advanced biofuels. The document inadvertently omitted provisions as to what an applicant is to do in the event either an appraisal is not completed or a credit rating cannot be obtained at the time of application. This document corrects the omissions.

DATES: The correction is effective January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Kelley Oehler, (202) 720–6819.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the interim rule requires applicants to submit a ''credit rating'' with the application. The Agency inadvertently omitted an alternative to ''credit rating'' when applicants are unable to obtain one at the time of application. Therefore, the Agency is correcting the interim rule to redress this situation in §§ 4279.202(d) and 4279.261(b)(6) by allowing the submittal of a ''credit assessment'' at the time the application is submitted.

In addition, the interim rule does not address what an applicant is to do in the event an appraisal has not been completed at the time of application. Previously, in implementing through a series of notices published in the **Federal Register**, the Agency allowed such applicants to submit an estimated appraisal. This allowance was inadvertently left out of the interim rule, and the Agency has revised § 4279.261(e) accordingly. The credit rating and appraisal would need to be provided before issuance of the Loan Note Guarantee.

List of Subjects in 7 CFR Part 4279

Biorefinery assistance, Loan programs—Business and industry, Rural development assistance, Rural areas.

For the reasons set forth in the preamble, title 7, chapter XLII of the Code of Federal Regulations, is amended as follows:

CHAPTER XLII—RURAL BUSINESS-COOPERATIVE SERVICE AND RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

PART 4279—GUARANTEED LOANMAKING

■ 1. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989, and 7 U.S.C. 1932(a).

Subpart C—Biorefinery Assistance Loans

■ 2. Section 4279.202 is amended by revising paragraph (d) to read as follows:

§ 4279.202 Compliance with §§ 4279.1 through 4279.84.

* * * * *

(d) *Independent credit risk analysis.* The Agency will require an evaluation and either a credit rating or a credit assessment of the total project's indebtedness, without consideration for a government guarantee, from a nationally-recognized rating agency for loans of $125,000,000 or more.

* * * * *

■ 3. Section 4279.261 is amended by revising paragraphs (b)(6) and (e) to read as follows:

§ 4279.261 Application for loan guarantee content.

* * * * *

(b) * * *

(6) For loans of $125 million or more, an evaluation and either a credit rating or a credit assessment of the total project's indebtedness, without consideration for a government guarantee, from a nationally-recognized rating agency; and

* * * * *

(e) *Appraisals.* Unless otherwise approved by the Agency, an appraisal conducted as specified under § 4279.244.

* * * * *

Dated: January 11, 2012.

Dallas Tonsager,

Under Secretary, Rural Development.

[FR Doc. 2012–1149 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0923; Directorate Identifier 2009–SW–20–AD; Amendment 39–16794; AD 2011–18–12]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (ECF) Model AS350B, B1, B2, B3, BA, and D; and AS355E, F, F1, F2, and N Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the specified ECF model helicopters. This AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. The MCAI AD states that some cracks have been discovered in the spar of the upper fin on Model AS355N helicopters. Due to the fin design similarity between AS350 and AS355 helicopters, this AD action applies to both helicopter models. Modifying the upper and lower fin attachment is intended to prevent failure of a spar, loss of a fin, a separated fin hitting a rotor, and subsequent loss of control of a helicopter.

DATES: This AD becomes effective on February 8, 2012.

The incorporation by reference of certain publications is approved by the Director of the Federal Register as of February 8, 2012.

We must receive comments on this AD by March 26, 2012.

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 your comments electronically.
- *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.

You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (972) 641–3460, fax (972) 641–3527, or at *http://www.eurocopter.com.*

Examining The 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 economic evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is stated in the **ADDRESSES** section of this AD. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, ASW–112, Aviation Safety Engineer, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5126, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Discussion

On March 11, 1983, we issued AD 82–13–05 R1, Amendment 39–4567 (48 FR 13406, March 31, 1983), which revised AD 82–13–05, Amendment 39–4401 (47 FR 27244, June 24, 1982), which superseded AD 82–02–02, Amendment 39–4294 (47 FR 1113, January 11, 1982). The current AD requires a visual check for a crack in the flanges of the upper vertical fin support before the first flight each day. It also requires an initial 10 hours time-in-service (TIS) inspection and thereafter, at intervals not to exceed 50 hours TIS, repetitive dye-penetrant or equivalent inspections for a crack in the flange of the upper vertical fin support. Since we issued those ADs, there have been additional reports of cracks in the spar area of the upper tail fin of the ECF Model AS355N helicopters.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2009–0030, dated February 12, 2009, which supersedes EASA AD 2008–0121, dated June 27, 2008, for the AS350 helicopters. EASA has also issued AD No. 2009–0029, dated February 12, 2009, which supersedes EASA AD 2008–0120, dated June 27, 2008, for the AS355 helicopters. This latest unsafe condition results from additional cracks that have been discovered in the spar of the upper fin on Model AS355N helicopters. Due to the fin design similarity between AS350 and AS355 helicopters, the same corrective action applies to both model helicopters. Modifying the upper and lower fin attachment is intended to prevent failure of a spar, loss of a fin, a separated fin hitting a rotor, and subsequent loss of control of a helicopter.

You may obtain further information by examining the MCAI and any related service information in the AD docket.

Related Service Information

ECF has issued Alert Service Bulletin (ASB) No. 55.00.12, Revision 1, dated January 5, 2009, specifying MOD 073330 for the Model AS355E, F, F1, F2, and N helicopters and No. 55.00.16, Revision 1, dated January 5, 2009, specifying MOD 073330 for the Model SA350B, B1, B2, B3, BA, BB, D, and L1 helicopters. ECF has also issued ASB No. 55.00.11, Revision 2, dated February 28, 2008, specifying MOD 073288 for the AS355 E, F, F1, F2, and N helicopters and No. 55.00.13, Revision 2, dated February 28, 2008, specifying MOD 073288 for the AS350B3 helicopters. These ASBs specify various inspections and modifications for improving or monitoring upper and lower fin attachments and improving the attachment strength for upper and lower tailboom fin. The actions described in the MCAI AD are intended to correct the same unsafe condition as that identified in the service information.

FAA's Evaluation and Unsafe Condition Determination

These products have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their technical agent, has notified us of the unsafe condition described in the MCAI AD. We are issuing this AD because we evaluated all information provided by the EASA and determined the unsafe condition exists and is likely to exist or develop on other ECF helicopters of these same type designs.

Differences Between This AD and the MCAI

We refer to flight hours as hours time-in-service. The dates in the MCAI have already passed; therefore, we did not use them in this AD. Also, some of the requirements are out-of-date, and we have not included them in this AD. We have also made some minor editorial changes for clarity.

Costs of Compliance

We estimate that this AD will affect about 791 helicopters of U.S. registry. We also estimate that it will take about 4 work-hours per helicopter to modify the upper and lower fins and the upper and lower fin attachments. The average labor rate is $85 per work-hour. Required parts will cost about $453. Based on these figures, we estimate the cost of this AD on U.S. operators will be $793 to modify each helicopter or $627,263 for the fleet, assuming every helicopter is modified.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this superseding AD. We find that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of reported cracks in the spar of the upper fin on AS355N helicopters. The growth of a crack in a fin attachment spar might occur quickly and if not corrected, lead to failure of a spar, loss of a fin, a separated fin hitting a rotor, and subsequent loss of control of the helicopter. Therefore, we have 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. However, we invite you to send us any written data, views, or arguments concerning this AD. Send your comments to an address listed under the **ADDRESSES** section of this AD. Include "Docket No. FAA–2011–0923; Directorate Identifier 2009–SW–20–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.

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 product(s) 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.

Therefore, I certify this AD:

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

We prepared 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 AD:

2011–18–12 Eurocopter France: Amendment 39–16794. Docket No. FAA–2011–0923; Directorate Identifier 2009–SW–20–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective on February 8, 2012.

Other Affected ADs

(b) This AD supersedes AD 82–13–05R1, Amendment 39–4567, Docket No. 83–ASW–09 (48 FR 13406; March 31, 1983); which revised AD 82–13–05, Amendment 39–4401 (47 FR 27244; June 24, 1982); which superseded AD 82–02–02, Amendment 39–4294 (47 FR 1113; January 11, 1982).

Applicability

(c) This AD applies to Model AS350B, B1, B2, B3, BA, and D; and AS355E, F, F1, F2, and N helicopters with upper and lower fins assemblies, installed, that have a part number (P/N) as follows:

(1) For the Model AS350B, B1, B2, B3, BA, and D helicopters, certificated in any category:

Upper fin assembly P/N:	Lower fin assembly P/N:
350A14–0020–00XX	350A14–0021–00XX
350A14–0020–01XX	350A14–0021–01XX
350A14–0020–02XX	350A14–0021–02XX
350A14–0020–03XX	350A14–0021–03XX
350A14–0020–08XX	350A14–0021–04XX
350A14–0020–09XX	
350A14–0020–10XX	
350A14–0020–17XX	
350A14–0020–18XX	
350A14–0020–19XX	
350A64–1144–00XX	

(2) For the Model AS355E, F, F1, F2, and N helicopters, certificated in any category:

Upper fin assembly P/N:	Lower fin assembly P/N:
355A14–0522–00XX	355A14–0521–00XX
355A14–0522–01XX	355A14–0521–01XX
355A14–0522–02XX	355A14–0521–02XX
355A14–0522–03XX	355A14–0521–03XX
355A14–0522–13XX	
355A14–0522–14XX	
355A14–0522–15XX	

Reason

(d) The mandatory continuing airworthiness information (MCAI) AD states that some cracks have been discovered in the spar of the upper fin on Model AS355N helicopters. Due to the fin design similarity between AS350 and AS355 helicopters, the

same corrective action applies to both types of helicopters.

Actions and Compliance

(e) Within 30 days, unless accomplished previously:

(1) For Model AS350 helicopters with part numbers listed in paragraph (c)(1) of this AD, modify each fin as depicted in Figure 1 and by following the Accomplishment Instructions, paragraph 2.B.2., Eurocopter Model AS350 Alert Service Bulletin (ASB) No. 55.00.16, Revision 1, dated January 5, 2009.

(2) For Model AS355 helicopters with part numbers listed in paragraph (c)(2) of this AD, modify each fin as depicted in Figure 1 and by following the Accomplishment Instructions, paragraph 2.B.2., of Eurocopter AS 355 ASB 55.00.12, Revision 1, dated January 5, 2009.

Note: Eurocopter Safety Information Notice No. 2315–S–55, Revision 1, dated April 21, 2011, not incorporated by reference, contains information about the subject of this AD.

Differences Between This AD and the MCAI

(f) We refer to flight hours as hours TIS. The dates in the MCAI have already passed; therefore, we did not use them in this AD. Also, some of the requirements are out-of-date, and we have not included them in this AD. We have also made some minor editorial changes for clarity.

Other Information

(g) The Manager, Safety Management Group, Rotorcraft Directorate, ATTN: FAA Safety Management Group, Jim Grigg., ASW–112, Aviation Safety Engineer, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5126, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(h) Special flight permits are prohibited.

Related Information

(i) EASA MCAI Airworthiness Directive Nos. 2009–0029 and 2009–0030, both dated February 12, 2009, contain related information.

Joint Aircraft System/Component Code

(j) The Joint Aircraft System/Component (JASC) Code is: 5531—Vertical stabilizer spar/rib structure.

Material Incorporated by Reference

(k) You must use the specified portions of the service information specified in this AD to do the actions required. The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(1) Eurocopter Model AS350 Alert Service Bulletin No. 55.00.16, Revision 1, dated January 5, 2009; and

(2) Eurocopter Model AS 355 Alert Service Bulletin No. 55.00.12, Revision 1, dated January 5, 2009.

(3) For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (972) 641–3460, fax (972) 641–3527, or at *http://www.eurocopter.com*.

(4) You may review copies at the DOT/FAA, Southwest Region, Office of the Regional Counsel, 2601 Meacham Blvd., Fort Worth, Texas 76137; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Fort Worth, Texas, on August 19, 2011.

Kim Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–365 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1454; Directorate Identifier 2011–SW–054–AD; Amendment 39–16910; AD 2011–27–08]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Agusta S.p.A. (Agusta) model A109S and AW109SP helicopters. This AD is prompted by a fatigue crack found in the left elevator assembly along the riveting of the upper skin to the fourth rib on an Agusta A109S helicopter. These actions are intended to detect a crack, which could lead to a failure of the elevator, reduced maneuverability of the helicopter, and subsequent loss of control of the helicopter.

DATES: This AD becomes effective February 8, 2012.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of February 8, 2012.

We must receive comments on this AD by March 26, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov*. Follow the online instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

For service information identified in this 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 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.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Manager, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd. Fort Worth TX 76137, telephone (817) 222–5126, fax (817) 222–5961, email *jim.grigg@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive

public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2011–0150, dated August 9, 2011 (AD 2011–0150), to correct an unsafe condition for the Agusta A109S and AW109SP helicopters. EASA advises that a fracture of the left elevator assembly part number (P/N) 109–0200–02–601, along the riveting of the upper skin to the fourth rib has recently occurred on an A109S helicopter. The elevator assembly, left and right, P/N 109–0200–02–601 or –801, and 109–0200–02–602 or –802, installed on an A109S helicopter are very similar to the elevator assembly, left and right, P/N 109–0200–02–803 and –804, installed on the AW109SP helicopter. The technical investigation conducted by Agusta revealed that the crack in the left elevator assembly was due to fatigue. The EASA AD requires, as an interim measure pending the development of a terminating action, repetitive inspections of the elevator upper skin in the area of the fourth rib, and if a crack is found, replacing the cracked elevator assembly with a serviceable unit or contacting Agusta for an approved repair.

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, their 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.

Related Service Information

We reviewed Agusta Mandatory Bollettino Tecnico (ABT) No. 109S–44 and No 109SP–032, both dated August 5, 2011. The ABTs describe procedures for visually inspecting with a 5–10X magnifying glass to verify the presence of cracks on the upper skin of the left elevator assembly, P/N 109–0200–02–601 or –801, and right elevator assembly, P/N 109–0200–02–602 or –802, on the A109S and P/N 109–0200–02–803 and –804 on the AW109SP. The ABTs also provide instructions to carry out a dye penetrant inspection if there is any doubt as to the presence of a crack during the visual inspection. EASA classified this service information as mandatory and issued AD No. 2011–0150 to ensure the continued airworthiness of these helicopters.

AD Requirements

This AD requires an inspection of the area depicted in figure 1 of the manufacturer's service bulletin.

- For elevator assemblies with less than 400 hours time-in-service (TIS), upon or before reaching 400 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, inspect with a 10X power magnifying glass an area of the left and right elevator upper skin for a crack along the 4th rib station rivet line.
- For elevator assemblies with 400 or more hours TIS, within 30 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, inspect with a 10X power magnifying glass an area of the left and right elevator upper skin for a crack along the 4th rib station rivet line.
- Replace any cracked elevator assembly with an airworthy elevator assembly before further flight.

Differences Between This AD and the EASA AD

The EASA AD specifies a 5–10X power magnifying glass; this AD specifies a 10X power or higher magnifying glass.

Costs of Compliance

We estimate that this AD will affect 14 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. Inspecting the elevator assemblies will require 3 work-hours at an average labor rate of $85 per hour, for a cost of $255 per inspection cycle. To replace a cracked elevator assembly with an airworthy elevator assembly will require 10 work-hours at an average labor rate of $85 per hour, and parts will cost $19,921, for a cost per helicopter of $20,771.

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

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because some of the required corrective actions must be accomplished within 30 hours time-in-service, a very short time period based on the average flight-hour utilization rate of these helicopters.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice an opportunity for public comment before issuing this AD are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

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, 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 AD:

2011–27–08 Agusta S.p.A.: Amendment 39–16910; Docket No. FAA–2011–1454; Directorate Identifier 2011–SW–054–AD.

(a) Applicability

This AD applies to model A109S and AW109SP helicopters with elevator assemblies, part number (P/N) 109–0200–02–601, 109–0200–02–801, 109–0200–02–602, 109–0200–02–802, 109–0200–02–803, or 109–0200–02–804 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a fatigue crack on the elevator assembly. This condition could result in failure of the elevator, reduced maneuverability of the helicopter, and subsequent loss of control of the helicopter.

(c) Effective Date

This airworthiness directive (AD) becomes effective February 8, 2012.

(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) Corrective Action

(1) For elevator assemblies with less than 400 hours time-in-service (TIS), upon or before reaching 400 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, inspect the left and right elevator upper skin along the 4th rib station rivet line from the leading edge to 200 mm inboard with a 10X or higher magnifying glass for a crack in the area depicted in Figure 1 of Agusta Mandatory Bollettino Tecnico (ABT) No. 109S–44 or 109SP–032, both dated August 5, 2011, for your model helicopter.

(2) For elevator assemblies with 400 or more hours TIS, within the next 30 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, inspect the left and right elevator upper skin along the 4th rib station rivet line from the leading edge to 200 mm inboard with a 10X or higher magnifying glass for a crack in the area depicted in Figure 1 of the ABT for your model helicopter.

(3) If there is a crack, replace the cracked elevator assembly with an airworthy elevator assembly before further flight.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Jim Grigg, Manager, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5126, fax (817) 222–5961, email *jim.grigg@faa.gov.*

(2) For operations conducted under a Part 119 operating certificate or under 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

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2011–0150, dated August 11, 2011.

(h) Subject

Joint Aircraft System Component (JASC) Code 5520: Elevator Structure.

(i) Material Incorporated by Reference

You must use the specified portions of the service information specified in this AD to do the actions required. The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(1) Agusta Mandatory Bollettino Tecnico No. 109S–44, dated August 5, 2011, for model A109S helicopters; or

(2) Agusta Mandatory Bollettino Tecnico No. 109SP–032, dated August 5, 2011, for model AW109SP helicopters.

(3) 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.*

(4) 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 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*

Issued in Fort Worth, Texas, on December 27, 2011.

M. Monica Merritt,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–366 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2011–1274; Airspace Docket No. 11–ASO–34]

RIN 2120–AA66

Amendment of Restricted Areas R–3704A and R–3704B; Fort Knox, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action makes several editorial corrections to the descriptions of restricted areas R–3704A and R–3704B, Fort Knox, KY.

DATES: Effective date 0901 UTC, April 5, 2012.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

A review of the descriptions of restricted areas R–3704A and R–3704B at Fort Knox, KY identified the need for several editorial corrections. The description for R–3704A requires the following corrections. In the ''designated altitudes,'' the existing words ''and including'' are unnecessary. As stated in 14 CFR 73.3, the word ''to'' (an altitude or flight level) means ''to and including'' (that altitude or flight level); therefore, the wording of R–3704A is being amended to read ''Surface to 10,000 feet MSL.'' In addition, the current time of designation for R–3704A states ''EST'' (for eastern standard time). This is incorrect since the restricted area is used year-round during both standard and daylight time periods. Because the State of Kentucky lies within both the eastern and central time zones, it is appropriate that the time of designation signify which time zone is being used for activation of the restricted area. Therefore, the R–3704A time of designation is being amended by

removing ''EST'' and replacing it with the words ''eastern time.'' Lastly, the name of the R–3704A using agency is amended to reflect the correct U.S. Army organization responsible for the airspace.

The description of R–3704B also requires several editorial corrections. The controlling agency for both R–3704A and R–3708B is currently listed as ''FAA, Standiford Control Tower, Louisville, KY.'' The altitude dividing line between the two areas is 10,000 feet mean sea level (MSL). Due to Air Traffic Control facility airspace delegations, the airspace above 10,000 feet MSL in that area is assigned to the Indianapolis Air Route Traffic Control Center (ARTCC). Therefore, the controlling agency for R–3704B is being changed to read ''FAA, Indianapolis ARTCC.'' Further, the designated altitudes for R–3704B are being changed from ''10,000 feet MSL to 20,000 feet MSL,'' to ''10,001 feet MSL to 20,000 feet MSL.'' This will preclude overlapping airspace jurisdiction between the two FAA facilities. As described above for R–3704A, the using agency name for R–3704B is also being changed to reflect the correct U.S. Army organization responsible for the airspace.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by making several editorial corrections to the descriptions of restricted areas R–3704A and R–3704B, Fort Knox, KY. For R–3704A, the designated altitudes are amended by removing the words ''Surface to and including 10,000 feet MSL'' and inserting the words ''Surface to 10,000 feet MSL.'' The time of designation is amended by removing the words ''0600 to 2400 EST; other times by NOTAM 24 hours in advance,'' and inserting the words ''0600 to 2400 eastern time; other times by NOTAM 24 hours in advance''. The using agency is amended by removing the words ''Commanding General, U.S. Army Armor Center, Fort Knox, KY'' and inserting the words ''Commanding General, Human Resources Center of Excellence, Fort Knox, KY.'' The description of R–3704B is amended as follows. The designated altitudes are amended by removing the words ''10,000 feet MSL to 20,000 feet MSL'' and inserting the words ''10,001 feet MSL to 20,000 feet MSL.'' The controlling agency is amended by removing the words ''FAA, Standiford Control Tower, Louisville, KY'' and inserting the words ''FAA, Indianapolis ARTCC.'' The using agency is amended by removing the words ''Commanding General, U.S. Army Armor Center, Fort Knox, KY'' and inserting the words ''Commanding General, Human Resources Center of Excellence, Fort Knox, KY.''

This is an administrative change to update the title of the using agency and make editorial corrections. It does not affect the boundaries, overall designated altitudes, or activities conducted within the restricted area; therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

Section 73.37 of Title 14, CFR part 73 was republished in FAA Order 7400.8T, effective February 16, 2011.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as amends the description of Restricted Areas R–3704A and R–3704B, Fort Knox, KY.

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 311d. This airspace action is an editorial change to the descriptions of the affected restricted areas to update the using agency names and make editorial corrections to the time of designation and designated altitudes. It does not alter the actual altitudes or times of designation of the restricted airspace at Fort Knox, KY; therefore, it 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 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.37 [Amended]

■ 2. Section 73.37 is amended as follows:

* * * * *

R–3704A Fort Knox, KY [Amended]

By removing the current Designated altitudes, Time of designation and Using agency and substituting the following:

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. 0600 to 2400 eastern time; other times by NOTAM 24 hours in advance.

Using agency. Commanding General, Human Resources Center of Excellence, Fort Knox, KY.

R–3704B Fort Knox, KY [Amended]

By removing the current Designated altitudes, Controlling agency and Using agency and substituting the following:

Designated altitudes. 10,001 feet MSL to 20,000 feet MSL.

Controlling agency. FAA, Indianapolis ARTCC.

Using agency. Commanding General, Human Resources Center of Excellence, Fort Knox, KY.

Issued in Washington, DC on January 12, 2012.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2012–1397 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742 and 774

[Docket No. 110825537–2038–02]

RIN 0694–AF38

Export and Reexport License Requirements for Certain Microwave and Millimeter Wave Electronic Components: Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule: Correction.

SUMMARY: This correction adds a compliance date of February 9, 2012, to a final rule published on January 9, 2012 (77 FR 1017). That final rule imposed a license requirement on exports and reexports to all destinations other than Canada of two types of microwave and millimeter wave electronic components. The two components are packaged high electron mobility transistors and packaged microwave ''monolithic integrated circuits'' power amplifiers that meet certain criteria with respect to frequency range, size and output power. BIS is publishing this correction to make sure exporters and reexporters have sufficient time to comply with the rule.

DATES: *Effective date:* January 24, 2012.

Compliance date: All exports and reexports on or after February 9, 2012, for which the rule published at 77 FR 1017, January 9, 2012, creates a new license requirement must be in compliance with the terms of that rule.

FOR FURTHER INFORMATION CONTACT: William Arvin, Regulatory Policy Division, Office of Exporter Services, (202) 482–2440, *william.arvin@bis.doc.gov*.

SUPPLEMENTARY INFORMATION: On January 9, 2012, BIS published a final rule imposing a license requirement on exports and reexports to all destinations other than Canada of two types of microwave and millimeter wave electronic components (77 FR 1017, January 9, 2012, FR Doc. 2012–135). The two components are packaged high electron mobility transistors (HEMT) and packaged microwave ''monolithic integrated circuits'' (MMIC) power amplifiers that meet certain criteria with respect to frequency range, size and output power. That rule was effective upon publication and did not provide for any delay in compliance. This correction adds a compliance date of February 9, 2012, to provide time for exporters and reexporters upon whom this rule imposes a new license requirement to apply for any necessary licenses. This correction makes no other changes to the rule.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. 2012–1229 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0605; FRL–9620–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Clean Vehicles Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This SIP revision contains Pennsylvania's Clean Vehicle Program, which adopts California's second generation low emission vehicle program for light-duty vehicles (LEV II). The Clean Air Act (CAA) contains specific authority allowing any state to adopt new motor vehicle emissions standards that are identical to California's standards in lieu of applicable Federal standards. Pennsylvania has adopted a Clean Vehicle Program that incorporates by reference provisions of California's LEV II rules and specifies a transition mechanism for compliance with these clean vehicle standards in Pennsylvania. EPA is approving this SIP revision, in accordance with the requirements of the CAA, which will help Pennsylvania to achieve and maintain attainment of the National Ambient Air Quality Standard (NAAQS) for ozone.

DATES: *Effective Date:* This final rule is effective on February 23, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0605. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On November 4, 2011 (76 FR 68381), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania's Clean Vehicle Program rule, in which the Commonwealth adopted California's Low Emission Vehicle Program (California LEV), under authority of section 177 of the CAA. The formal SIP Clean Vehicle SIP revision was submitted by Pennsylvania on May 31, 2007.

II. Summary of SIP Revision

Pennsylvania adopted its revised Clean Vehicles Program rule and published it as a final rule in December 9, 2006 edition of the *Pennsylvania Bulletin* (36 Pa.B. 7424). The Clean Vehicle Program rule was meant to formalize cessation of Pennsylvania's participation of the National Low Emission Vehicle (NLEV) program. The Commonwealth had participated in the NLEV program prior to implementation by EPA of its second general Federal motor vehicle emissions standards under the 1990 CAA (*i.e.,* Tier 2 standards). By model year 2006, Federal Tier 2 standards had superseded prior NLEV standards, except where states had adopted California emission standards as an alternative to Federal emission standards, under authority granted under section 177 of the CAA. Pennsylvania had adopted California LEV program as a ''backstop'' to its NLEV program, to take effect upon the expiration of the NLEV program. Pennsylvania's May 2007 Clean Vehicles SIP revision reiterated the Commonwealth's participation in the California LEV program, updated its incorporation by reference to include the most recent version of California's program, delayed the start date for the

Pennsylvania Clean Vehicle Program from model year 2006 to model year 2008 (leaving the Tier 2 Federal standards as the compliance alternative for the 2006–2008 model years), and made changes to the Clean Vehicle Program to reflect post-1998 changes made by California and specified a 3-year early credit earning period within which vehicle manufacturers could comply with the program's fleet average non-methane organic gases (NMOG) requirements. For a more complete summary and additional background information on the Pennsylvania Clean Vehicle program, refer to EPA's NPR published in the November 4, 2011 **Federal Register**.

Other specific requirements of the Pennsylvania Clean Vehicle Program and EPA's rationale for our proposed action are explained in the NPR and will not be restated here. EPA received one public comment on the NPR, which was supportive of both Pennsylvania's adoption of and EPA's approval of the Clean Vehicle Program.

III. Final Action

EPA is approving the Clean Vehicle Program as a revision to the Pennsylvania SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve the Pennsylvania Clean Vehicle Program SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: January 4, 2012.

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by:

■ a. Revising the entry for Section 121.1.

■ b. Revising the entry for Section 126.401.

■ c. Removing the entry for Section 126.402.

■ d. Revising the entries for Sections 126.411, 126.412, and 126.413.

■ e. Revising the heading between Sections 126.413 and 126.421.

■ f. Revising the entries for Sections 126.421, 126.422, 126.423, 126.424, and 126.425.

■ g. Revising the entries for Sections 126.431, 126.432, and 126.441.

■ h. Adding a new heading and entry for Section 126.451.

The amendments read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection Article III—Air Resources				
Chapter 121—General Provisions				
Section 121.1	Definitions	12/9/06	1/24/12 [*Insert page number where the document begins*].	Adding definition of one term, revising definitions of four terms, and removing definitions of five terms.
* *	*	*	*	* *
Chapter 126—Motor Vehicle and Fuels Programs				
* *	*	*	*	* *
Subchapter D. Pennsylvania Clean Vehicles Program				
General Provisions				
Section 126.401	Purpose	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Pennsylvania Clean Vehicles Program				
Section 126.411	General requirements	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.412	Emission requirements	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.413	Exemptions	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Applicable New Motor Vehicle Testing				
Section 126.421	Exemptions	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.422	New motor vehicle compliance testing.	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.423	Assembly line testing	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.424	In-use motor vehicle enforcement testing.	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.425	In-use surveillance testing	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Motor Vehicle Manufacturers' Obligations				
Section 126.431	Warranty and recall	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Section 126.432	Reporting requirements	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Motor Vehicle Dealer Responsibilities				
Section 126.441	Responsibility of motor vehicle dealers.	12/9/06	1/24/12 [*Insert page number where the document begins*].	
Department Responsibilities				
Section 126.451	Responsibilities of the Department.	12/9/06	1/24/12 [*Insert page number where the document begins*].	
* *	*	*	*	* *

* * * * *

[FR Doc. 2012–1300 Filed 1–23–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2011–0848; FRL–9620–6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, State of West Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator Units, Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the West Virginia hospital/medical/infectious waste incinerator (HMIWI) Section 111(d)/129 plan (the ''plan''). The revision contains a modified state rule for solid waste combustion that was updated as a result of the October 6, 2009 amendments to Federal Emission Guidelines (EG) and New Source Performance Standards (NSPS), 40 CFR part 60, subparts Ce and Ec respectively. While West Virginia's revised regulation contains requirements for various types of solid waste incineration units, the revisions and approval action relate only to HMIWI units.

DATES: This rule is effective March 26, 2012 without further notice, unless EPA receives adverse written comment by February 23, 2012. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0848 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov*.

C. *Mail:* EPA–R03–OAR–2011–0848, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0848. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, at (215) 814–2039, or by email at *gordon.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Section 129 of the Clean Air Act (CAA) requires EPA to establish performance standards and emissions guidelines for various types of new and existing solid waste incineration units. Section 129(b)(2) requires States to submit to EPA for approval state plans that implement and enforce the promulgated EG. Section 129(b)(3) requires EPA to promulgate a Federal Plan (FP) within two years from the date on which the EG, or revision, was promulgated. The FP is applicable to any affected facility if the state has failed to receive EPA approval of the state plan, or revision. The FP acts as an enforcement place holder until the state submits and receives EPA approval of its plan. State plan submittals must be consistent with the relevant emissions guidelines, in this instance 40 CFR part 60, subpart Ce, and the requirements of 40 CFR part 60, subpart B and part 62, subpart A. Section 129 of the CAA regulates a mixture of air pollutants including organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, and mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (which includes opacity).

The initial West Virginia plan for HMIWI units was approved by EPA on June 13, 2000 (65 FR 37046). The plan approval is codified in 40 CFR part 62, subpart XX. On September 7, 2011, the West Virginia Department of Environmental Protection submitted to EPA a formal Section 111(d)/129 plan revision for HMIWI units. The submitted plan revision was in response to the October 6, 2009 amendments to Federal EG and NSPS requirements for HMIWI units, 40 CFR part 60, subparts Ce and Ec, respectively (74 FR 51367). This rulemaking action will supersede EPA's August 3, 2009 (74 FR 38348) approval of West Virginia's initial plan revision. While the state rule revised by this action, 45CSR18, contains requirements for various types of solid waste incineration units, the revision to the plan by West Virginia and EPA's approval action relate only to HMIWI units.

II. Summary of West Virginia's HMIWI Plan Revision

EPA has reviewed the West Virginia HMIWI plan revision submittal in the context of the requirements of 40 CFR part 60, subparts B and Ce, as amended, and part 62, subpart A. The submitted plan revision meets all the cited requirements and those as described in

EPA's June 13, 2000 West Virginia plan approval.

III. Final Action

EPA is approving the West Virginia HMIWI Section 111(d)/129 plan revision to state rule 45CSR18 as a result of amendments to 40 CFR part 60, subparts Ce and Ec. Therefore, EPA is amending 40 CFR part 62, subpart XX to reflect this action. This approval is based on the rationale discussed above and in further detail in the technical support document (TSD) associated with this action. This plan revision approval does not negate or void any of the initial June 13, 2000 plan approval requirements, including compliance dates for any affected facility. The scope of this plan revision approval is limited to the provisions of 40 CFR parts 60 and 62 for existing HMIWI units, as referenced in the EG, subpart Ce, and the related NSPS, subpart Ec, as amended.

The EPA Administrator continues to retain authority for several tasks, as provided in section WV45CSR18–11. This retention of Federal authority also includes the granting of waivers for initial and annual compliance testing requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 26, 2012 without further notice unless EPA receives adverse comment by February 23, 2012. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing Section 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a Section 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a Section 111(d)/129 plan submission, to use VCS in place of a Section 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving West Virginia's Section 111(d)/129 plan revision for HMIWI sources may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: January 5, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 62, subpart XX, is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart XX—West Virginia

■ 2. Section 62.12150 is amended by adding paragraph (c) to read as follows:

§ 62.12150 Identification of plan.

* * * * *

(c) On September 7, 2011 the West Virginia Department of Environmental Protection submitted a State plan revision that updates the state rule for Control of Air Pollution from Combustion of Solid Waste in Hospital/Medical/Infectious Waste Incinerators, WV45CSR18.

■ 3. Revise § 62.12151 to read as follows:

§ 62.12151 Identification of sources.

The plan applies to each individual HMIWI:

(a) For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998.

(b) For which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

■ 4. Section 62.12152 is amended by adding paragraph (c) to read as follows:

§ 61.12152 Effective date.

* * * * *

(c) The September 7, 2011 plan revision is effective March 26, 2012.

[FR Doc. 2012–1336 Filed 1–23–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1240]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

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

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

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

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

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

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Mobile	City of Mobile (11–04–2597P).	November 10, 2011; November 17, 2011; *The Press-Register*.	The Honorable Samuel L. Jones, Mayor, City of Mobile, 205 Government Street, South Tower, 10th Floor, Mobile, AL 36602.	March 16, 2012	015007
Mobile	Unincorporated areas of Mobile County (11–04–5528P).	December 1, 2011; December 8, 2011; *The Press-Register*.	The Honorable Connie Hudson, President, Mobile County Commission, 205 Government Street, Mobile, AL 36644.	April 6, 2012	015008
Arizona:					
Cochise	City of Sierra Vista (11–09–2096P).	October 28, 2011; November 4, 2011; *The Sierra Vista Herald*.	The Honorable Rick Mueller, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	October 20, 2011	040017
Maricopa	City of Glendale (11–09–3464P).	November 24, 2011; December 1, 2011; *The Arizona Business Gazette*.	The Honorable Elaine M. Scruggs, Mayor, City of Glendale, 5850 West Glendale Avenue, Glendale, AZ 85301.	March 30, 2012	040045
Maricopa	City of Peoria (11–09–3464P).	November 24, 2011; December 1, 2011; *The Arizona Business Gazette*.	The Honorable Bob Barrett, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	March 30, 2012	040050
California:					
Orange	City of Laguna Beach (11–09–3647P).	November 4, 2011; November 11, 2011; *The Laguna Beach Coastline Pilot*.	The Honorable Toni Iseman, Mayor, City of Laguna Beach, 505 Forest Avenue, Laguna Beach, CA 92651.	March 12, 2012	060223
Santa Clara	City of San Jose (12–09–0140P).	December 2, 2011; December 9, 2011; *The San Jose Mercury News*.	The Honorable Chuck Reed, Mayor, City of San Jose, 200 East Santa Clara Street, San Jose, CA 95113.	December 22, 2011	060349
Colorado:					
El Paso	City of Colorado Springs (11–08–0869P).	November 2, 2011; November 9, 2011; *The El Paso County Advertiser and News*.	The Honorable Steve Bach, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	March 8, 2012	080060
El Paso	Unincorporated areas of El Paso County (11–08–0869P).	November 2, 2011; November 9, 2011; *The El Paso County Advertiser and News*.	The Honorable Dennis Hisey, Chairman, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903.	March 8, 2012	080059
Florida:					
Escambia	Unincorporated areas of Escambia County (11–04–7674P).	November 25, 2011; December 2, 2011; *The Pensacola News Journal*.	The Honorable Wilson Robertson, Chairman, Escambia County Board of Commissioners, 221 Palafox Place, Suite 400, Pensacola, FL 32502.	November 17, 2011	120080
Indian River	Town of Indian River Shores (11–04–7942P).	November 25, 2011; December 2, 2011; *The Indian River Press Journal*.	The Honorable Thomas W. Cadden, Mayor, Town of Indian River Shores, 6001 North Highway A1A, Indian River Shores, FL 32963.	November 17, 2011	120121
Lee	Unincorporated areas of Lee County (12–04–0044P).	November 25, 2011; December 2, 2011; *The News-Press*.	The Honorable John Manning, Chairman, Lee County Board of Commissioners, 2120 Main Street, Fort Myers, FL 33901.	November 17, 2011	125124
Orange	City of Orlando (11–04–7338P).	November 22, 2011; November 29, 2011; *The Orlando Sentinel*.	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32802.	March 28, 2012	120186
Seminole	Unincorporated areas of Seminole County (11–04–8756X).	November 4, 2011; November 11, 2011; *The Orlando Sentinel*.	The Honorable Brenda Carey, Chair, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	October 26, 2011	120289
Georgia: Cherokee	Unincorporated areas of Cherokee County (10–04–8275P).	October 7, 2011; October 14, 2011; *The Cherokee Tribune*.	The Honorable L. B. Ahrens, Jr., Chairman, Cherokee County Board of Commissioners, 1130 Bluffs Parkway, Canton, GA 30114.	February 13, 2012	130424
Hawaii:	City and County of Honolulu (11–09–3899P).	November 10, 2011; November 17, 2011; *The Honolulu Star-Advertiser*.	The Honorable Peter B. Carlisle, Mayor, City and County of Honolulu, 530 South King Street, Room 300, Honolulu, HI 96813.	March 16, 2012	150001
Mississippi:					
Lee	City of Saltillo (10–04–8523P).	November 4, 2011; November 11, 2011; *The Northeast Mississippi Daily Journal*.	The Honorable Bill Williams, Mayor, City of Saltillo, 395 Mobile Street, Saltillo, MS 38866.	March 12, 2012	280261
Lee	Unincorporated areas of Lee County (10–04–8523P).	November 4, 2011; November 11, 2011; *The Northeast Mississippi Daily Journal*.	The Honorable Joe McKinney, Chairman, Lee County Board of Supervisors, 200 West Jefferson Street, Suite 100, Tupelo, MS 38801.	March 12, 2012	280227
Wyoming:					
Campbell	City of Gillette (11–08–0781P).	October 21, 2011; October 28, 2011; *The News-Record*.	The Honorable Tom Murphy, Mayor, City of Gillette, 201 East 5th Street, Gillette, WY 82717.	February 27, 2012	560007
Campbell	Unincorporated areas of Campbell County (11–08–0781P).	October 21, 2011; October 28, 2011; *The News-Record*.	The Honorable Stephen F. Hughes, Chairman, Campbell County Board of Directors, 500 South Gillette Avenue, Suite #1100, Gillette, WY 82716.	February 27, 2012	560081

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

Dated: January 12, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–1318 Filed 1–23–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 110913585–2001–02]

RIN 0648–BB36

Atlantic Highly Migratory Species; 2012 Atlantic Shark Commercial Fishing Season

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

ACTION: Final rule; fishing season notification.

SUMMARY: This final rule establishes the opening dates and adjusts quotas for the 2012 fishing season for the Atlantic commercial shark fisheries. Quotas were adjusted based on over- and/or underharvests experienced during the 2010 and 2011 Atlantic commercial shark fishing seasons. In addition, NMFS is using previously-implemented adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas to determine the opening dates. These actions are expected to provide fishing opportunities for commercial shark fishermen in the northwestern Atlantic, including the Gulf of Mexico and Caribbean.

DATES: The 2012 Atlantic commercial shark fishing season opening dates and quotas are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Guy DuBeck at (301) 427–8503 or (fax) (301) 713–1917.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments under the Magnuson-Stevens Act are implemented by regulations at 50 CFR part 635.

On October 31, 2011, NMFS published a rule (76 FR 67121) that proposed the 2012 opening dates of the Atlantic commercial shark fisheries and quotas based on shark landings information as of August 31, 2011. The proposed rule also considered using adaptive management measures such as flexible opening dates for the fishing seasons and inseason adjustments to shark trip limits to provide flexibility in management in the furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas. The proposed rule contained details regarding the adaptive management measures and a brief summary of recent management history. Those details are not repeated here.

Approximately 15 comments from the public were received on the proposed rule. Those comments, along with the Agency's responses, are summarized below. As detailed more fully in the Response to Comments section, as a result of public comment, in the final rule NMFS has changed the opening date of the non-sandbar large coastal shark (LCS) fishery in the Gulf of Mexico region from March 1, 2012, to February 15, 2012. The other shark species/complexes will open as proposed in the October 31, 2011, proposed rule.

This final rule serves as notification of the 2012 opening dates of the Atlantic commercial shark fisheries and 2012 quotas, based on shark landings updates as of October 31, 2011, pursuant to § 635.27(b)(1)(i–vi). This action does not change the annual base and adjusted annual base commercial quotas established under Amendments 2 and 3 to the 2006 Consolidated HMS FMP for sandbar sharks, non-sandbar LCS, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks), non-blacknose SCS, or blacknose sharks. Any such changes would be performed through a separate action. Rather, this action adjusts the commercial quotas based on over- and/or underharvests that occurred in 2010 and 2011, consistent with existing regulations.

Response to Comments

During the proposed rule stage, NMFS received approximately 15 comments from fishermen, dealers, and other interested parties. All written comments can be found at *http://www.regulations.gov/* and by searching for RIN 0648–BB36.

Comment 1: NMFS received several comments regarding the proposed opening date for the non-sandbar LCS fishery. One comment noted that shark meat is easier to sell in the Gulf of Mexico during the religious period of Lent, which runs from February 22 to April 7, 2012. Other comments indicated that shark dealers and fishermen would prefer for the fishery to open on February 15, since the targeted shark species would no longer be in their fishing areas by March 1.

Response: In the proposed rule, NMFS considered a season opening date of March 1, 2012, to allow for the furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all parts of the Gulf of Mexico region. Under the criteria listed at § 635.27(b)(1)(ii), NMFS examined the season length from previous fishing years, variation in seasonal distribution and abundance of sharks, and the effects of catch rates in one part of a region precluding fishing opportunities for vessels in another part of that region before making a decision. Taking into consideration these criteria, NMFS has determined that changing the opening date of the non-sandbar LCS fishery in the Gulf of Mexico region is allowable and will continue to promote equitable fishing opportunities in this region. Also, changing the opening date will not compromise the resource due to variations in seasonal distribution, abundance, and migratory patterns of the non-sandbar LCs species. As such, based on comments received from fishermen and dealers in different areas of the Gulf of Mexico requesting NMFS to open on February 15, NMFS is changing the proposed opening date of the non-sandbar LCS from March 1, 2012, to February 15, 2012.

Comment 2: NMFS should stop all shark fishing.

Response: This comment is outside the scope of this rulemaking. The purpose of this rulemaking is to adjust quotas based on over- and underharvests from the previous year and opening dates for the 2012 shark season. Management of the Atlantic shark fisheries is based on the best available science to maintain or rebuild overfished shark stocks. The final rule does not reanalyze the overall management measures for sharks, which were analyzed in Amendment 2 and Amendment 3, and are being reviewed again for some shark species in Amendment 5 (76 FR 62331; October 7, 2011) and Amendment 6 (76 FR 57709;

September 16, 2011), both of which are in the scoping phase.

Comment 3: Some Florida fishermen supported the NMFS proposed opening for the non-sandbar LCS fishery in the Atlantic region, which includes U.S. waters from Maine to east coast of Florida, on the effective date of the final rule implementing the Atlantic HMS electronic dealer reporting system, or July 15, 2012, whichever comes sooner. Fishermen in the southern portion of the Atlantic region were supportive of timing the fishery so that they will have an opportunity to participate in a winter fishery this year.

Response: NMFS implemented the adaptive management measures from the 2011 shark season rule (75 FR 76302; December 8, 2010) to allow for flexible opening dates and ensure equitable fishing opportunities for fishermen along the Atlantic coast. These adaptive management measures will allow NMFS to accommodate the south Atlantic fishermen's comments regarding timing to allow for a winter fishery. With the implementation of the HMS electronic reporting system, NMFS should be able to monitor the quota on a real-time basis. This ability, along with the inseason trip limit adjustment, should allow NMFS additional flexibility in furtherance of opportunities for all fishermen in all regions, to the extent practical. Depending on how quickly the quota is being harvested, NMFS could reduce the retention limits to 0–32 sharks per trip to ensure that fishermen further north have ample quota for a fishery later in the 2012 fishing season.

Comment 4: NMFS should stop the retention of hammerhead sharks by recreational fishermen.

Response: This comment is outside the scope of this rulemaking. The purpose of this rulemaking is to adjust the commercial fishing quotas and opening dates for the 2012 shark fisheries seasons. The final rule does not reanalyze the recreational management measures for sharks, which were analyzed in Amendment 2, Amendment 3, and the final rule implementing the International Commission for the Conservation of Atlantic Tunas recommendations that prohibit the retention, transshipping, landing, storing, or selling of hammerhead and oceanic whitetip sharks (76 FR 53652; August 29, 2011). Management measures for scalloped hammerhead sharks will be considered and analyzed through Amendment 5 (76 FR 62331; October 7, 2011).

Comment 5: NMFS needs to be clear and consistent with their messages to the public. The proposed opening for the porbeagle fishery was very confusing in its wording and there was a mistake in the proposed rule and email notice. This is difficult for the public to decipher, as the wording is not clear and/or the math seems not to be accurate. NMFS should take care that its public notices are both accurate and clear.

Response: NMFS agrees that its messages to the public should be clear and that there was a mistake in the proposed rule and email notice. NMFS proposed opening the porbeagle fishery on or about January 1, 2012, if the total overharvest from 2011 had not reached 80 percent of the 2012 annual base quota. The proposed rule and email notice stated that if ''overharvest continues to occur and the level reaches 60 percent or more of the 2012 base quota (1.3 mt dw; 2,988 lb dw), NMFS would not open the fishery in 2012.'' This sentence misstated the applicable regulatory language from § 635.28(b)(2), which provides that when NMFS calculates that the landings for the shark species/complex has reached or is projected to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species/complex. Thus, the proposed rule should refer to ''80 percent or more of the 2012 base quota'' and not 60 percent.

Comment 6: Both scalloped hammerhead and porbeagle sharks are in a decline and face extinction. These species have been petitioned to be listed under the Endangered Species Act (ESA). In light of the information in these petitions and ongoing legal actions, NMFS should halt all fishing activities on both species.

Response: Under Amendment 2, scalloped hammerhead sharks are managed as part of the non-sandbar large coastal complex, and porbeagle sharks are managed with a separate species-specific quota and other management measures. NMFS has undertaken scoping for Amendment 5, which will address information in a new stock assessment for scalloped hammerhead sharks within the timeframe required by the Magnuson-Stevens Act (MSA). The current fishery management plans and the best available science do not indicate that fishing of either species must stop completely. A petition to list species under the ESA triggers a process under the ESA, which does not require halting fishing activity under either the ESA or the MSA pending the agency's consideration of the petition. Recently, NMFS announced a 90-day finding on a petition to list scalloped hammerhead sharks as threatened or endangered under the ESA (76 FR 72891; November 28, 2011). Applying the appropriate standards from the listing review process, NMFS found that there is ''substantial scientific or commercial information indicating that the petitioned action may be warranted.'' This finding does not carry with it any additional protection for the species. NMFS now will conduct a status review of the species to determine if the petition action is warranted. To ensure that the status review is comprehensive, NMFS is soliciting scientific and commercial information pertaining to this species from any interested party. Information and comments are due by January 27, 2012, and the Agency intends to make its decision in August 2012. If a decision is made that listing scalloped hammerhead sharks under the ESA is warranted, then the Agency would publish a proposed rule to list the species, designate critical habitat, and accept public comments before any final actions. Additionally, the Agency is reviewing management measures for scalloped hammerhead sharks through the Amendment 5 rulemaking process (76 FR 62331; October 7, 2011). Comments on scoping for Amendment 5 are due on December 31, 2011. The petition to list porbeagle sharks under the ESA received a negative 90-day finding (75 FR 39656; July 12, 2010). NMFS determined that the petition did not present substantial scientific information indicating the petitioned action may be warranted. Currently, NMFS's decision not to initiate a status review for porbeagle sharks is being challenged in federal court.

Changes From the Proposed Rule

NMFS made several changes to the proposed rule as described below.

1. NMFS changed the opening date of the non-sandbar LCS fishery in the Gulf of Mexico in the final rule from March 1, 2012, to February 15, 2012. As described in the response to comment above, this change is being made to address public comment. Opening of the non-sandbar LCS fishery in the Gulf of Mexico region earlier in the year balances the comments received from all constituents in the Gulf of Mexico region and should provide equitable shark fishing opportunities to all participants in the Gulf of Mexico region, to the extent practicable. Also, this change was within the range of possible actions analyzed in the proposed rule pursuant to § 635.27(b)(1)(ii).

2. NMFS made changes in the final quotas of the non-blacknose SCS and porbeagle shark fisheries based on

landings updates through October 31, 2011. In the proposed rule, NMFS proposed a quota for the commercial non-blacknose SCS fishery of 310.6 mt dw based on shark landings updates as of August 31, 2011. Using adjusted landings through October 31, 2011, and correcting for an error in accounting for harvests in 2010, this final rule establishes the 2012 commercial non-blacknose SCS quota of 332.4 mt dw. In the proposed rule, the commercial porbeagle fishery was proposed to be 0.8 mt dw based on the August 31, 2011, shark landings updates. Using adjusted landings through October 31, 2011, this rule establishes the 2012 porbeagle quota to be 0.7 mt dw. All of the details of the resulting changes to the quota can be found in Table 1 and below.

2012 Annual Quotas

This final rule adjusts the commercial quotas due to over- and/or underharvests in 2010 and 2011. The 2012 annual quotas by species and species group are summarized in Table 1. All dealer reports that are received by NMFS after October 31, 2011, will be used to adjust the 2013 quotas, as appropriate.

TABLE 1—2012 ANNUAL QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES. ALL QUOTAS AND LANDINGS ARE DRESSED WEIGHT (DW), IN METRIC TONS (MT), UNLESS SPECIFIED OTHERWISE

Species group	Region	2011 Annual quota (A)	Preliminary 2011 landings [1] (B)	Adjustments (C)	2012 Base annual quota [2] (D)	2012 Annual quota (D+C)	Season opening dates
Non-Sandbar Large Coastal Sharks.	Gulf of Mexico	351.9 (775,740 lb dw).	327.7 (722,444 lb dw).	2.3 (adjustment from 2010) [3].	390.5 (860,896 lb dw).	392.8 (866,063 lb dw).	February 15, 2012.
	Atlantic	190.4 (419,756 lb dw).	148.0 (326,354 lb dw).	−4.6 (2010 overharvest) [4].	187.8 (414,024 lb dw).	183.2 (403,889 lb dw).	Effective Date for HMS Electronic Dealer Reporting System or July 15, 2012, whichever comes first.
Non-Sandbar LCS Research.	No regional quotas.	37.5 (82,673 lb dw).	37.0 (81,627 lb dw).	N/A [5]	37.5 (82,673 lb dw).	37.5 (82,673 lb dw).	January 24, 2012.
Sandbar Shark Research.		87.9 (193,784 lb dw).	60.2 (132,778 lb dw).	N/A [5]	87.9 (193,784 lb dw).	87.9 (193,784 lb dw).	
Non-Blacknose Small Coastal Sharks.		314.4 (693,257 lb dw).	177.1 (390,439 lb dw).	110.8 [6] (adjustment from 2011).	221.6 (488,539 lb dw).	332.4 (732,808 lb dw).	
Blacknose Sharks		19.9 (43,872 lb dw).	14.0 (30,971 lb dw).	N/A [5]	19.9 (43,872 lb dw).	19.9 (43,872 lb dw).	
Blue Sharks		273.0 (601,856 lb dw).	7.2 (15,968 lb dw)	N/A [5]	273.0 (601,856 lb dw).	273.0 (601,856 lb dw).	
Porbeagle Sharks		1.6 (3,479 lb dw)	2.5 (5,430 lb dw)	−1.0 [7] (adjustments from 2010 and 2011 overharvests).	1.7 (3,748 lb dw)	0.7 (1,585 lb dw).	
Pelagic Sharks Other Than Porbeagle or Blue.		488.0 (1,075,856 lb dw).	102.1 (225,068 lb dw).	N/A [5]	488.0 (1,075,856 lb dw).	488.0 (1,075,856 lb dw).	

[1] Landings are from January 1, 2011, until October 31, 2011, and are subject to change.
[2] 2012 annual base quotas for sandbar and non-sandbar LCS are the annual adjusted base quotas that are effective from July 24, 2008, until December 31, 2012 (50 CFR 635.27(b)(1)(iii) and (iv)).
[3] This adjustment accounts for the 2.3 mt dw (5,167 lb dw) that was overestimated in the landings used in the final rule establishing the 2011 quotas.
[4] This adjustment accounts for the 4.6 mt dw (10,135 lb dw) overharvest reflected in the landings used in the final rule establishing the 2011 quotas.
[5] Although there were underharvests in the non-sandbar LCS research, shark research, non-sandbar large coastal shark (LCS), blacknose sharks, blue sharks, and pelagic sharks (other than porbeagle or blue sharks) fisheries, those underharvests cannot be carried over to the 2012 fishing season because those fisheries have been determined to be overfished, overfished with overfishing occurring, or have an unknown status. See 50 CFR 635.27(b)(1)(i)(B).
[6] This adjustment accounts for the underharvest in 2011. While the total underharvest is 137.3 mt dw, NMFS may account for underharvest only up to 50 percent of the base annual quota or 110.8 mt dw (244,269 lb dw).
[7] This adjustment accounts for overharvest in 2010 and 2011. After the final rule establishing the 2011 quotas, the porbeagle sharks were overharvested by an additional 0.1 mt dw (212 lb dw). As of October 31, 2011, 0.9 mt dw (1,951 lb dw) was harvested above the 2011 porbeagle shark quota.

1. 2012 Quotas for Non-Sandbar LCS and Sandbar Sharks Within the Shark Research Fishery

No overharvests of the non-sandbar LCS and sandbar shark quotas within the shark research fishery occurred during the 2011 fishing year and, given the status of the stocks, any underharvests cannot be accounted for pursuant to § 635.27(b)(1)(iii). Therefore, the 2012 base annual quotas within the shark research fishery will be 37.5 mt dw (82,673 lb dw) for non-sandbar LCS and 87.9 mt dw (193,784 lb dw) for sandbar sharks.

2. 2012 Quotas for the Non-Sandbar LCS in the Gulf of Mexico Region

No overharvests of the non-sandbar LCS in the Gulf of Mexico region occurred during the 2011 fishing year and, given the status of the stocks, any underharvests cannot be accounted for pursuant to § 635.27(b)(1)(iv). Therefore, the 2012 annual quota for non-sandbar LCS in the Gulf of Mexico region does not need to be adjusted. However, in the final rule establishing the 2011 quotas (75 FR 76302, December 8, 2010), NMFS accounted for an overharvest of non-sandbar LCS of 38.6 mt dw (85,156 lb dw) using data that were reported as of October 31, 2010. Between that date and December 31, 2010, the reported landings were reduced by 2.3 mt dw due to normal quality control procedures that occur when updated data are supplied. Thus, as stated in the proposed rule, in order to reflect the best available data and in accordance with § 635.27(b)(1)(i), NMFS is adding the amount that was deducted from the 2011 annual quota, based on preliminary numbers that were later corrected, to the 2012 non-sandbar LCS quota in the Gulf of Mexico region. Thus, the 2012 annual commercial non-sandbar LCS quota is 392.8 mt dw (866,063 lb dw) (390.5 mt dw annual base quota + 2.3 mt dw 2010

overestimated landings = 392.8 mt dw 2012 adjusted annual quota).

3. 2012 Quotas for the Non-Sandbar LCS in the Atlantic Region

No overharvests of the non-sandbar LCS in the Atlantic region occurred during the 2011 fishing year and, given the status of the stocks, any underharvests cannot be accounted for pursuant to § 635.27(b)(1)(iv). Therefore, the 2012 annual quota for non-sandbar LCS in the Atlantic region does not need to be adjusted to account for 2011 landings. However, in the final rule establishing the 2011 quotas, NMFS stated that the reported landings as of October 31, 2010, did not exceed the 2010 quota. Between that date and December 31, 2010, the Atlantic non-sandbar LCS quota was overharvested by 4.6 mt dw. As such, this overharvest must be accounted for in the 2012 quota. Accordingly, the 2012 annual commercial non-sandbar LCS quota is 183.2 mt dw (403,889 lb dw) (187.8 mt dw annual base quota − 4.6 mt dw 2010 over estimated landings = 183.2 mt dw 2012 adjusted annual quota).

4. 2012 Quotas for SCS and Pelagic Sharks

No overharvests of blacknose shark, blue sharks, and pelagic sharks other than porbeagle or blue sharks occurred between October 31, 2010 and December 31, 2010, or during the 2011 fishing year. Given the status of the stocks, underharvests cannot be accounted for pursuant to § 635.27(b)(1)(v) through (vi). Therefore, the 2012 annual base quotas for blacknose sharks, blue sharks and pelagic sharks other than porbeagle or blue sharks will be 19.9 mt dw (43,872 lb dw), 273.0 mt dw (601,856 lb dw), and 488.0 mt dw (1,075,856 lb dw), respectively.

Regarding non-blacknose SCS, NMFS has declared this complex to be not overfished and to have no overfishing occurring. Therefore, in this final rule establishing the 2012 quotas, NMFS may account for underharvest up to 50 percent of the base annual quota. Preliminary landings through October 31, 2011, indicate that 177.1 mt dw were landed out of an adjusted quota of 314.4 mt dw. While 137.3 mt dw remained un-harvested, because the base quota is 221.6 mt dw, the maximum amount that NMFS may carry forward is 110.8 mt dw. Therefore, the 2012 adjusted annual quota for non-blacknose SCS is 332.4 mt dw (732,808 lb dw) (221.6 mt dw annual base quota + 110.8 mt dw 2011 underharvest = 332.4 mt dw 2012 adjusted annual quota).

Since overharvests of the porbeagle fishery occurred between October 31, 2010, and December 31, 2010, and during the 2011 fishing year, the 2012 annual quota for porbeagle fishery needs to be adjusted to account for 2010 and 2011 landings. In the final rule establishing the 2011 quotas, NMFS accounted for an overharvest of porbeagle sharks of 0.1 mt dw (269 lb dw) using data that was reported as of October 31, 2010. Between that date and December 31, 2010, porbeagle sharks were overharvested by an additional 0.1 mt dw (212 lb dw). Additionally, as of October 31, 2011, 0.9 mt dw (1,951 lb dw) was overharvested above the 2011 porbeagle shark quota. As such, the 2012 adjusted annual commercial porbeagle quota is 0.7 mt dw (1,585 lb dw) (1.7 mt dw annual base quota − 0.1 mt dw 2010 overharvest − 0.9 mt dw 2011 additional overharvest = 0.7 mt dw 2012 adjusted annual quota).

Fishing Season Notification for the 2012 Atlantic Commercial Shark Fishing Season

Based on the seven ''Opening Fishing Season'' criteria listed in 50 CFR 635.27(b)(1)(ii), the 2012 Atlantic commercial shark fishing season for the shark research, non-blacknose SCS, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open on January 24, 2012. The non-sandbar LCS in the Gulf of Mexico region will open on February 15, 2012. The non-sandbar LCS fishery in the Atlantic region will open on the effective date of the final rule implementing the Atlantic HMS electronic dealer reporting system, or July 15, 2012, whichever comes sooner.

All of the shark fisheries will remain open until December 31, 2012, unless NMFS determines that the fishing season landings for sandbar shark, non-sandbar LCS, blacknose, non-blacknose SCS, blue sharks, porbeagle sharks, or pelagic sharks (other than porbeagle or blue sharks) have reached, or are projected to reach, 80 percent of the available quota. At that time, consistent with § 635.27(b)(1), NMFS will file for publication with the Office of the Federal Register a closure action for that shark species group and/or region that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a **Federal Register** action that additional quota, if any, is available, the fishery for the shark species group and, for non-sandbar LCS, region will remain closed, even across fishing years, consistent with § 635.28(b)(2). As a reminder, the blacknose and non-blacknose SCS fisheries will close together when landings reach 80 percent of either quota.

Classification

NMFS has determined that this action is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the MSA, and other applicable law. Pursuant to 5 U.S.C. 553(d)(3), The Assistant Administrator (AA) for Fisheries for NMFS has determined that there is good cause to waive the 30-day delay in effective date of the quotas and opening dates for the pelagic shark, shark research, blacknose shark, non-blacknose small coastal shark, and Gulf of Mexico non-sandbar large coastal shark fisheries. The effective date for the Atlantic non-sandbar LCS fishery will not be subject to this waiver because this fishery will not open until later in the year, and therefore is not affected by the 30 day delay. This final rule could not be completed sooner due to late-arriving information that was essential to the action. Additionally, a delay in effectiveness of this rule would cause negative economic impacts on fisherman and diminish the opportunity for the collection of scientific data, which is critical to properly manage the fisheries, resulting in negative ecological impacts on the fishery resource itself.

The final shark specifications are set based on dealer landings data that were received as of October 31, 2011. Dealers currently submit bi-weekly landings reports to the Southeast Fisheries Science Center, and late reporting is a common problem, a problem that NMFS is attempting to address with the implementation of electronic dealer reporting. Any landings received by a dealer between October 15–31, 2011, were required to be reported to NMFS by November 10, 2011. Normal quality control procedures had to be applied to all shark landings data before the amount of over- or under-harvest could be calculated and applied to the 2012 quotas. NMFS could not finalize this rule without this data, and thus could not publish the rule 30 days in advance of the start of the shark season, January 1, 2012.

Allowing for a delay in the effectiveness of the quotas in this rule would result in the closure of the pelagic shark fishery from January 1, 2012, until 30 days after the publication date of this rule. Most pelagic shark species are captured incidentally in swordfish and tuna pelagic longline

fisheries that will be open in early January. If the quotas in this rule are not made effective on as close to January 1, 2012, as possible, fishermen would be forced to discard, dead or alive, any pelagic sharks that are caught. When the fishery is closed, bycatch and dead discards are likely to increase although the impacts on the resource would be difficult to quantify. The rate of discards or bycatch fluctuates based of a variety of factors: Number of sharks captured, number of sharks that can be released alive, number of more profitable swordfish or tuna species caught, space in the fish hold for these species, and duration of the fishing trip. The opening of the shark fishery allows fishermen to keep sharks that may otherwise have to be discarded dead.

Regarding the shark research fishery, NMFS selects a small number of fishermen to participate in the shark research fishery each year for the purpose of providing NMFS biological and catch data to better manage the Atlantic shark fisheries. All the trips and catches in this fishery are monitored with 100 percent observer coverage. Delaying the opening of the shark research fishery would prevent NMFS' ability to maintain the monthly time-series of wintertime abundance for shark species or to collect vital biological and regional data during this time of year. Preventing NMFS from conducting the necessary research trips could limit the ability of NMFS to properly manage the shark fisheries, which would be contrary to the public interest.

Regarding the blacknose shark and non-blacknose SCS fisheries, these fisheries have both a directed component, where fishermen target SCS, and an incidental component, where the fish are caught and—when the fishery is open—landed by fishermen targeting other species such as Spanish mackerel and bluefish. The incidental fishery catches SCS throughout the year. Delaying this action to allow for a 30-day delay in effectiveness would force all fishermen to discard, dead or alive, any SCS that are caught before this rule becomes effective. Opening the fishery as close to January 1, 2012, as possible, would ensure that any mortality associated with landings would be counted against the commercial quota in real-time. Additionally, a month-long delay in opening the SCS fishery would occur during the time period when fishermen typically target SCS species. Therefore, fishermen would experience negative economic impacts that would continue until the SCS fisheries were opened. Thus, delaying the opening of the SCS fisheries would undermine the intent of the rule and is contrary to the public interest.

Regarding the Gulf of Mexico non-sandbar LCS fishery, NMFS received comments from fishermen and dealers to change the opening from the proposed date to February 15, 2012. In mid- February, market demand for shark meat increases and fishermen get a better price per pound. Delaying the opening of the non-sandbar LCS fishery would impose negative economic impacts on Gulf of Mexico fishermen. Additionally, many of the primary species targeted in the non-sandbar LCS fishery are locally available at this time and a delay would cause fishermen to miss out on fishing opportunities. Opening the fishery on February 15, 2012, would balance the comments received from all constituents in the Gulf of Mexico region and should provide equitable shark fishing opportunities to all participants in the Gulf of Mexico region, to the extent practicable. Delaying this action to allow for a 30-day delay in effectiveness would be detrimental to the public's interest. For the reasons described above, the AA finds good cause to waive the 30-day delay in effectiveness of the quotas and opening dates for the pelagic shark, shark research, blacknose shark, non-blacknose small coastal shark, and Gulf of Mexico non-sandbar large coastal shark fisheries.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

In compliance with section 604 of the Regulatory Flexibility Act (RFA), NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule, which analyzed the adjustments to the non-sandbar LCS, non-blacknose SCS, and porbeagle quotas based on over- and/or underharvests from the previous fishing season. The FRFA analyzes the anticipated economic impacts of the final actions and any significant economic impacts on small entities. The FRFA is below.

In compliance with section 604(a)(1) of the Regulatory Flexibility Act, the purpose of this final rulemaking is, consistent with the Magnuson-Stevens Act, to adjust the 2012 annual quotas for non-sandbar LCS, sandbar sharks, non-blacknose SCS, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) based on over- and/or underharvests from the previous fishing year, where allowable. These adjustments are being implemented according to the regulations implemented for the 2006 Consolidated HMS FMP and its Amendments. Thus, NMFS would expect few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments. While there may be some direct negative economic impacts associated with the opening dates for fishermen in certain areas, there will be positive effects for others as NMFS is delaying the 2012 non-sandbar LCS shark fishery season in the Gulf of Mexico and Atlantic regions to allow for a more equitable distribution of the available quotas among constituents. A delay in the opening of the season in the Gulf of Mexico region until February 15, 2012, could potentially result in minor negative economic impacts to fishermen who would have to fish in other fisheries to make up for any lost non-sandbar LCS revenues during January and part of February, while shark dealers and other entities that deal with shark products could experience minor negative economic impacts as they may have to diversify during the beginning of the season. A delay in the opening of the season in the Atlantic region until the effective date of the final rule implementing the Atlantic HMS electronic dealer reporting system would potentially result in minor negative economic impacts to shark fishermen who would have fished earlier in the season, such as in the southeast Atlantic where sharks are available early in the fishing season. These South Atlantic shark fishermen could have the possibility to fish for sharks earlier than in previous fishing seasons.

Section 604(a)(2) of the Regulatory Flexibility Act requires NMFS to summarize significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis (IRFA), a summary of NMFS's assessment of such issues, and a statement of any changes made as a result of the comments. The IRFA was done as part of the proposed rule for the 2012 Atlantic Commercial Shark Season Specifications. NMFS did not receive any comments specific to the IRFA. However, NMFS did receive comments related to the overall economic impacts of the proposed rule (see Comments 1 and 3 above). As a result of these comments and consistent with § 635.27(b)(1)(ii), NMFS adjusted the opening date for the non-sandbar LCS in the Gulf of Mexico region.

Section 604(a)(3) requires NMFS to provide an estimate of the number of small entities to which the rule would apply. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5

million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a ''small'' versus ''large'' business entity in this industry.

The commercial shark fisheries are comprised of fishermen who hold shark directed or incidental limited access permits (LAP) and the related industries, including processors, bait houses, and equipment suppliers, all of which NMFS considers to be small entities according to the size standards set by the SBA. As of October 2011, there were a total of approximately 217 directed commercial shark permit holders, 262 incidental commercial shark permit holders, and 117 commercial shark dealers.

Section 604(a)(4) of the Regulatory Flexibility Act requires NMFS to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. None of the actions in this final rule would result in additional reporting, recordkeeping, or compliance requirements beyond those already analyzed in Amendment 2 and 3 to the consolidated HMS FMP.

Section 604(a)(5) of the Regulatory Flexibility Act requires NMFS to describe the steps taken to minimize the economic impact on small entities consistent with the stated objectives of applicable statutes. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c) (1)–(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures with adjustments, as specified in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP and the EA with the 2011 quota specifications rule (75 FR 76302; December 8, 2010). Thus, in this rulemaking, NMFS adjusts quotas established and analyzed in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP by subtracting the underharvest or adding the overharvest as allowable. The management measures implemented in this rule are within a range previously analyzed in the EA with the 2011 quota specifications rule. Thus, NMFS has limited flexibility that it could exercise on the management measures or quotas in this rule.

Based on the 2010 ex-vessel price ($0.67/LCS lb, $0.68/SCS lb, $1.21/pelagic lb, and $13.48/lb for shark fins), the 2012 Atlantic shark commercial baseline quotas could result in revenues of $5,973,806. The adjustments due to over-estimated landings for 2010 would result in a $6,944 gain in revenues in the Gulf of Mexico non-sandbar LCS fishery. The adjustment due to the overharvests in 2011 would result in a $13,621 loss in revenues in the Atlantic non-sandbar LCS fishery and a $4,075 loss in revenue in the porbeagle fishery. The adjustment due to the underharvests in 2011 would result in a $330,740 gain in revenues in the non-blacknose SCS fishery. These revenues are similar to the gross revenues analyzed in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP. The FRFAs for those amendments concluded that the economic impacts on these small entities, resulting from rules such as this one that delay the season openings and adjust the trip limits inseason via proposed and final rulemaking, were expected to be minimal. Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP and the EA with the 2011 quota specifications rule assumed NMFS would be preparing annual rulemakings and considered the FRFAs in the economic and other analyses at the time.

For this rule, NMFS reviewed the criterion at 50 CFR § 635.27(b)(1)(ii)(A–E) to determine when opening each fishery will provide equitable opportunities for fishermen while also considering the ecological needs of the different species. The opening of the fishing season could vary based on the available annual quota, catch rates, and number of fishing participants during the year. For the 2012 fishing season, NMFS is opening the shark research, blacknose shark, non-blacknose SCS, porbeagle shark, and pelagic shark fisheries on January 24, 2012. The direct and indirect economic impacts would be neutral on a short- and long-term basis, because NMFS would not change the opening dates of these fisheries from the status quo.

NMFS would delay the opening of the non-sandbar LCS in the Gulf of Mexico region until February 15, 2012. The delay in the Gulf of Mexico non-sandbar LCS fishing season could result in short-term direct, minor, adverse economic impacts as fishermen would have to fish in other fisheries to make up for lost non-sandbar LCS revenues during January and February of the 2012 fishing season. The short-term effects for delaying the season could cause indirect, minor, adverse economic impacts on shark dealers and other entities that deal with shark products as they may have to diversify during the beginning of the season when non-sandbar LCS shark products would not be available. However, long-term direct and indirect impacts are not anticipated as the delay would only be about one month for the 2012 fishing season. In addition, NMFS does not anticipate that the delay would result in changes in ex-vessel prices as 2010 median ex-vessel prices for non-sandbar LCS meat and fins in the Gulf of Mexico region ranged from $0.36-$0.40/lb dw and $15.46 to $17.67/lb dw, respectively, from January through February.

NMFS is delaying the opening of the non-sandbar LCS in the Atlantic region until the effective date of the HMS electronic reporting system. The delay in the Atlantic non-sandbar LCS fishing season would result in short-term, direct, moderate, beneficial economic impacts as fishermen and dealers in the south Atlantic would not be able to fish for non-sandbar LCS starting in January but may still be able to fish earlier in the 2012 fishing season compared to the 2010 and 2011 fishing season, which did not start until July 15. With the implementation of the HMS electronic reporting system, NMFS should be able to monitor the quota on a real-time basis. This ability, along with the inseason adjustment criteria in 50 CFR 635.24(a)(8)(i)-(vi), should allow NMFS the flexibility in furtherance of opportunities for all fishermen in all regions, to the extent practical. Depending on how quickly the quota was being harvested, NMFS could reduce the retention limits to 0–32 sharks per trip to ensure that fishermen further north have ample quota for a fishery later in the 2012 fishing season. The direct impacts to shark fishermen in the Atlantic region of reducing the trip limit would depend on the needed reduction in the trip limit and the timing of such a reduction. Therefore, such a reduction in the trip limit is only anticipated to have minor adverse direct

economic impacts to fishermen in the short-term; long-term impacts are not anticipated as these reductions would not be permanent.

In the North Atlantic area, a split opening for the non-sandbar LCS fishery would have direct, minor, beneficial economic impacts in the short-term for fishermen as they would have access to the non-sandbar LCS quota in 2012. Fishermen in the North Atlantic area did not have or had limited access to the non-sandbar LCS quota in 2009. There would be indirect, minor, beneficial economic impacts in the short and long-term for shark dealers and other entities that deal with shark products in this area as they would also have access to non-sandbar LCS products in 2012. Thus, allowing the split season in 2012 would cause neutral cumulative economic impacts across the region, since it would allow for a more equitable distribution of the quotas among constituents in this region, which was the original intent of Amendment 2 to the 2006 Consolidated HMS FMP.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: January 19, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–1337 Filed 1–23–12; 8:45 am]

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Proposed Rules

Federal Register
Vol. 77, No. 15
Tuesday, January 24, 2012

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–11–0011]

RIN 0563–AC34

Common Crop Insurance Regulations; Peach Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Peach Crop Insurance Provisions. The intended effect of this action is to provide policy changes, to clarify existing policy provisions to better meet the needs of insured producers, and to reduce vulnerability to program fraud, waste, and abuse. The proposed changes will be effective for the 2013 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business March 26, 2012 and will be considered when the rule is to be made final.

ADDRESSES: FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No. FCIC–11–0011, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64141–6205.

All comments received, including those received by mail, will be posted without change to *http://www.regulations.gov,* including any personal information provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submission. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816) 823–4694 or by email at: *rmaweb.content@rma.usda.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the complete User Notice and Privacy Notice for Regulations.gov at *http://www.regulations.gov/#!privacyNotice.*

FOR FURTHER INFORMATION CONTACT: Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the

kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 CFR part 400, subpart J, for the informal administrative review process of good farming practices as applicable, must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising § 457.153, Peach Crop Insurance Provisions, to be effective for the 2013 and succeeding crop years. Several requests have been made for changes to improve the coverage offered, address program integrity issues, simplify program administration, and improve clarity of the policy provisions.

The proposed changes are as follows:

1. FCIC proposes to remove the paragraph immediately preceding section 1 which refers to the order of priority in the event of a conflict. This same information is contained in the Basic Provisions. Therefore, it is duplicative and should be removed in the Crop Provisions.

2. Section 1—FCIC proposes to remove the definition of ''actual price per bushel for'' because the Free on Board (FOB) prices are no longer consistently reported by the Agriculture Market News Service. Therefore, FCIC's peach price elections for fresh U.S. Extra No. 1 (applicable size as specified in the Special Provisions) and processing peaches will apply to these Crop Provisions.

FCIC proposes to add a definition of ''fresh'' and ''processing'' to be consistent with the other perennial crops. In the definition of ''fresh,'' FCIC proposes to include provisions to require insureds to certify and, if requested by their insurance provider, provide verifiable records to prove at least 50 percent of their fresh peach acreage from each unit was sold as U.S. Extra No. 1 fresh peach production in one or more of the four most recent crop years for the unit to be eligible for fresh peach coverage. FCIC also proposes to include provisions to require insureds to follow the recommended cultural practices for fresh peach acreage in the county as determined by agricultural experts. FCIC proposes to include provisions to specify acreage not meeting all requirements for ''fresh peach acreage must be designated on the acreage report as processing peach acreage. These revisions will help ensure that only fresh peach production is insured as fresh peach production. In the definition of ''processing,'' FCIC proposes to include provisions that qualify peaches as processing if they are sold, or could be sold for the purpose of undergoing a change in their basic structure, such as juicing or peeling.

FCIC proposes to add a definition of ''post production costs'' to define the costs associated with activities that occur during harvesting, packing, transportation, and marketing, as determined by FCIC. Insurance is limited to those perils and costs that occur while the crop is in the field. Therefore, ''post production costs'' will be deducted from the price data of peaches sold in determining an ''on tree'' price which is the basis for FCIC's price election.

3. Section 2—FCIC proposes to add a new section 2 to allow optional units by fresh and processing as specified in the Special Provisions. Fresh and processing peaches may have significantly different management practices, production risks and uses. Therefore, allowing optional units by fresh and processing will allow insureds to manage their risks more effectively. Also, FCIC proposes to add provisions to allow optional units for non-contiguous land. These changes are consistent with other perennial crops.

4. Redesignated section 3—FCIC proposes to add a new paragraph (a) to allow the insured to select different coverage levels for all insurable fresh peach acreage in the county and processing peach acreage in the county. As stated above, since the risks may be different for fresh and processing peaches, different coverage levels will allow the insured to better tailor their insurance to their risks. FCIC also proposes to revise redesignated section 3(b) to allow different price elections for fresh and processing peaches. Again, this will allow insureds to better manage their risks. These changes are also consistent with other perennial crops.

FCIC proposes to revise redesignated section 3(c)(2) and section 3(4)(ii) to remove the word ''type'' because it is no longer applicable.

FCIC proposes to designate the undesignated paragraph after redesignated paragraph (c) as paragraph (d) and revise it to add provisions to specify the effect if the insured fails to notify the insurance provider by the start of the insurance period or before the production reporting date of any situation that occurs during the crop year that may reduce the yield potential. If the insured failed to report such a situation by the production reporting date, any loss of production from such acreage will result in an appraisal for uninsured causes, and the yield used to establish the insured's production guarantee will be reduced for the subsequent crop year. FCIC also proposes to revise section 3(d) to remove the list of possible effects on yield potential and to add language to redesignated section 3(c). This will put all the effects in one place and eliminate redundancy. These changes are also consistent with other perennial crops.

5. Section 6—FCIC proposes to add a new section 6 to require the insured to report and designate all insurable peach acreage, as fresh and processing peaches, by the acreage reporting date. These revisions will help ensure that only fresh peach acreage is insured as fresh peach acreage. It also allows the

insured to establish optional units by fresh and processing as specified in the Special Provisions.

6. Redesignated section 7—FCIC proposes to add a new paragraph (f) to clarify the insured crop is peaches grown for either fresh peach production or processing peach production as defined in section 1. FCIC also proposes to revise paragraph (c) to remove the phrase, ''of the types or'' and ''(except Processing Peaches excluded in California)'' because peaches are now insurable by use that being fresh or processing. Peaches are no longer insured by type. Processing peaches are no longer excluded in California.

7. Redesignated section 11—FCIC proposes to add a new paragraph (a) to clarify the insured must leave representative samples for appraisal purposes if required by the insurance provider in accordance with the Basic Provisions.

8. Redesignated section 12—FCIC proposes to add a new loss example to provide clarity.

FCIC proposes to revise paragraph (c)(1) to remove the redundant phrase, ''will be determined''.

FCIC proposes to revise paragraph (c)(1)(i)(B) to reference redesignated section 11.

FCIC proposes to revise paragraph (c)(1)(iii) to clarify the total production to count (in bushels) from all insurable acreage on the unit will include all appraised production from unharvested peach acreage that would be marketable, if harvested.

FCIC proposes to revise paragraph (c)(2) to clarify the total production to count (in bushels) from all insurable acreage on the unit will include all harvested marketable production. These changes are consistent with other perennial crops to clarify production to count used in determining indemnities will include all production from insured acreage for appraised unharvested or harvested production that is ''marketable'', as defined in these Crop Provisions.

FCIC proposes to revise paragraphs (c)(3)(i) and (c)(3)(ii) to clarify and provide consistency in how quality loss adjustment will be determined by adjusting the price received by peach growers to an on tree price, since FCIC's price election is an on tree price. Quality loss adjustment will be determined for peaches grown for fresh by dividing the value of the damaged fresh peach production minus the post production cost specified in the Special Provisions, by the fresh peach price election. The result (not to exceed 1.00) will be multiplied the number of bushels of the damaged fresh peach production for quality adjustment. Quality adjustment will be determined for peaches grown for processing by dividing the value of the damaged processing peach production minus the post production costs specified in the Special Provisions, by the processing peach price election. The result (not to exceed 1.00) will be multiplied by the number of bushels of the damaged processing peach production for quality adjustment.

List of Subjects in 7 CFR Part 457

Crop insurance, Peach, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 effective for the 2013 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

2. Amend § 457.153 as follows:

a. Amend the introductory text by removing the ''2001'' and adding ''2013'' in its place;

b. Remove the undesignated paragraph immediately preceding section 1.

c. Amend section 1 as follows:

i. Add definitions of ''fresh'', ''post production cost'', ''processing'' and;

ii. Remove the definition of ''actual price per bushel for''.

d. Redesignate sections 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 as 3, 4, 5, 7, 8, 9,10,11,12, and 13, respectively.

e. Add a new section 2.

f. Amend redesignated section 3 as follows:

i. Remove the phrase ''(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)'' in the introductory text;

ii. Redesignate paragraphs (a), (b), and (c) as (b), (c), and (e), respectively, and adding a new paragraph (a);

iii. Revise redesignated paragraphs (b) and (c);

iv. Designate the undesignated paragraph following redesignated paragraph (c) as paragraph (d); and

v. Revise designated paragraph (d).

g. Amend redesignated section 4 by removing the phrase ''(Contract Changes)''.

h. Amend redesignated section 5 by removing the phrase ''(Life of Policy, Cancellation and Termination)''.

i. Add a new section 6.

j. Amend redesignated section 7 as follows:

i. Remove the phrase ''(Insured Crop)'';

ii. Revise paragraph (b)(3) by removing the period at the end and adding a semicolon in its place;

iii. Revise paragraph (c) by removing phrases ''of the types or'' and ''except Processing Peaches excluded in California'';

iv. Revise paragraph (d) by removing the word ''and'' at the end;

v. Revise paragraph (e) by removing the period at the end and adding the phrase ''; and'' in its place; and

vi. Add a new paragraph (f).

k. Amend redesignated section 8 by removing the phrase ''(Insurable Acreage)''.

l. Amend redesignated section 9 as follows:

i. Remove the phrase ''(Insurance Period)''in paragraphs (a) and (b); and

ii. Revise paragraph (c) by removing the phrase ''(a)(1)'' and adding the phrase ''9(a)(1)'' in its place.

m. Amend redesignated section 10 by removing the phrase ''(Causes of Loss)'' in paragraphs (a) and (b).

n. Amend redesignated section 11 as follows:

i. Redesignate the introductory text as paragraph (b);

ii. Redesignate paragraphs (a), (b), (c), and (d) as (1), (2), (3), and (4), respectively;

iii. Add a new paragraph (a); and

iv. Remove the phrase ''(Duties in the Event of Damage or Loss)'' in redesignated paragraph (b).

o. Amend redesignated section 12 as follows:

i. Revise paragraph (b);

ii. Add a loss example after paragraph (b)(7);

iii. Revise paragraph (c)(1):

iv. Revise paragraph (c)(1)(i)(B);

v. Revise paragraph (c)(1)(iii);

vi. Revise paragraph (c)(2); and

vii. Revise paragraphs (c)(3)(i) and (c)(3)(ii).

The revised and added text reads as follows:

§ 457.153 Peach crop insurance provisions.

* * * * *

1. Definitions.

* * * * *

Fresh.

(1) Peach production from insurable acreage that:

(i) Are sold, or could be sold, for human consumption without undergoing any change in its basic form, such as peeling, juicing, crushing, etc.;

(ii) Grade at least U.S. Extra No. 1 or better consisting of the minimum diameter as specified in the Special Provisions;

(iii) Are from acreage that is designated as fresh peaches on the acreage report;

(iv) Follow the recommended cultural practices generally in use for fresh peach in the area in a manner generally recognized by agricultural experts; and

(v) Are from acreage that you certify, and, if requested by us provide verifiable records to support, that at least 50 percent of the production from acreage reported as fresh peach acreage from each unit, was sold as fresh peaches in one or more of the four most recent crop years.

(2) Acreage with production not meeting all the requirements above must be designated on the acreage report as processing peach production.

* * * * *

Post production costs. The costs, as specified in the Special Provisions associated with activities that occur during harvesting, packing, transportation, and marketing, as determined by FCIC.

Processing. Peach production from insurable acreage failing to meet the insurability requirements for fresh peach production that are:

(1) Sold, or could be sold, for the purpose of undergoing a change to its basic structure such as peeling, juicing, crushing, etc.; or

(2) From acreage designated as processing peaches on the acreage report.

* * * * *

2. Unit Division.

In addition to the requirements contained in section 34(b) of the Basic Provisions, optional units may be established if each optional unit is:

(a) Located on non-contiguous land; or

(b) By fresh and processing as specified in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(a) You may select a separate coverage level for all fresh peach acreage and for all processing peach acreage. For example, if you choose the 55 percent coverage level for all fresh peach acreage, you may choose the 75 percent coverage level for all processing peach acreage.

(1) Notwithstanding paragraph (a), if you elect the Catastrophic Risk Protection (CAT) level of coverage for fresh peach acreage or processing peach acreage, the CAT level of coverage will be applicable to all insured peach acreage in the county of both fresh and processing peaches.

(2) If you only have fresh peach acreage designated on your acreage report and processing peach acreage is added after the sales closing date, we will assign a coverage level equal to the coverage level you selected for your fresh peach acreage.

(3) If you only have processing peach acreage designated on your acreage report and fresh peach acreage is added after the sales closing date, we will assign a coverage level equal to the coverage level you selected for your processing peach acreage.

(b) You may select only one price election for all the peaches in the county insured under this policy unless the Special Provisions provide different price elections by fresh and processing peaches. If the Special Provisions allow different price elections, you may select a separate price election for all your fresh peaches and for all your processing peaches. If the Special Provisions do not allow for different price elections, the price elections you choose for fresh and processing must have the same percentage relationship to the maximum price offered by us for fresh and processing peaches. For example, if you choose 100 percent of the maximum price election for fresh peaches, you must choose 100 percent of the maximum price election for all processing peaches.

(c) You must report, not later than the production reporting date designated in section 3 of the Basic Provisions, separately by fresh and processing acreage, as applicable:

(1) Any event or action that could impact the yield potential of the insured crop including, interplanted of a perennial crop, removal of trees, any tree damage, change in practices, or any other circumstance that may reduce the expected yield upon which the insurance guarantee is based, and the number of affected acres;

(2) * * *

(3) The age of trees, variety, and the planting pattern; and

(4) * * *

(i) * * *

(ii) The variety;

(iii) * * *

(iv) * * *

(d) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any situation listed in section 3(c). If the situation occurred:

(1) Before the beginning of the insurance period, we will reduce the yield used to establish your production guarantee for the current crop year as necessary. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee at any time we become aware of the circumstance;

(2) Or may occur after the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee is due to an uninsured cause of loss; or

(3) Or may occur after the beginning of the insurance period and you fail to notify us by the production reporting date, production lost due to uninsured causes equal to the amount of the reduction in yield used to establish your production guarantee will be applied in determining any indemnity (see section 12(c)(1)(ii). We will reduce the yield used to establish your production guarantee for the subsequent crop year.

(e) * * *

* * * * *

6. Report of Acreage.

In addition to the requirements contained in section 6 of the Basic Provisions, you must report and designate all acreage of peaches as fresh or processing peaches by the acreage reporting date.

7. Insured Crop.

* * * * *

(c) That the crop insured will be any varieties of peaches that are grown for the production of fresh or processing peaches on insured acreage and for which a guarantee and premium rate are provided by the actuarial documents.

* * * * *

(f) That are grown for:

(1) Fresh peach production; or

(2) Processing peach production.

* * * * *

11. Duties In the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples in accordance with our procedures.

(b) * * *

(1) * * *

(2) * * *

(3) * * *

(4) * * *

12. Settlement of Claim.

* * * * *

(b) * * *

(1) Multiplying the insured acreage for fresh and processing peaches, as applicable, by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election;

(3) Totaling the results in section 12(b)(2);

(4) Multiplying the total production to be counted of fresh and processing peaches, as applicable (see subsection 12(c)) by the respective price election;

(5) Totaling the results in section 12(b)(4);

(6) Subtracting the total in section 12(b)(5) from the total in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

Example: You have a 100 percent share in one basic unit with 10 acres of fresh peaches and 5 acres of processing peaches designated on your acreage report, with a 300 bushel per acre production guarantee for both fresh and processing peaches, and you select 100 percent of the price election of $15.50 per bushel for fresh peaches and $6.50 per bushel for processing peaches. You harvest 2,500 bushels of fresh peaches and 500 bushels of processing peaches. Your indemnity will be calculated as follows:

(A) 10 acres × 300 bushels = 3,000 bushel production guarantee of fresh peaches;

5 acres × 300 bushels = 1,500 bushel production guarantee of processing peaches;

(B) 3,000 bushel production guarantee × $15.50 price election = $46,500 value of the production guarantee for fresh peaches;

1,500 bushel production guarantee × $6.50 price election = $9,750 value of the production guarantee for processing peaches;

(C) $46,500 value of the production guarantee for fresh peaches + $9,750 value of the production guarantee for processing peaches = $56,250 total value of the production guarantee;

(D) 2,500 bushels of fresh peach production to count × $15.50 price election = $38,750 value of the fresh peach production to count;

500 bushels of processing peach production to count × $6.50 price election = $3,250 value of the processing peach production to count;

(E) $38,750 value of the fresh peach production to count + $3,250 value of the processing peach production to count = $42,000 total value of the production to count;

(F) $56,250 total value of the production guarantee—$42,000 total value of the production to count = $ 14,250 value of loss; and

(G) $14,250 value of loss × 100 percent share = $14,250 indemnity payment.

(c) * * *

(1) All appraised production as follows:

* * * * *

(i) * * *

(B) From which production is sold by direct marketing if you fail to meet the requirements contained in section 11.

* * * * *

(iii) Unharvested peach production that would be marketable if harvested; and

* * * * *

2. All harvested marketable peach production from the insurable acreage.

(3) * * *

(i) For fresh peaches by:

(A) Dividing the value of the damaged peaches minus the post production cost specified in the Special Provisions, by the fresh peach price election; and

(B) Multiplying the result of section 12(c)(3)(i)(A) (not to exceed 1.00) by the number of bushels of the damaged fresh peaches.

(ii) For processing peaches by:

(A) Dividing the value of the damaged peaches minus the post production cost specified in the Special Provisions, by the processing peach price election; and

(B) Multiplying the result of section 12(c)(3)(ii)(A) (not to exceed 1.00) by the number of bushels of the damaged processing peaches.

* * * * *

Signed in Washington, DC, on January 13, 2012.

William J. Murphy,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2012–1219 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2010–BT–STD–0037]

RIN 1904–AC39

Energy Conservation Standards for Automatic Commercial Ice Makers: Public Meeting and Availability of the Preliminary Technical Support Document

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

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the equipment classes that DOE plans to analyze for establishing energy conservation standards for automatic commercial ice makers; the analytical framework, models, and tools that DOE is using to evaluate standards for this equipment; the results of preliminary analyses performed by DOE for this equipment; the potential energy conservation standard levels derived from these analyses that DOE could consider for this equipment; and any other issues relevant to the development of energy conservation standards for automatic commercial ice makers. In addition, DOE encourages written comments on these subjects. To inform interested parties and facilitate this process, DOE has prepared an agenda, a preliminary technical support document (preliminary TSD), and briefing materials.

DATES: DOE will hold a public meeting on February 16, 2011, from 9 a.m. to 2 p.m. in Washington, DC. Additionally, DOE plans to allow for participation in the public meeting via webinar. DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than March 9, 2012. See section IV, ''Public Participation,'' of this notice of public meeting (NOPM) for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance of the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed.

Interested persons may submit comments, identified by docket number EERE–2010–BT–STD–0037 or Regulation Identification Number (RIN) 1904–AC39, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: ACIM–2010–STD–0037@ee.doe.gov.* Include the docket number EERE–2010–BT–STD–0037 and/or RIN 1904–AC39 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Public Meeting for Automatic Commercial Ice Makers, EERE–2010–BT–STD–0037, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. If possible, please submit all items on CD. It is not necessary to include printed copies.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD. It is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting

documents/materials. All documents in the docket are listed in the regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The regulations.gov Web page will contain instructions on how to access all documents in the docket, including public comments.

The rulemaking Web page can be found at: *www.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html.* This Web page contains a link to the docket for this notice on regulations.gov.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV, ''Public Participation,'' of this document.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

DOE has prepared an agenda, a preliminary TSD, and briefing materials, which are available at: *www1.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information to Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 586–2192. Email: *Charles.Llenza@ee.doe.gov.*

In the Office of General Counsel, contact Mr. Ari Altman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 287–6307, *Ari.Altman@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority
II. History of Standards Rulemaking for Automatic Commercial Ice Makers
A. Background
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I. Statutory Authority

Title III of the Energy Policy and Conservation Act of 1975, as amended, (EPCA or the Act) sets forth a variety of provisions designed to improve energy efficiency. Part B of title III (42 U.S.C. 6291–6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. Part C of title III, which established an energy conservation program for certain industrial equipment [1] (42 U.S.C. 6311–6317), includes provisions for the subject of this rulemaking: automatic commercial ice makers.

Pursuant to EPCA, DOE's energy conservation program for covered equipment consists essentially of four parts: (1) Testing; (2) labeling; (3) establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. Subject to certain criteria and conditions, DOE has authority to establish mandatory energy conservation standards for automatic commercial ice makers. (42 U.S.C. 6311(19) and 6313(d))

EPCA prescribes energy conservation standards for automatic commercial ice makers that produce cube type ice with capacities between 50 and 2,500 pounds of ice per 24-hour period. (42 U.S.C. 6313(d)(1)) EPCA requires DOE to review these standards and determine, by January 1, 2015, whether amending the applicable standards is technologically feasible and economically justified. (42 U.S.C. 6313(d)(3)(A)) In the current rulemaking, DOE is reviewing the standards set by EPCA to determine if amended standards are technologically feasible and economically justified for automatic commercial ice makers covered by the current standards. DOE is also proposing, under 42 U.S.C. 6313(d)(2), standards for other types of automatic commercial ice makers, including continuous type ice makers, tube type ice makers, and equipment with capacities up to 4,000 pounds of ice per 24 hours.

EPCA provides criteria for prescribing new or amended standards for automatic commercial ice makers. DOE is required to design each standard for this equipment to: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3)(B); 6313(d)(4)) To determine whether a proposed standard is economically justified, DOE will, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, using the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of equipment subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment which are likely to result from the imposition of the standard;
3. The total projected amount of energy savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy conservation; and
7. Other factors the Secretary of Energy considers relevant.

(*See* 42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4))

EPCA also directs that DOE may not prescribe an amended or new standard if the standard is likely to result in the unavailability in the United States of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time that the standard is prescribed. (42 U.S.C. 6295(o)(4) and 6313(d)(4))

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE will use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed

[1] For editorial reasons, upon codification in the U.S. Code, Parts B and C were re-designated as Parts A and A–1, respectively.

for the product. DOE publishes this document to announce the availability of the preliminary TSD, which details the preliminary analyses, discusses the comments DOE received from interested parties on the Framework document, and summarizes the preliminary results of DOE's analyses. In addition, DOE announces a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

II. History of Standards Rulemaking for Automatic Commercial Ice Makers

A. Background

EPCA, as amended by the Energy Policy Act of 2005, prescribes energy conservation standards for certain cube type automatic commercial ice makers with harvest rates between 50 and 2,500 pounds of ice per 24 hours: Self-contained ice makers and ice-making heads using air or water for cooling and ice makers with remote condensing with or without a remote compressor. Compliance with these standards was required as of January 1, 2010. (42 U.S.C. 6313(d)(1)) DOE adopted these standards and placed them under title 10 of the Code of Federal Regulations (CFR) part 431, subpart H, Automatic Commercial Ice Makers.

EPCA requires DOE to conduct a rulemaking to determine whether to amend the standards established under 42 U.S.C. 6313(d)(1), and if DOE determines that amendment is warranted, DOE must also issue a final rule establishing such amended standards by January 1, 2015. (42 U.S.C. 6313(d)(3)(A)).

In addition, EPCA granted DOE authority to set standards for additional types of automatic commercial ice makers that are not covered in 42 U.S.C. 6313(d)(1). (42 U.S.C. 6313(d)(2)(A)) While not enumerated in EPCA, additional types of automatic commercial ice makers DOE identified as candidates for standards to be established in this rulemaking include flake, nugget, as well as batch type ice makers that are not included in the EPCA definition of cube type ice makers.

B. Current Rulemaking Process

In initiating this rulemaking, DOE prepared a Framework document, ''Rulemaking Framework for Automatic Commercial Ice Makers,'' which describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for automatic commercial ice makers. DOE published a notice that announced both the availability of the Framework document and a public meeting to discuss the proposed analytical framework for the rulemaking. That notice also invited written comments from the public. 75 FR 70852 (Nov. 19, 2010). The Framework document is available at: *www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/acim_framework_2010_11_04.pdf*.

DOE held a public meeting on December 16, 2010, at which it presented the various analyses DOE would conduct as part of the rulemaking, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA). Manufacturers, trade associations, environmental and energy efficiency advocates, and other interested parties attended the meeting. The participants discussed the following major topics: (1) Issues pertaining to the scope of coverage of the current rulemaking; (2) equipment classes; (3) analytical approaches and methods used in the rulemaking; (4) impacts of standards and burden on manufacturers; (5) technology options; (6) distribution channels, shipments, and end users; (7) impacts of outside regulations; and (8) environmental issues.

Comments received since publication of the Framework document have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD, available at the web address given in section III and in the ADDRESSES section of this notice, summarizes and addresses the comments received in response to the Framework document.

III. Summary of the Analyses Performed by DOE

For the automatic commercial ice makers covered in this rulemaking, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine equipment price; (3) life-cycle cost and payback period; and (4) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at: *www1.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html*.

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and NIA. In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and identified the methods to be used for the LCC subgroup analysis, the emissions analysis, the employment analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the notice of proposed rulemaking (NOPR).

A. Engineering Analysis

The engineering analysis establishes the relationship between the manufacturer selling price and equipment efficiency that DOE is evaluating for energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the nation. The engineering analysis identifies representative baseline equipment, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline equipment refers to a model or models having features and technologies typically found in the minimum efficiency equipment currently available on the market. After identifying the baseline models, DOE estimated manufacturer selling prices by using a consistent methodology and pricing scheme that included material costs, cost of shipping, and manufacturer markups. DOE used these inputs to develop manufacturer selling prices for the baseline and more efficient designs. Later, in the markups to determine the installed price analysis, DOE converts these manufacturer selling prices into installed prices. In the preliminary TSD, section 2.5 of chapter 2 and chapter 5 each provide details on the engineering analysis and the derivation of the manufacturer selling prices.

B. Markups To Determine Installed Price

DOE derives the installed prices for equipment based on manufacturer markups, distributor markups, contractor markups, and sales taxes. In deriving these markups, DOE determined the major distribution channels for equipment sales, the markup associated with each party in each distribution channel, and the existence and magnitude of differences between markups for baseline equipment (baseline markups) and higher efficiency equipment (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the equipment markups at each step in each distribution channel. In the preliminary TSD, section 2.6 of chapter 2 and chapter 6 provide detail on the estimation of markups.

C. Energy Use Analysis

DOE carries out the energy use analysis to estimate the energy consumption of the automatic commercial ice makers installed in the field, such as in hospitals and restaurants. Details of the energy use analysis are provided in section 2.7 of chapter 2 and chapter 7 of the TSD.

D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total cost of the equipment to the customer over the life of the equipment. The LCC analysis compares the LCCs of equipment designed to meet possible energy conservation standards with the LCCs of the equipment likely to be installed in the absence of standards. DOE determines LCCs by considering (1) total installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating cost of the equipment (energy cost, water and wastewater cost, and maintenance and repair cost); (3) equipment lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of higher efficiency equipment through savings in the operating cost of the equipment. PBP is calculated by dividing the incremental increase in installed cost of the higher efficiency equipment, compared to baseline equipment, by the annual savings in operating costs. Section 2.8 of chapter 2 and chapter 8 of the preliminary TSD provide details on the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from new standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES and NPV for each candidate standard level for automatic commercial ice makers as the difference between a base-case forecast (without new standards) and the standards-case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined from 2016–2045. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, equipment retirement rates (based on estimated equipment lifetimes), equipment installed costs and operating costs, equipment annual energy consumption, and discount rates. Section 2.10 of chapter 2 and chapter 10 of the preliminary TSD provide details on the NIA.

IV. Public Participation

DOE invites input from the public on all of the topics described herein. The preliminary analytical results are subject to revision following further review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule establishing any amended energy conservation standards will contain the final analysis results and be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD from DOE's Web site and to be prepared to discuss its contents. A copy of the preliminary TSD is available at: *www1.eere.energy.gov/buildings/appliance_standards/commercial/automatic_ice_making_equipment.html*. However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD. DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this equipment or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by March 9, 2012 comments and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of standards for automatic commercial ice makers.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the closing of the comment period, DOE will consider all timely submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses, and prepare a NOPR. The NOPR will include proposed energy conservation standards for the equipment covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

A. Attendance at Public Meeting

The time and date of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice of proposed public meeting (NOPM). The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945. Any foreign national wishing to participate in the meeting should advise DOE of this fact as soon as possible by contacting Ms. Brenda Edwards to initiate the necessary procedures.

You can attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on the following Web site: *https://www1.gotomeeting.com/register/746214648*. Participants are responsible for ensuring their computer systems are compatible with the webinar software.

The purpose of the meeting is to receive comments and to help DOE understand potential issues associated with this proposed rulemaking. DOE must receive requests to speak at the meeting before 4 p.m., February 2, 2012. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 4 p.m., February 2, 2012.

B. Procedure for Submitting Requests To Speak

Any person who has an interest in today's notice or who is a representative of a group or class of persons that has an interest in these issues may request an opportunity to make an oral presentation. Such persons may hand-deliver requests to speak, along with a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format to Ms. Brenda Edwards at the address shown in the **ADDRESSES** section at the beginning of this NOPM between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. Requests may also be sent by mail to the address shown in the **ADDRESSES** section or email to *Brenda.Edwards@ee.doe.gov*.

Persons requesting to speak should briefly describe the nature of their

interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to be heard to submit an advance copy of their statements at least two weeks before the public meeting. At its discretion, DOE may permit any person who cannot supply an advance copy of their statement to participate, if that person has made advance alternative arrangements with the Building Technologies Program. The request to give an oral presentation should ask for such alternative arrangements.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within DOE-determined time limits) prior to the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and other information regarding the proposed rule before or after the public meeting, but no later than the date provided at the beginning of this NOPM. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the docket number EERE–2010–BT–STD–0037 and/or RIN 1904–AC39 and wherever possible carry the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this NOPM.

Issued in Washington, DC, on January 17, 2012.

Kathleen B. Hogan,

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

[FR Doc. 2012–1350 Filed 1–23–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket ID OCC–2011–0029]

RIN 1557–AD58

Annual Stress Test

AGENCY: Office of the Comptroller of the Currency (''OCC''), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') which requires certain companies to conduct annual stress tests pursuant to regulations prescribed by their respective primary financial regulatory agencies. Specifically, this proposed rule would require national banks and Federal savings associations with total consolidated assets of more than $10 billion to conduct an annual stress test as prescribed by this proposed rule. In addition to the annual stress test requirement, such institutions would be subject to certain reporting and disclosure requirements.

DATES: Comments must be received by March 26, 2012.

ADDRESSES: Please use the title ''Annual Stress Test'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Email:* *regs.comments@occ.treas.gov*.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.
- *Fax:* (202) 874–5274.
- *Hand Delivery/Courier:* 250 E Street SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''Docket Number OCC–2011–0029'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address

information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this notice by any of the following methods:

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street SW., Washington, DC. 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.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Robert Scavotto, Lead International Expert, International Analysis and Banking Condition (202) 874–4943, Tanya Smith, Lead Expert, Regulatory Capital and Operational Risk (202) 874–4464, Akhtarur Siddique, Deputy Director, Enterprise Risk Analysis Division (202) 874–4665, Ron Shimabukuro, Senior Counsel, or Alexandra Arney, Attorney, Legislative and Regulatory Activities Division (202) 874–6104, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i) of the Dodd-Frank Act [1] created two types of stress testing requirements: stress tests conducted by the company and stress tests conducted by the Board of Governors of the Federal Reserve System (''Board''). Section 165(i)(2) requires certain financial companies, including national banks and Federal savings associations, to conduct stress tests and requires the primary financial regulatory agency [2] of those financial companies to issue regulations implementing the stress test requirements. A national bank or Federal savings association is subject to the stress test requirements if its total consolidated assets are more than $10 billion. Under section 165(i)(2), a financial company is required to submit to the 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.[3] The primary financial regulatory agency is required to define ''stress test,'' establish methodologies for the conduct of the company-conducted stress test that must include at least three different sets of conditions (baseline, adverse, and severely adverse), establish the form and content of the institution's report, and compel the institution to publish a summary of the results of the Dodd-Frank institutional stress tests.[4]

In general, section 165 of the Dodd-Frank Act sets forth a number of requirements and responsibilities for the Board related to supervision and prudential standards for nonbank financial companies and bank holding companies with total consolidated assets equal to or greater than $50 billion. In addition to the company stress tests required under section 165(i)(2), section 165(i)(1) requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with total consolidated assets equal to or greater than $50 billion to determine whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.[5] The Board published a proposed rule implementing this supervisory stress testing on January 5, 2012.[6]

II. Overview of the Proposed Rule

As required by section 165(i)(2), this proposed rule implements the company-conducted stress test requirements for national banks and Federal savings associations. Under this proposed rule, a national bank or a Federal savings association with total consolidated assets of more than $10 billion, defined as a ''covered institution,'' would be required to conduct an annual stress test as prescribed by this proposed rule. The OCC is developing this rule in coordination with the Board and the Federal Insurance Office, as required by section 165(i)(2)(C). The Board and Federal Deposit Insurance Corporation (''FDIC'') are planning to issue separate proposed rules with respect to their supervised entities.[7] For purposes of this rule, the proposed rule defines a stress test as a process to assess the potential impact of hypothetical economic conditions (''scenarios'') on the capital of a covered institution over a set period (the ''planning horizon''), taking into account the current condition of the covered institution including its material risks, exposures, strategies, and activities.

A. The Purpose of Stress Tests

The OCC views the stress tests conducted by covered institutions under the proposed rule as providing forward-looking information to supervisors to assist in their overall assessments of a covered institution's capital adequacy and to aid in identifying downside risks and the potential impact of adverse outcomes on the covered institution's capital adequacy. In addition, the OCC may use stress tests to determine whether additional analytical techniques and exercises are appropriate for a covered institution to employ in identifying, measuring, and monitoring risks to the financial soundness of the covered institution, and may require a covered institution to implement such techniques and exercises in conducting its stress tests. Further, these stress tests 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 expects that the annual stress tests required under the proposed rule would be only one component of the broader stress testing activities conducted by covered institutions. In this regard, the OCC notes that the federal banking agencies have recently issued for public comment proposed joint guidance on ''Stress Testing for Banking Organizations with More Than $10 Billion in Total Consolidated Assets.'' See 76 FR 35072 (June 15, 2011). These broader stress testing activities should address the impact of a range of potentially adverse outcomes across a set of risk types affecting aspects of the covered institution's financial condition other than capital adequacy. In addition, a full assessment of a covered institution's capital adequacy must take into account a range of factors, including evaluation of its

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] 12 U.S.C. 5301(12).

[3] 12 U.S.C. 5365(i)(2)(B).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(1)(A).

[6] Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies, 77 FR 594, Jan. 5, 2012.

[7] The Board published its proposed rule on January 5. *See* 77 FR 594, Jan. 5, 2012. Certain of the Board's supervised entities, *i.e.* those subject to the Board-conducted tests, will be required by the Board to self-stress test more frequently, on a semi-annual basis. 12 U.S.C. 5365(i)(2)(A). The FDIC rule has not been published as of the publication of this proposed rule.

capital planning processes, the governance over those processes, regulatory capital measures, results of supervisory stress tests where applicable, and market assessments.

B. Covered Institutions

1. National Banks and Federal Savings Associations

Under this proposed rule, a covered institution would include a national bank or Federal savings association for which total consolidated assets averaged over the four most recent consecutive quarters exceeds $10 billion. A covered institution would be required to conduct annual stress tests as prescribed by this proposed rule.

An institution is a covered institution on the effective date of the final rule based upon the institution's total consolidated assets averaged over the four consecutive quarters preceding the effective date, as reported on the institution's regulatory condition reports for those quarters. For national banks, the regulatory condition report is the Consolidated Reports of Income and Condition (''Call Report'') required under 12 U.S.C. 161; for Federal savings associations, the regulatory condition report is the Thrift Financial Report.[8] Unless the OCC determines otherwise, a covered institution will remain subject to the company-conducted stress tests under the proposed rule until its total consolidated assets averaged over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those quarters, are $10 billion or less.

An institution becomes a covered institution after the effective date of the final rule based upon the average of the institution's total consolidated assets over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those quarters. The date on which such an institution becomes a covered institution is the as-of date of the fourth consecutive regulatory condition report that causes the institution's average total consolidated assets for four consecutive quarters to exceed $10 billion. An institution that becomes a covered institution after the effective date of the rule would be required to fully implement the stress testing requirements of the rule, and conduct its first annual stress test according to the annual cycle specified by the OCC in this rule, in the calendar year following the calendar year in which the institution becomes a covered institution.

For example, a national bank for which the four-quarter average of total consolidated assets exceeded $10 billion on its June 2013 Call Report (based on the average from its September 2012, December 2012, March 2013, and June 2013 Call Reports) would become a covered institution on June 30, 2013. The newly covered institution would be required to fully implement the stress testing requirements of the rule and conduct its first stress test in the testing cycle beginning in the following calendar year, 2014. Because the stress tests under the proposed rule will be undertaken annually and according to an OCC-specified timeline that is uniform across all covered institutions, the time between the date at which an institution becomes a covered institution and the date at which the institution must conduct its first stress test may be more than or less than one year, depending on the specific quarter in which the institution becomes covered.

The OCC also may designate an institution as a covered institution or exempt an otherwise-covered institution from certain, or all, of the Dodd-Frank stress testing requirements based on the institution's level of complexity, risk profile, or scope of operations. Additionally, the OCC may accelerate or extend any specified deadline for stress testing, reporting or publication of the stress test results, or require additional stress tests, if the OCC determines that such modification of a deadline or additional testing is appropriate in light of the institution's activities, operations, risk profile, or regulatory capital. With respect to the exercise of the reservation of authority in this proposed rule, the OCC is considering adopting notice and response procedures similar to those provided under 12 CFR 3.12.

Question 1. Is the proposed method of calculating total consolidated assets, for purposes of determining when an institution becomes a covered institution and ceases to be a covered institution, appropriate?

Question 2. Does the proposed rule's requirement that a newly covered institution run its first stress test in the year following the calendar year in which the institution becomes a covered institution provide sufficient time for an institution to fully implement the stress testing requirements? Conversely, should a newly covered institution be required to run its first stress test on a faster timeline, for example by requiring an institution that becomes a covered institution no less than 90 days before September 30 of a calendar year to comply with the requirements of this proposed rule beginning on September 30 of that calendar year?

2. Federal Branches or Agencies of a Foreign Bank Not Covered

While the requirement to conduct annual stress tests applies to all national banks and Federal savings associations with total consolidated assets of more than $10 billion, the OCC proposes not to apply the annual stress test requirements of this proposed rule to Federal branches or agencies of a foreign bank. The company stress test provisions under section 165(i)(2) of the Dodd-Frank Act are by design intended to assess capital adequacy, and since Federal branches and agencies are not separately capitalized, the application of these requirements to Federal branches and agencies would not be meaningful.

C. Stress Test Scenarios

Under the proposed rule each covered institution would be required to conduct an annual stress test using covered institution financial data as of September 30th of that year to assess the potential impact of different scenarios on the capital of that institution and certain related items over a forward-looking, nine-quarter planning horizon (that is, through the December 31 reporting date of the second calendar year following the year containing the September 30 as-of date), taking into account all relevant exposures and activities. The OCC will provide a minimum of three economic scenarios, reflecting baseline, adverse, and severely adverse conditions, or such additional conditions as the OCC determines appropriate, which the covered institution must use for the stress test. The OCC anticipates that the annual stress test scenarios will be revised as appropriate to ensure that each scenario remains relevant under prevailing economic and industry conditions.

As discussed in Section F on Process Overview, the OCC plans to provide the annual stress test scenarios to covered institutions approximately two months in advance of the time by which the institution must report the results of its annual stress test. The OCC believes that two months should be sufficient time to permit covered institutions to ensure that staff, data, and other resources are adequately prepared to carry out required stress tests, while also ensuring that the set of conditions reflected in the scenarios remains relevant.

The OCC plans to coordinate the development of the annual stress test

[8] Beginning with the March 31, 2012 report date, savings associations will be required to file the Consolidated Reports of Condition and Income (Call Reports) instead of the Thrift Financial Report. After that time, the regulatory condition report for both national banks and savings associations will be the Call Report.

scenarios on an interagency basis with the FDIC and the Board to ensure consistent and comparable stress testing for all covered financial institutions and to minimize regulatory burden. The OCC anticipates issuing proposed guidance and procedures for scenario development for comment at a later date. Absent specific supervisory concerns, the OCC anticipates that the annual stress test scenarios will be identical for all covered financial institutions. To the extent possible, the OCC expects that the annual stress test scenarios that may result from the interagency scenario development process may be similar to the scenarios developed by the Board for the supervisory stress tests conducted by the Board under section 165(i)(1).

Question 3. Should the OCC permit a covered institution to develop and use its own scenarios for the annual stress tests required under this part? If so, what guidance should the OCC provide on the covered institution's scenario development, if any? What are the costs and benefits of permitting a covered institution to use its own scenarios? What are the costs and benefits of requiring a covered institution to use OCC-provided scenarios?

Question 4. Assuming that the OCC provides the scenarios for the annual stress tests required under this part, what level of detail should be included in those scenarios? Should the scenarios just address general macroeconomic factors or provide more specifics? For example, should the OCC supplement the scenarios with market price and rate ''shocks'' to address short-term volatility associated with certain trading positions and trading-related exposures? If so, how should such rate shocks be incorporated into the stress testing framework?

D. Stress Test Methodologies and Practices

The proposed rule states that each covered institution would be required to use the annual stress test scenarios provided by the OCC in conducting its annual stress tests. Each covered institution must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed. The covered institution would be required to calculate, for each quarter-end within the planning horizon, estimates of revenues, potential losses, and loan loss provisions that would result from the conditions specified in each scenario. A covered institution also would be required to calculate, for each quarter-end within the planning horizon, the potential impact on its regulatory capital levels and ratios applicable to the institution under 12 CFR part 3 or 12 CFR part 167, incorporating the effects of any expected capital distributions over the planning horizon. The applicable regulatory capital levels and ratios would include, for national banks, Minimum Capital Ratios (12 CFR 3.6), Risk-Based Capital Guidelines based on Basel I (Appendix A to part 3), Risk-Based Capital Guidelines; Market Risk Adjustment (Appendix B to part 3), and Internal-Ratings-Based and Advanced Measurement Approaches under Basel II (Appendix C to Part 3), and for federal savings associations, Regulatory Capital Requirements (12 CFR part 167) and Risk-Based Capital Requirements and Internal-Ratings-Based and Advanced Measurement Approaches (Appendix C to part 167). A covered institution would also be required to calculate the potential impact on any other capital ratios specified by the OCC. The stress test must incorporate maintenance by the institution of an allowance for loan losses that would be appropriate for credit exposures throughout the planning horizon.

The proposed rule also would require each covered institution to establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the institution are effective in meeting the requirements of the proposed rule. The covered institution's policies and procedures must, at a minimum, outline the covered institution's stress testing practices and methodologies and processes for updating its stress testing practices consistent with relevant supervisory guidance. The covered institution's board of directors must approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, at least annually. The covered institution's senior management must establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements under this proposed rule.

Question 5. What are the anticipated costs on covered institutions, and sources of those costs, associated with internal data collection and developing methodologies for stress testing under the requirements in the proposed rule?

E. Reporting and Disclosures

Section 165(i)(2)(B) requires a covered institution to submit a report to the Board and to its primary financial regulatory agency at such time, in such form, and containing such information as the primary financial regulatory agency shall require. Section 165(i)(2)(C)(iv) compels the primary financial regulatory agencies to require a covered institution to publish a summary of its stress test results. This proposed rule would implement the statutory reporting and disclosure requirements. Specifically, the proposed rule requires that each covered institution submit a report to the OCC and to the Board of the results of the stress test by January 5. The exact form and contents of this report will be the subject of a separate future proposal. At this time, the OCC anticipates that the annual stress test report, and any other information that the OCC may require to be provided on a supplemental basis, will be confidential. The OCC plans to publish for notice and comment both specific annual stress test reporting requirements and related instructions in a separate proposed information collection under the Paperwork Reduction Act.[9]

Consistent with section 165(i)(2), the proposed rule also would require each covered institution to publish a summary of the results of its annual stress tests within 90 days of submitting its annual stress test report to the OCC and the Board. At a minimum, the summary shall include a description of the types of risks (such as credit default losses and non-default credit losses by portfolio, trading losses, and risks to non-interest revenue) included in the stress test, and estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario. Summary results must be made readily accessible to the public, for example, by publication on a covered institution's Web site. In order to avoid duplicative regulatory requirements, the OCC is proposing to permit disclosure of the summary of results by the parent bank holding company or savings and loan holding company of a covered institution if the parent holding company satisfactorily complies with the disclosure requirements under the Board's Company-Run Stress Test rule.[10] However, the OCC reserves the right to require additional disclosures if the OCC believes that the disclosures at the holding company level do not accurately capture the potential impact

[9] 44 U.S.C. 3501–3521.

[10] Section 46.8 of the proposed rule includes citations to the Board's Company-Run Stress Test proposed rule (proposed 12 CFR Part 252, Subpart G). 77 FR 594, Jan. 5, 2012. The Board's proposal has not yet been finalized.

of the scenarios on the condition of the covered institution.

Question 6. Is the proposed method of public disclosure appropriate, and why? If not, what alternatives would be more appropriate? Should additional disclosure be required, such as, for example, pre-provision net revenue, allowance for loan losses, or a description of the methodologies used by the covered institution? What are your concerns with public disclosures, including the details of the disclosure and qualitative information and the manner of disclosure? How could these concerns be mitigated or addressed by the agencies while still meeting the statutory mandate for public disclosure?

F. Process and Timing of Annual Stress Test

As discussed above, covered institutions will be subject to an annual stress test cycle under this proposed rule. For illustration purposes, Table 1—Process Overview of Annual Stress Test Cycles for Covered Institutions sets out the OCC best estimate for key dates in the annual stress test cycle under the proposed rule.

TABLE 1—PROCESS OVERVIEW OF ANNUAL STRESS TEST CYCLES FOR COVERED INSTITUTIONS

[Using covered institution financial data as of September 30th]

Key step	Proposed timeframe
1. OCC publishes scenarios for annual stress tests.	By mid-October.
2. Covered institutions conduct annual stress test and submit Annual Stress Test Report to the OCC and the Board.	By January 5.
3. Covered institutions make required public disclosures.	By early April.

As noted in Table 1, the annual stress test cycle consist of three key events: (1) Publication of the stress test scenarios by the OCC, (2) conducting of the stress test and submission of the Annual Stress Test Report, and (3) publication of required disclosures. The OCC recognizes that certain parent company structures may include one or more subsidiary banks or savings associations, each with total consolidated assets greater than $10 billion. The company-conducted stress test requirements of section 165(i)(2) apply to the parent company and to each subsidiary bank or savings association of the covered company that has $10 billion or more in total consolidated assets.

The OCC recognizes the possibility that different covered institutions within a given parent institution may be required to conduct stress tests using different scenarios, if the scenarios required by their respective primary federal financial regulators are different. In this regard, the OCC intends to coordinate with the Board and the FDIC on the development of the three scenarios that will be specified each year under these regulations. The OCC anticipates making every effort to avoid differences in the scenarios required by each primary federal financial regulator under the regulations implementing section 165(i)(2), and understands the Board and the FDIC to be in agreement.

When a covered institution comprises the bulk of the assets for a given parent holding company, the inputs to the stress tests conducted by that institution and the holding company, and the conclusions reached, would be expected to be similar. For example, for a bank holding company that is essentially a shell holding company with a single national bank that has total consolidated assets of more than $10 billion, the Board and the OCC would coordinate efforts and communicate with the bank holding company and the bank on how to adequately address their respective stress testing requirements while avoiding duplication of effort. This may include consideration of whether the parent holding company may produce one consolidated set of stress tests when the inputs and results of the particular test will be substantially similar. In other instances, there may be economically meaningful differences in the vulnerability to economic stress of separate covered institutions within the same parent organization. The OCC anticipates addressing, on a case-by-case basis through the supervisory process, instances in which it may be appropriate to modify stress testing requirements for this part when there are multiple covered institutions within a single parent organization.

Question 7. Is the proposed timing of stress testing appropriate, and why? If not, what alternatives would be more appropriate? What, if any, specific challenges exist with respect to the proposed steps and timeframes? What specific alternatives exist to address these challenges that still allow the OCC to meet its statutory requirements? Please comment on the use of the September 30 ''as of'' date for financial data, the January 5 reporting date, the deadline for public disclosure, and the sufficiency of time for completion of the stress test.

Question 8. Would an immediately effective date in a final rule provide sufficient time for an institution that is covered at the effective date of the rule to conduct its first annual stress test?

Question 9. Should the rule require a covered institution to take into account the results of any stress tests conducted pursuant to the rule in taking future actions, such as making changes to capital structure, exposures, concentrations, risk positions, or recovery plans, or generally improving overall risk management?

III. Request for Comments

In addition to the specifically enumerated questions in the preamble, the OCC requests comment on all aspects of this proposed rule. The OCC requests that, for the specifically enumerated questions, commenters include the number of the question in their response to make review of the comments more efficient.

IV. Regulatory Analysis

A. Paperwork Reduction Act

Request for Comment on Proposed Information Collection

In accordance with section 3512 of the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3501–3521), the OCC 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. The information collection requirements contained in this notice of proposed rulemaking have been submitted by the OCC to OMB for review and approval under section 3506 of the PRA and § 1320.11 of OMB's implementing regulations (5 CFR part 1320 *et seq.*). The information collection requirements are found in §§ 46.5–46.8.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance,

and purchase of services to provide information.

All comments will become a matter of public record. Comments should be addressed to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–NEW, 250 E Street 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, 250 E Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to the OMB Desk Officer, by mail to U.S. Office of Management and Budget, 725 17th Street NW., 10235, Washington, DC 20503, or by fax to 202–395–6974.

Proposed Information Collection

Title of Information Collection: Annual Stress Test.

Frequency of Response: Annually.

Affected Public: Businesses or other for-profit.

Respondents: National banks, Federal savings associations, and Federal savings banks.

Description of Requirements:

Section 46.6(a) specifies the calculations of the potential impact on capital that must be made during each quarter of a planning horizon. Section 46.6(c) requires that each covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures that, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for updating the covered institution's stress test practices. The board of directors of the covered institution shall approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The senior management of the covered institution shall establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements in this part.

Section 46.7 provides that each covered institution shall report to the OCC and to the Board annually the results of the stress test in the time, manner and form specified by the OCC.

Section 46.8 requires that, within 90 days of the due date of the report, a covered institution shall publish a summary of the results of its annual stress tests on its Web site or in any other forum that is reasonably accessible to the public. The summary must include a description of the types of risks being included in the stress test and estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario.

Estimated PRA Burden:

Estimated Number of Respondents: 61.

Estimated Burden per Respondent: 1,040 hours.

Total Annual Burden: 63,440 hours.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (''RFA''), generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[11] The Small Business Administration has defined ''small entities'' for banking purposes to include a bank or savings association with $175 million or less in assets.[12]

The proposed rule would apply only to national banks and Federal savings associations with more than $10 billion in total consolidated assets. No small banking organizations satisfy these criteria. No small entities would be subject to this rule. Therefore, the OCC certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (''Unfunded Mandates Act''), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this proposed rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this proposal is not subject to section 202 of the Unfunded Mandates Act.

D. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[13] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comment on how to make the proposed rule easier to understand. For example:

- Is the material organized to suit your needs? If not, how could the OCC present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the regulation easier to understand?

List of Subjects in Part 46

Banking, Banks, Capital, Disclosures, National banks, Recordkeeping, Reporting, Risk, Stress test.

Authority and Issuance

For the reasons stated in the preamble, the OCC proposes to add part 46 to Title 12, Chapter I of the Code of Federal Regulations to read as follows:

PART 46—ANNUAL STRESS TEST

Sec.

46.1 Authority and purpose.
46.2 Definitions.
46.3 Applicability.
46.4 Reservation of authority.
46.5 Annual stress test.
46.6 Stress test methodologies and practices.
46.7 Report to the Office of the Comptroller of the Currency and the Federal Reserve Board.
46.8 Publication.

[11] *See* 5 U.S.C. 603(a).

[12] *See* 13 CFR 121.201.

[13] Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809.

Authority: 12 U.S.C. 93a; 12 U.S.C. 5365(i)(2).

§ 46.1 Authority and purpose.

(a) *Authority.* 12 U.S.C. 93a; 12 U.S.C. 5365(i)(2).

(b) *Purpose.* This part implements 12 U.S.C. 5365(i)(2), which requires annual stress tests to be conducted by financial companies with total consolidated assets of more than $10 billion and establishes a definition of stress test, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 46.2 Definitions.

For purposes of this part, the following definitions apply:

Board means the Board of Governors of the Federal Reserve System.

Covered institution means a national bank or Federal savings association whose average total consolidated assets, calculated as required under this part, exceeds $10 billion.

Federal savings association has the same meaning as in 12 U.S.C. 1813(b)(2).

Regulatory condition report means:

(a) For a Federal savings association, either the Thrift Financial Report or the Consolidated Report of Condition and Income (Call Report), as appropriate; and

(b) For a national bank, the Consolidated Report of Condition and Income (Call Report).

Planning horizon means a set period of time over which the impact of the scenarios is assessed.

Pre-provision net revenue means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

Scenario means a set of hypothetical economic conditions.

Stress test means a process to assess the potential impact of scenarios on the capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, material risks, exposures, strategies, and activities.

§ 46.3 Applicability.

(a) *Scope.* This part applies to a national bank or Federal savings association that meets the definition of a ''covered institution.''

(b) *Election to apply stress test requirements.* Any national bank or Federal savings association may elect to be a covered institution and subject to the requirements of this section.

(c) *Measurement of total consolidated assets for purpose of being deemed a covered institution.* An institution's total consolidated assets are deemed to be more than $10 billion when its average total consolidated assets over the four most recent consecutive quarters, as reported on the institution's regulatory condition reports for those four quarters, exceeds $10 billion.

(d) *Institutions subject to stress testing requirements as of the effective date.* A national bank or Federal savings association that is a covered institution shall be subject to this part on [the effective date of the final rule] and will conduct its first stress test under this part using financial statement data as of September 30, 2012, with results reported as required under this part in January 2013.

(e) *Institutions subject to stress testing requirements after effective date.* A national bank or Federal savings association that qualifies as a covered institution after the effective date of this part shall be subject to the requirements of this part in the next calendar year after the calendar year containing the date upon which it becomes a covered institution. The date upon which an institution becomes a covered institution shall be the as-of date of the fourth consecutive regulatory condition report that causes the institution's average total consolidated assets for four consecutive quarters to exceed $10 billion.

(f) *Ceasing to be a covered institution.* A covered institution shall remain subject to this part until its average total consolidated assets over the four most recent consecutive quarters, as defined in this part, are $10 billion or less. The date upon which an institution ceases to be a covered institution shall be the as-of date of the fourth consecutive regulatory condition report that causes the institution's four-quarter average to fall to $10 billion or less.

§ 46.4 Reservation of authority.

The OCC may require a national bank or Federal savings association not otherwise subject to this part to comply with the requirements of this part, or may exempt any covered institution from some or all of the requirements of this part, if the OCC determines in writing that the application or exemption of the requirements of this part is appropriate in light of the institution's level of complexity, risk profile, or scope of operations. Notwithstanding sections 46.3, 46.5, 46.7, and 46.8 the OCC may accelerate or extend any specified deadline for stress testing, reporting or publication of the stress test results, or require additional stress tests, if the OCC determines that such modification of a deadline or additional testing is appropriate in light of the institution's activities, operations, risk profile, or regulatory capital. If the OCC determines that the stress testing methodologies and practices of a covered institution are deficient under section 46.6 of this part, the OCC may determine that additional analytical techniques and exercises are appropriate for an institution to use in identifying, measuring, and monitoring risks to the financial soundness of the company, and require a covered institution to implement such techniques and exercises in order to fulfill the requirements of this part. The OCC reserves authority to require covered institutions to make additional publication beyond that specified in section 46.8 of this part if the OCC determines that the publication does not adequately address one or more material elements of the stress test.

§ 46.5 Annual stress test.

Each covered institution must complete an annual stress test in accordance with the following requirements:

(a) *Financial data.* The stress test must use financial data of the covered institution as of September 30 of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting its stress tests under this section, each covered institution must use scenarios provided by the OCC that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. In advance of these stress tests, the OCC will provide to all covered institutions a description of the baseline, adverse, and severely adverse scenarios that each covered institution shall use to conduct its annual stress tests under this part.

(c) *Methodologies and practices.* The stress test shall be conducted in accordance with the methodologies and practices described in section 46.6.

§ 46.6 Stress test methodologies and practices.

(a) *Potential impact on capital.* During each quarter of the planning horizon, a covered institution shall calculate the following for each economic scenario:

(1) Pre-provision net revenues, market and credit losses, and loan loss reserves, and

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the institution under 12 CFR part 3, 12 CFR part 167, and any other capital ratios specified by the OCC, incorporating the effects of any expected capital distributions over the planning horizon and maintenance by the institution of an

allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Planning horizon.* Each covered institution must use a planning horizon of at least nine quarters.

(c) *Controls and oversight of stress test processes.* (1) Each covered institution must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress test processes used by the covered institution satisfy the requirements in this part. These policies and procedures must, at a minimum, describe the covered institution's stress test practices and methodologies, and processes for updating the covered institution's stress test practices.

(2) The board of directors of the covered institution shall approve and review the policies and procedures of the covered institution, as frequently as economic conditions or the condition of the institution may warrant, but no less than annually. The senior management of the covered institution shall establish and maintain a system of controls, oversight, and documentation designed to ensure that the stress test processes satisfy the requirements in this part.

§ 46.7 Report to the Office of the Comptroller of the Currency and the Federal Reserve Board.

On or before January 5, each covered institution shall report to the OCC and to the Board the results of the stress test in the time, manner and form specified by the OCC.

§ 46.8 Publication.

(a) Within ninety (90) days following the due date of the report required under section 46.7 of this part, a covered institution shall publish a summary of the results of its annual stress tests. The summary may be published on the covered institution's Web site or in any other forum that is reasonably accessible to the public. A covered institution controlled by a bank holding company that is required to conduct an annual company-run stress test under [INSERT CITATION TO 12 CFR PART 252 SUBPART G] will be deemed to have satisfied the publication requirement of this section when the bank holding company publicly discloses summary results of its annual stress test in satisfaction of [INSERT CITATION TO 12 CFR 252.148], unless the OCC determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the covered institution.

(b) *Information to be disclosed in the summary.* The information disclosed shall, at a minimum, include—

(1) A description of the types of risks being included in the stress test; and

(2) Estimates of aggregate losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by the OCC) over the planning horizon, under each scenario.

Dated: January 18, 2012.

John Walsh,

Acting Comptroller of the Currency.

[FR Doc. 2012–1274 Filed 1–23–12; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1386; Airspace Docket No. 11–ANE–11]

RIN 2120–AA66

Proposed Modification, Revocation and Establishment of Air Traffic Service Routes; Windsor Locks Area; CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify four VOR Federal airways, revoke one VOR Federal airway, and establish three area navigation (RNAV) routes in the vicinity of Windsor Locks, CT. The FAA is proposing this action to adjust the airway route structure due to the planned decommissioning of the Bradley VHF omnirange/tactical air navigation (VORTAC) aid located on Bradley International Airport property, Windsor Locks, CT.

DATES: Comments must be received on or before March 9, 2012.

ADDRESSES: Send comments on this proposal to the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2011–1386 and Airspace Docket No. 11–ANE–11 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace, Regulations and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–1386 and Airspace Docket No. 11–ANE–11) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2011–1386 and Airspace Docket No. 11–ANE–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov,* or the **Federal Register**'s web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and

phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

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

Background

The State of Connecticut requested the decommissioning and removal of the Bradley VORTAC located on Bradley International Airport property, Windsor Locks, CT. Plans are in place for taxiway expansion and cargo and industry development in the quadrant where the VORTAC is currently sited. There is no suitable site to relocate the VORTAC. The FAA conducted an aeronautical study of the proposal in 2009 and issued a determination of non-objection with the special provision that all instrument procedures that utilize the Bradley VORTAC be modified with minimal impact to the aviation community. This proposed action would modify the affected airways as well as establish new RNAV routes to provide continued navigation capability in the Winsor Locks, CT area.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify VOR Federal airways V–130, V–203, V–405 and V–419; remove V–205; and establish RNAV routes T–212, T–255, and T–300. These changes are required due to the planned decommissioning of the Bradley VORTAC in 2012.

V–130 currently extends from the Albany, NY VORTAC, through the Bradley VORTAC, to the Martha's Vineyard, MA, VOR/DME. The FAA would eliminate the segment that currently extends from the Albany, NY, VORTAC, through the Bradley VORTAC to the Norwich, CT VOR/DME. The modified V–130 would originate at the Norwich VOR/DME, then follow the existing route to the Martha's Vineyard, MA, VOR/DME.

V–203 would be extended to encompass the part of V–130 that is being removed as described above. V–203 currently extends between the Albany VORTAC and the Montreal, Canada, VOR/DME. The extension of V–203 would run southeast from the Albany VORTAC to the existing STELA intersection (formed by the Albany 134°(T)/147°(M) radial and the Chester, MA, VOR/DME 266°(T)/279°(M) radial). At that point, flights could link with other VOR Federal airways.

The FAA is proposing to remove V–205 that currently extends from the COATE intersection (8 NM northwest of the Sparta, NJ VORTAC) to the Putnam, CT, VOR/DME. There are other existing airways available that provide navigation to and from Putnam, CT. In addition, a proposed new RNAV route (T–212) would overlie part of V–205's route and would terminate at Putnam.

V–405 would be realigned to bypass the Bradley VORTAC and, instead, be routed through the Barnes, MA, VORTAC (located approximately 13 NM north of Bradley). The airway would then proceed through the Putnam, CT, VOR/DME to the Providence, RI, VORTAC and resume the currently published route to Martha's Vineyard, MA.

V–419 currently extending between Westminster, MD and Boston, MA, would be to extend between Westminster, MD, and the existing BRISS intersection (formed by the Carmel, NY VOR/DME 045°(T)/057°(M) radial and the Madison, CT 328°(T)/341°(M) radial). The route segments between BRISS intersection and Boston would be eliminated. Alternative routing would be available using other existing airways and/or via the proposed new RNAV routes.

The FAA is also proposing to establish three new RNAV routes, designated T–212, T–255 and T–300. T–212 would extend between the WEARD, NY, fix and the Putnam, CT, VOR/DME. T–212 would overlie V–205 (which would be removed). T–255 would extend between the NELIE, CT, waypoint (WP) and the Martha's Vineyard, MA, VOR/DME. It would overlie that portion of V–405 that the FAA is proposing to remove from the route as described above. T–300 would extend between the Albany, NY, VORTAC and the Martha's Vineyard, MA, VOR/DME. This route would overlie another portion of V–130 being removed.

VOR Federal airways and Area Navigation Routes are published in paragraphs 6010(a) and 6011, respectively, of FAA Order 7400.9V, dated August 9, 2011 and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The routes listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the 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 the route structure to maintain the safe and efficient flow of traffic in the northeast United States.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011 and effective September 15, 2011, is amended as follows:

Paragraph 6010 VOR Federal Airways

* * * * *

V–130 (Amended)

From Norwich, CT; INT Norwich 114° and Martha's Vineyard, MA, 267° radials; to Martha's Vineyard.

V–203 (Amended)

From INT Chester, MA 266°T/279°M and Albany, NY 134°(T) 147°(M) radials; Albany; Saranac Lake, NY; Massena, NY; INT Massena 047° and Montreal, Canada 188° radials; Montreal. The airspace within Canada is excluded.

V–205 [Removed]

V–405 (Amended)

From INT Pottstown, PA, 222° and Baltimore, MD, 034° radials; Pottstown; INT Pottstown 050° and Solberg, NJ, 264° radials; Solberg; INT Solberg 044° and Carmel, NY, 243° radials; Carmel; INT Carmel 344° and Pawling, NY, 204° radials; Pawling; Barnes, MA; Putnam, CT; Providence, RI; INT Providence 151° and Martha's Vineyard, MA, 267° radials; to Martha's Vineyard.

V–419 [Amended]

From Westminster, MD to Modena, PA; Solberg, NJ; INT Solberg 044° and Carmel, NY 243° radials; Carmel; to INT Carmel 045°(T)/057°(M) and Madison, CT 328°(T)/341°(M) radials.

* * * * *

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–212 WEARD, NY to Putnam, CT (PUT) [New]

WEARD, NY	Fix	(Lat. 41°45′44″ N., long. 74°31′30″ W.)
WEETS, NY	Fix	(Lat. 41°51′27″ N., long. 74°11′52″ W.)
TRESA, NY	Fix	(Lat. 41°52′50″ N., long. 73°49′07″ W.)
STUBY, CT	Fix	(Lat. 41°54′08″ N., long. 73°26′14″ W.)
VEERS, CT	Fix	(Lat. 41°54′38″ N., long. 73°17′06″ W.)
RONGE, CT	Fix	(Lat. 41°54′53″ N., long. 73°12′21″ W.)
NELIE, CT	WP	(Lat. 41°56′28″ N., long. 72°41′19″ W.)
DARTH, CT	Fix	(Lat. 41°57′56″ N., long. 72°16′21″ W.)
Putnam, CT (PUT)	VOR/DME	(Lat. 41°57′20″ N., long. 71°50′39″ W.)

T–255 NELIE, CT to Martha's Vineyard, MA (MVY) [New]

NELIE, CT	WP	(Lat. 41°56′28″ N., long. 72°41′19″ W.)
BLATT, CT	Fix	(Lat. 41°49′37″ N., long. 72°00′55″ W.)
NOXSE, RI	Fix	(Lat. 41°46′46″ N., long. 71°44′28″ W.)
Providence, RI (PVD)	VORTAC	(Lat. 41°43′28″ N., long. 71°25′47″ W.)
FALMA, RI	Fix	(Lat. 41°22′22″ N., long. 71°10′16″ W.)
Martha's Vineyard, MA (MVY)	VOR/DME	(Lat. 41°23′46″ N., long. 70°36′46″ W.)

T–300 Albany, NY (ALB) to Martha's Vineyard, MA (MVY) [New]

Albany, NY (ALB)	VORTAC	(Lat. 42°44′50″ N., long. 73°48′11″ W.)
CANAN, NY	Fix	(Lat. 42°29′34″ N., long. 73°26′48″ W.)
SHIGY, MA	Fix	(Lat. 42°23′58″ N., long. 73°19′01″ W.)
STELA, MA	Fix	(Lat. 42°16′53″ N., long. 73°09′14″ W.)
MOLDS, MA	Fix	(Lat. 42°12′31″ N., long. 73°03′13″ W.)
TOMES, MA	Fix	(Lat. 42°08′43″ N., long. 72°58′01″ W.)
COBOL, MA	Fix	(Lat. 42°05′13″ N., long. 72°53′14″ W.)
NELIE, CT	WP	(Lat. 41°56′28″ N., long. 72°41′19″ W.)
WIPOR, CT	Fix	(Lat. 41°39′23″ N., long. 72°10′38″ W.)
Norwich, CT (ORW)	VOR/DME	(Lat. 41°33′23″ N., long. 72°59′58″ W.)
LAFAY, RI	Fix	(Lat. 41°27′45″ N., long. 71°43′16″ W.)
MINNK, RI	Fix	(Lat. 41°21′41″ N., long. 71°25′27″ W.)
FALMA, RI	Fix	(Lat. 41°22′22″ N., long. 71°10′16″ W.)
Martha's Vineyard, MA (MVY)	VOR/DME	(Lat. 41°23′46″ N., long. 70°36′46″ W.)

Issued in Washington, DC, on January 17, 2012.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2012–1395 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2012–0008; A–1–FRL–9621–4]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Determination of Attainment of the One-Hour Ozone Standard for the Springfield (Western Massachusetts) Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the Springfield (Western Massachusetts), serious one-hour ozone nonattainment area did not meet the applicable deadline of December 31, 2003 for attaining the one-hour National Ambient Air Quality Standard (NAAQS) for ozone. This proposed determination is based upon complete, certified, quality-assured ambient air quality monitoring data for the 2001–2003 monitoring period showing that the area had an expected ozone exceedance rate above the level of the now revoked one-hour ozone NAAQS during that period. Separate from and independent of this proposed determination, EPA is also proposing to determine that the Springfield (Western Massachusetts) serious one-hour ozone nonattainment area currently attains the now revoked one-hour NAAQS for ozone, based upon complete, quality-assured, certified ambient air monitoring data for the 2007–2009 and 2008–2010 monitoring

periods. Preliminary one-hour ozone data available for 2011 also show the area continues to meet the one-hour NAAQS for ozone. If EPA finalizes its determination that the area is currently attaining the one-hour standard, the obligation to submit one-hour ozone contingency measures will be suspended. EPA is proposing these determinations under the Clean Air Act.

DATES: Written comments must be received on or before February 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2012–0008 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2012–0008,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912. 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 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2012–0008. 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.

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 Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, telephone number (617) 918–1664, fax number (617) 918–0664, email *Burkhart.Richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble:

I. What is EPA proposing?
A. Proposed Determination of Failure To Attain by Applicable Attainment Date
B. Proposed Determination of Current Attainment
II. What is the background for these proposed actions?
A. Statutory and Regulatory Background
B. Basis and Effect of Proposed Determinations
III. What are EPA's analyses of data for purposes of determining attainment of the one-hour ozone standard?
A. How does epa compute whether an area meets the one-hour ozone standard?
B. EPA's Analyses of the One-Hour Ozone Data for the Springfield (Western Massachusetts) Area
IV. Proposed Determinations
V. Statutory and Executive Order Reviews

I. What is EPA proposing?

EPA is proposing two separate and independent determinations for the Springfield (Western Massachusetts) one-hour ozone serious nonattainment area (hereafter, ''the Western Massachusetts area'').

A. Proposed Determination of Failure To Attain by Applicable Attainment Date

EPA is proposing to determine that the Western Massachusetts area did not attain the one-hour ozone NAAQS by the applicable attainment date, December 31, 2003. This proposed determination is based upon complete, quality-assured and certified air quality monitoring data for the 2001–2003 monitoring period.

B. Proposed Determination of Current Attainment

In addition, EPA is proposing to determine that the Western Massachusetts area is currently attaining the one-hour ozone NAAQS based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 and 2008–2010 monitoring periods. If this proposed determination is finalized, any obligations related to one-hour ozone contingency measures in the Western Massachusetts area shall be suspended.

II. What is the background for these proposed actions?

A. Statutory and Regulatory Background

The Western Massachusetts one-hour ozone nonattainment area consists of Berkshire, Franklin, Hampden and Hampshire Counties. EPA designated this area as nonattainment for one-hour ozone following the enactment of the Clean Air Act (CAA) Amendments of 1990. Most areas of the country that EPA designated nonattainment for the one-hour ozone NAAQS were classified by operation of law as marginal, moderate, serious, severe, or extreme depending on the severity of the area's air quality problem. See CAA sections 107(d)(1)(C) and 181(a). The Western Massachusetts area was classified as serious. The one-hour ozone attainment deadline for the Western Massachusetts serious area was initially set for November 15, 1999, and later was extended to December 31, 2003. See 66 FR 666 (January 3, 2001).

On July 18, 1997 (62 FR 38856), EPA promulgated a new standard for ozone based on an 8-hour average concentration (the ''1997 8-hour ozone NAAQS''). EPA designated and classified most areas of the country under the 8-hour ozone NAAQS in an April 30, 2004 final rule. See 69 FR 23858. EPA designated Western Massachusetts as nonattainment for the 1997 8-hour ozone NAAQS, and at the time of designation the area did not meet the one-hour ozone standard.

On April 30, 2004, EPA issued a final rule (69 FR 23951) entitled ''Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1,'' referred to as the Phase 1 Rule. Among other matters, this rule revoked the one-hour ozone NAAQS in most areas of the country, effective June 15, 2005. See 40 CFR 50.9(b); 69 FR at 23996; and 70 FR 44470. The Phase 1 Rule also set forth how anti-backsliding principles will ensure continued progress toward attainment of the eight-hour ozone NAAQS by identifying which one-hour requirements remain applicable in an area after revocation of the one-hour ozone NAAQS. Although, EPA revoked the one-hour ozone standard, eight-hour ozone nonattainment areas remain subject to certain one-hour, anti-backsliding requirements based on their one-hour ozone classification. Initially, in our rules to address the transition from the one-hour to the eight-hour ozone standard, EPA did not include one-hour contingency measures among the measures retained as one-hour ozone anti-backsliding requirements.[1] However, on December 23, 2006, the United States Court of Appeals for the District of Columbia Circuit determined that EPA should not have excluded these requirements (and certain others not relevant here) from its anti-backsliding requirements. *See South Coast Air Quality Management District* v. *EPA,* 472 F.3d 882 (DC Cir. 2006), rehearing denied 489 F.3d 1245 (clarifying that the vacatur was limited to the issues on which the court granted the petitions for review). Thus, the Court vacated the provisions that excluded these requirements. As a result, States must continue to meet the obligations for one-hour ozone NAAQS contingency measures and EPA has issued a proposed rule that would remove the vacated provisions of 40 CFR 51.905(e), and that addresses contingency measures for the one-hour standard. See 74 FR 2936 (January 16, 2009) (proposed rule); and 74 FR 7027 (February 12, 2009) (notice of public hearing and extension of comment period).

B. Basis and Effect of Proposed Determinations

After revocation of the one-hour ozone standard, EPA must continue to provide a mechanism to give effect to the one-hour ozone anti-backsliding requirements. See *SCAQMD* v. *EPA,* 47 F.3d 882, at 903. In keeping with this responsibility with respect to specific one-hour anti-backsliding measures, such as contingency measures, EPA proposes to determine that Western Massachusetts failed to attain the one-hour ozone standard by its applicable attainment date. (CAA sections 301(a) and 181(b)(2)). Consistent with 40 CFR 51.905(e)(2) and the South Coast decision, upon revocation of the one-hour ozone NAAQS for an area, EPA is no longer obligated to determine whether an area has attained the one-hour NAAQS, except insofar as it relates to effectuating the anti-backsliding requirements that are specifically retained. EPA's determination here is linked solely to required one-hour anti-backsliding contingency measures. A final determination of failure to attain will not result in reclassification of the area under the revoked one-hour standard, nor is EPA identifying or determining any new one-hour reclassification for the area. EPA is no longer required to reclassify an area to a higher classification for the one-hour ozone NAAQS based upon a determination that the area failed to attain that NAAQS by its attainment date. See 40 CFR 51.905(e)(2)(i)(B). Thus, even if we finalize our proposed determination that the area failed to attain the one-hour ozone NAAQS by its attainment deadline, the area will not be reclassified to a higher classification. Moreover, EPA has previously approved the attainment demonstration and Reasonable Further Progress (RFP) plans for this area, and in doing so noted that although there were no approved state implementation plan contingency measures applicable to the Western Massachusetts area for failure to attain, there were federal measures which the state had not accounted for in its attainment demonstration, and which provided more reductions than necessary to serve the purpose of contingency measures for this area. See 66 FR 666, January 3, 2001. In addition, as explained elsewhere in this notice, EPA is proposing to determine that the Western Massachusetts area is currently attaining the one-hour ozone standard. The area has been in attainment of the revoked standard since 2009. In this context, even if EPA's proposed determination that the area did not attain the standard by the 2003 deadline is finalized, it will not trigger any additional obligations for the area under the one-hour ozone standard. Under EPA's ''Clean Data Policy'' interpretation, which was first articulated for the one-hour standard and then codified for the 8-hour ozone standard (40 CFR 51.918),[2] a determination of attainment suspends obligations for attainment-related requirements for that standard, including contingency measures. See, for example, determination of one-hour ozone attainment for Baton Rouge, 75 FR 6570 (February 10, 2010).

III. What are EPA's analyses of data for purposes of determining attainment of the one-hour ozone standard?

A. How does EPA compute whether an area meets the one-hour ozone standard?

Although the one-hour ozone NAAQS as promulgated in 40 CFR 50.9 does not address specific data handling conventions, EPA's publicly articulated position and the approach long since universally adopted by the air quality management community is that the interpretation of the one-hour ozone standard requires rounding ambient air quality data consistent with the stated level of the standard, which is 0.12 parts per million (ppm). 40 CFR 50.9(a) states that: ''The level of the national one-hour primary and secondary ambient air quality standards for ozone * * * is 0.12 parts per million. * * * The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations of 0.12 parts per million * * * is equal to or less than 1, as determined by appendix H to this part.'' Thus, compliance with the NAAQS is based on comparison of air quality concentrations with the standard and on how many days that standard has been exceeded, adjusted for the number of missing days.

For comparison with the NAAQS, EPA has clearly communicated the data handling conventions for the one-hour ozone NAAQS in guidance documents.

[1] Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1, 69 FR 23951 (April 30, 2004).

[2] The U.S. Court of Appeals for the District of Columbia Circuit upheld the provisions of 40 CFR 51.918, which codified the Clean Data Policy. Previously Courts of Appeals for several other Circuits upheld the Clean Data Policy under the one-hour standard. *See NRDC* v. *EPA,* 571 F.3d 1245 (DC Cir. 2009); *Sierra Club* v. *EPA,* 99 F. 3d 1551 (10th Cir.1996); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004) and *Our Children's EarthFoundation* v. *EPA,* No. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion).

As early as 1979, EPA's guidance stated that the level of our NAAQS dictates the number of significant figures to be used in determining whether the standard was exceeded. The stated level of the standard defines the number of significant figures to be used in comparisons with the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up), and, therefore, 0.125 ppm is the smallest concentration value in excess of the level of the standard. See ''Guideline for the Interpretation of Ozone Air Quality Standards,'' EPA–450/4–79–003, OAQPS No. 1.2–108, January 1979. EPA has consistently applied the rounding convention in this 1979 guideline. See 68 FR 19111, April 17, 2003; 68 FR 62043, October 31, 2003; and 69 FR 21719, April 22, 2004. EPA determines attainment status under the one-hour ozone NAAQS on the basis of the annual average number of expected exceedances of the NAAQS over a three-year period. See 60 FR 3349, January 17, 1995 and also the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' at 57 FR 13506, April 16, 1992 (''General Preamble''). EPA's determination is based upon data that have been collected and quality-assured in accordance with 40 CFR 58, and recorded in EPA's Air Quality System (AQS) database. To account for missing data, the procedures found in appendix H to 40 CFR 50 are used to adjust the actual number of monitored exceedances of the standard to yield the annual number of expected exceedances (''expected exceedance days'') at an air quality monitoring site. We determine if an area meets the one-hour ozone NAAQS by calculating, at each monitor, the average expected number of days over the standard per year (i.e., ''average number of expected exceedance days'') during the applicable 3-year period. See the General Preamble, 57 FR 13498, April 16, 1992. The term ''exceedance'' is used throughout this document to describe a daily maximum ozone measurement that is equal to or exceeds 0.125 ppm which is the level of the one-hour standard after rounding. An area violates the ozone standard if, over a consecutive 3-year period, more than 3 days of expected exceedances occur at the same monitor. For more information please refer to 40 CFR 50.9, ''National one-hour primary and secondary ambient air quality standards for ozone'' and ''Interpretation of the one-hour Primary and Secondary National Ambient Air Quality Standards for Ozone'' (40 CFR part 50, appendix H).

B. EPA's Analyses of the One-Hour Ozone Data for the Springfield (Western Massachusetts) Area

Tables 1, 2 and 3 show one-hour ozone data for the Western Massachusetts area, for each of the three-year periods 2001–2003, 2007–2009, and 2008–2010. The tables show the actual exceedance days, the expected exceedance days, and the 3-year average expected exceedance rate for each monitor in the Western Massachusetts area. The standard for the one-hour ozone NAAQS is 0.12 ppm and attainment is achieved when the number of expected exceedances is 1.0 or less averaged over a three-year period. EPA calculates the expected exceedances based on the number of times a site exceeds the 0.12 ppm standard averaged over a three-year period and then adjusts for missing data. In short, if the three-year average expected exceedances rate is less than or equal to 1.0, the site meets the one-hour ozone NAAQS. If all sites in the area meet the one-hour ozone standard, then the area meets the one-hour NAAQS during that time period.

TABLE 1—ONE-HOUR OZONE DATA FOR THE WESTERN MASSACHUSETTS AREA

[2001–2003]

EPA AQS ID	Site	Year	Actual exceedance days over 0.124 ppm	Expected exceedance days	3-Year average expected exceedance rate
250034002	Adams	2001	0	0.0	0.0
		2002	0	0.0	
		2003	0	0.0	
250130003	Agawam [3]	2001	0	0.0	
		2002	2	2.0	
		2003			
250130008	Chicopee	2001	2	2.0	2.0
		2002	4	4.0	
		2003	0	0.0	
250150103	N. Amherst	2001	1	1.0	0.7
		2002	1	1.0	
		2003	0	0.0	
250154002	Ware	2001	2	2.0	1.3
		2002	2	2.0	
		2003	0	0.0	

TABLE 2—ONE-HOUR OZONE DATA FOR THE WESTERN MASSACHUSETTS AREA

[2007–2009]

EPA AQS ID	Site	Year	Actual exceedance days over 0.124 ppm	Expected exceedance days	3-Year average expected exceedance rate
250034002	Adams	2007	0	0.0	0.0

[3] Site shutdown in 2002. No expected exceedance rate calculated for 2001–2003.

TABLE 2—ONE-HOUR OZONE DATA FOR THE WESTERN MASSACHUSETTS AREA—Continued

[2007–2009]

EPA AQS ID	Site	Year	Actual exceedance days over 0.124 ppm	Expected exceedance days	3-Year average expected exceedance rate
		2008	0	0.0	.....
		2009	0	0.0	.....
250130008	Chicopee	2007	3	3.0	1.0
		2008	0	0.0	.....
		2009	0	0.0	.....
250150103	N. Amherst	2007	0	0.0	0.0
		2008	0	0.0	.....
		2009	0	0.0	.....
250154002	Ware	2007	2	2.1	0.7
		2008	0	0.0	.....
		2009	0	0.0	.....

TABLE 3—ONE-HOUR OZONE DATA FOR THE WESTERN MASSACHUSETTS AREA

[2008–2010]

EPA AQS ID	Site	Year	Actual exceedance days over 0.124 ppm	Expected exceedance days	3-Year average expected exceedance rate
250034002	Adams	2008	0	0.0	0.0
		2009	0	0.0	.....
		2010	0	0.0	.....
250130008	Chicopee	2008	0	0.0	0.0
		2009	0	0.0	.....
		2010	0	0.0	.....
250150103	N. Amherst	2008	0	0.0	0.0
		2009	0	0.0	.....
		2010	0	0.0	.....
250154002	Ware	2008	0	0.0	0.0
		2009	0	0.0	.....
		2010	0	0.0	.....

EPA has reviewed and evaluated these data in order to make two separate proposed determinations. First, EPA addresses whether the Western Massachusetts area attained the one-hour ozone standard by the applicable attainment date. As shown in Table 1, the Western Massachusetts one-hour ozone nonattainment area did not meet its attainment deadline of December 31, 2003, since two ozone monitors in the area had expected exceedance rates above 1.0. However, as Table 2 shows, the area subsequently attained the one-hour ozone standard based on 2007–2009 ozone data, and the area continues to meet the one-hour standard based on complete, quality- assured and certified data for 2008–2010 (Table 3). Preliminary ozone data available for 2011 show that the area continues in attainment of the one-hour ozone standard. Thus, EPA is also proposing to determine that based on complete, quality-assured and certified ozone monitoring data, the Western Massachusetts area has attained and continues to attain the one-hour ozone NAAQS.

IV. Proposed Determinations

For the reasons set forth in this notice, EPA is proposing to determine that the Western Massachusetts one-hour ozone nonattainment area did not meet its applicable one-hour ozone attainment date of December 31, 2003, based on complete, quality-assured and certified ozone monitoring data for 2001–2003.[4] Separate from and independent of this proposed determination, EPA is also proposing to determine that the Western Massachusetts one-hour ozone nonattainment area is currently attaining the one-hour ozone standard, based on, complete, quality-assured and certified ozone monitoring data for the 2007–2009 and 2008–2010 monitoring periods. Preliminary data available for 2011 indicate that the area continues to attain the one-hour NAAQS. If EPA finalizes its proposed determination that the Western Massachusetts area is currently attaining the one-hour ozone standard, any obligation to submit contingency measures for the one-hour ozone standard shall be suspended.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

These actions propose to make determinations of attainment or nonattainment based on monitored air quality data and do not impose additional requirements beyond those imposed by statute or regulation. For that reason, these proposed actions:

- Are not ''significant regulatory actions'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions

[4] For the reasons set forth above, a final determination that the Western Massachusetts one-hour ozone nonattainment area did not meet its applicable one-hour ozone attainment deadline will not result in reclassification of the area for the one-hour standard, nor in any additional air quality obligations for the area.

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Are 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.*);

• Do 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);

• Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

List of Subjects in 40 CFR Part 52

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

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

Dated: January 11, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2012–1356 Filed 1–23–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2011–0848; FRL–9620–7]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of West Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator Units, Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the West Virginia hospital/medical/infectious waste incinerator (HMIWI) Section 111(d)/129 plan (the ''plan''). The revision contains a modified state rule for solid waste combustion that was updated as a result of the October 6, 2009 amendments to federal Emission Guidelines (EG) and New Source Performance Standards (NSPS), 40 CFR part 60, subparts Ce and Ec respectively. This revision and approval action relate only to HMIWI units. In the Final Rules section of this **Federal Register**, EPA is approving the State of West Virginia's HMIWI plan revision submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0848 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: cox.kathleen@epa.gov.*

C. *Mail:* EPA–R03–OAR–2011–0848, Kathleen Cox, Associate Director, Office of Air Permits and Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0848. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Mike Gordon, at (215) 814–2039, or by email at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 5, 2012.

W.C. Early,

Acting Regional Administrator, EPA Region III.

[FR Doc. 2012–1338 Filed 1–23–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2011–0110; 4500030114]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the 'I'iwi as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the 'i'iwi (*Vestiaria coccinea*) as endangered or threatened under the Endangered Species Act of 1973, as amended (Act), and designate critical habitat. Based on our review, we find that the petition presents substantial information indicating that listing the 'i'iwi may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing the 'i'iwi as endangered or threatened is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before March 26, 2012. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date. After March 26, 2012, you must submit information directly to the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to fully address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for FWS–R1–ES–2011–0110, which is the docket number for this finding.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R1–ES–2011–0110; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Loyal Mehrhoff, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; by telephone (808–792–9400); or by facsimile (808–792–9581). If you use a telecommunications device for the deaf (TTD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the 'i'iwi from governmental agencies, the cultural community, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) The potential cumulative effects of these factors that may endanger or threaten the 'i'iwi.

(4) Management programs for the conservation of the 'i'iwi.

(5) The potential effects of climate change on the 'i'iwi and its habitat.

If, after the status review, we determine that listing the 'i'iwi is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable, at the time we propose to list the species. Therefore, within the geographical range currently occupied by the 'i'iwi, we also request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,''

(2) Where these features are currently found, and

(3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on ''specific areas outside the geographical area occupied by the species'' that are ''essential to the conservation of the species.'' Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES**

section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we subsequently summarize in our 12-month finding.

Petition History

On August 25, 2010, we received a petition dated August 24, 2010, from Noah Greenwald, Center for Biological Diversity, and Dr. Tony Povilitis, Life Net, requesting that the 'i'iwi be listed as endangered or threatened and that critical habitat be designated under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners as required by 50 CFR 424.14(a). In a September 10, 2010, letter to the petitioners, we responded that we had reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species under section 4(b)(7) of the Act was not warranted. We also stated that we were required to complete a significant number of listing and critical habitat actions in Fiscal Year 2010, including complying with court orders and court-approved settlement agreements with specific deadlines, listing actions with absolute statutory deadlines, and high priority listing actions. Our listing and critical habitat funding for Fiscal Year 2010 was committed to complying with these court orders, settlement agreements, and statutory deadlines. Therefore, we were unable to further address the petition to list the 'i'iwi at that time. This finding addresses the petition.

Previous Federal Action(s)

To date, no Federal actions have been taken with regard to the 'i'iwi.

Species Information

The 'i'iwi is a member of the family Fringillidae, and the endemic subfamily Drepanidinae (Hawaiian honeycreepers) (Pratt *et al.* 2009, pp. 114, 122). The 'i'iwi is placed in the monotypic genus (a genus of only one species) *Vestiaria,* and is classified as a discrete species by the American Ornithologists' Union (AOU 1998, p. 677). The 'i'iwi is a medium-sized forest bird (total body length is approximately 5.5 inches (in) (14 centimeters (cm)), with bright scarlet feathers, black wings and tail, and a small white patch on its inner secondaries (shorter flight feathers along the inner wing). The bill is long, curved, and salmon in color. Juveniles are a buff color with black spots, and have shorter bills that change in color from dusky yellow to salmon as they mature (Hawaii Audubon Society 2011, p. 97).

'I'iwi songs are complex with variable creaks, often described as a rusty hinge, whistles, or gurgling sounds, and they sometimes mimic other birds (Hawaii Audubon Society 2011, p. 97). The diet consists primarily of nectar from the flowers of *Metrosideros polymorpha* (ohia), *Sophora chrysophylla* (mamane), plants in the bellflower (Campanulaceae) family (Pratt *et al.* 2009, p. 193), insects, and spiders (Hawaii Audubon Society 2011, p. 97; Pratt *et al.* 2009, p. 193). The breeding season starts as early as October and continues through August (Hawaii Audubon Society 2011, p. 97). Peak breeding is from February through June and coincides with peak flowering of *Metrosideros polymorpha* (Fancy and Ralph 1997, p. 2). 'I'iwi nest sites are typically found in the upper canopy of *Metrosideros polymorpha* (Hawaii Audubon Society 2011, p. 97), and are cup-shaped nests made of twigs and lined with lichens and moss (Hawaii Audubon Society 2011, p. 97). Breeding pairs remain together during the season, and defend a small area around the nest and disperse after breeding (Fancy and Ralph 1997, p. 2). Clutch size typically consists of two eggs, with an 'i'iwi pair incubating one to two broods per year (Hawaii Audubon Society 2011, p. 97).

Habitat, Distribution, and Status

The 'i'iwi occurs on the five largest Hawaiian islands (Hawaii, Maui, Molokai, Oahu, and Kauai), and is most abundant in montane wet, closed-canopied, high-stature *Metrosideros polymorpha* and *Acacia koa* (koa)-*Metrosideros polymorpha* forests above approximately 4,900 feet (ft) (1,500 meters (m)) in elevation (Pratt *et al.* 2009, p. 122). The largest population (more than 340,000 birds) and range (approximately 770 square miles (sq mi) (2,000 square kilometers (sq km)) occur on Hawaii Island (Scott et al. 1986 *in* Pratt *et al.* 2009, p. 122). On the windward (eastern) side of Hawaii Island, 'i'iwi populations are generally declining other than in high-elevation forest areas. 'I'iwi populations appear to be stable in the main unit of Hakalau Forest National Wildlife Refuge, Kulani-Keahou, and possibly in the Kau district, in the southeast portion of Hawaii Island (Pratt *et al.* 2009, p. 123). On the leeward (western) side of Hawaii Island, the number of 'i'iwi appears to have declined between 1986 and 2009 (Pratt *et al.* 2009, p. 123).

The 'i'iwi occurs in two disjunct populations on Maui. The east Maui population on the windward slopes of Haleakala was estimated to number approximately 19,000 birds in 1980, although subsequent surveys indicated higher densities and probable higher numbers (Pratt *et al.* 2009, p. 123). The west Maui population was estimated to number approximately 180 birds in 1980, and they were restricted to a 6.2-sq-mi (16-sq-km) area, approximately 19 mi (30 km) from the eastern population. Subsequent surveys indicated the population persists at very low densities (Pratt *et al.* 2009, p. 123). Twelve 'i'iwi were detected during 1979 surveys on Molokai, and surveys in 1988, 1995, and 2004 detected only 2, 1, and 3 birds respectively, which indicate the Molokai population is at high risk of extirpation (Pratt *et al.* 2009, p. 123).

The species' precipitous decline on Oahu was evident by the early 1900s (Fancy and Ralph, 1998 *in* Pratt *et al.* 2009, p. 123). On Oahu, surveys from the mid-1990s recorded only 8 individuals located in three areas isolated from each other in the Waianae and Koolau mountain ranges. The Oahu population was estimated to number fewer than 50 birds in 1991 (Ellis *et al.* 1992 in Pratt *et al.* 2009, p. 123), indicating it also faces likely extirpation (Pratt *et al.* 2009, p. 123).

On Kauai, the 'i'iwi population also appears to be in decline. In the early 1970s, the 'i'iwi occurred down to approximately 2,900 ft (900 m) in elevation, with the population estimated at approximately 26,000 birds across 54 sq mi (140 sq km). By 2000, the population had decreased to approximately 10,000 birds, and the species' range was reduced to approximately 39 sq mi (100 sq km), with occurrences mostly restricted to elevations above 3,600 ft (1,100 m). Based on the 1968–1973 surveys, the core population in the interior Alakai Plateau (above 3,900 ft (1,200 m)) was estimated to be approximately 7,800 birds. Subsequent surveys in this area yielded highly variable densities, but indicated this portion of the population is presently stable (Pratt *et al.* 2009, p. 123).

Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR 424, set forth procedures for adding species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information shall contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

In making this 90-day finding, we evaluated whether information regarding threats to the 'i'iwi, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Information Provided in the Petition

The petitioners claim that 52 percent of the 'i'iwi's forest habitat on the island of Hawaii and 85 percent on the island of Oahu has been cleared for crops, livestock grazing, tree plantations, and urban development (Petition, p. 7). The petition also states that 'i'iwi habitat is being lost and degraded by nonnative feral ungulates, including pigs (*Sus scrofa*), goats (*Capra hircus*), domestic sheep (*Ovis aries*), mouflon sheep (*Ovis gmelini musimon*), axis deer (*Axis axis*), black-tailed deer (*Odocoileus hemionus*), and cattle (*Bos taurus*) (Pratt *et al.* 2009, p. 556). According to the petitioners, feral ungulates destroy forest understory vegetation, eliminate food plants for birds, create mosquito breeding sites, open the forest floor to weed invasion, transport weeds into native forests, cause soil erosion, disrupt seedling regeneration of native plants, and girdle young trees (Petition, pp. 7–8). The petitioners claim that the 'i'iwi's native forests that provide food and nesting sites are being displaced by nonnative plants, a displacement which increases the risk of fire (Petition, p. 8). According to the petitioners, rats (*Rattus* spp.) consume native plants and impact their regeneration, reducing their availability as food resources and habitat for the 'i'iwi (see Factor E). The petition also claims nonnative insects may reduce or eliminate native insects that pollinate plants important to the 'i'iwi (Petition, p. 8).

Evaluation of Information Provided in the Petition and Available in Service Files

Habitat Conversion

Information provided by the petitioners and readily available in our files indicates the 'i'iwi may be declining due to loss, degradation, and modification of its native forest habitat. The consequences of past land use practices, such as agricultural conversion for food crops, ranching, and tree plantations, or for urban development, have resulted in little or no native vegetation remaining below 2,000 ft (600 m) throughout the Hawaiian Islands (The Nature Conservancy (TNC) 2007). Agriculture has been declining as a priority land use, and large tracts of former agricultural lands are being converted into residential areas or being allowed to remain fallow (TNC 2007). Hawaii's population has also increased approximately 10 percent in 10 years, increasing demands on limited land and water resources (Hawaii Department of Business, Economic Development and Tourism (DBEDT) 2010). The 'i'iwi is most abundant above 4,900 ft (1,500 m) (Pratt *et al.* 2009, p. 122), but likely no longer occurs in low- and mid-elevation native forests below that elevation because of a number of factors, including habitat loss and degradation (Pratt *et al.* 2009, p. 238) (also see Factor C).

Nonnative Ungulates

Introduced mammals have greatly impacted the native vegetation and native fauna of the Hawaiian Islands, with impacts accelerating following the arrival of Captain James Cook in 1778. The Cook expedition and subsequent explorers introduced a European race of pigs and other livestock, such as goats, to serve as food sources for seagoing explorers (Tomich 1986, pp. 120–121; U.S. Geological Survey 1998, p. 752). The mild climate of the islands, combined with the lack of competitors or predators, led to the successful establishment of large populations of these introduced mammals, to the detriment of native Hawaiian species and ecosystems. The presence of introduced nonnative mammals is considered to be one of the primary factors underlying the alteration and degradation of native plant communities

and habitats on Kauai, Oahu, Maui, Molokai, and Hawaii islands, where the 'i'iwi occurs (Pratt *et al.* 2009, pp. 150–152).

Pigs are widely recognized as one of the greatest threats to forest ecosystems in Hawaii (Aplet *et al.* 1991, p. 56; Anderson and Stone 1993, p. 195; Pratt *et al.* 2009, p. 54), and occur on each of the five islands where the 'i'iwi occurs. Pigs are extremely destructive, and directly and indirectly impact native forest communities. While rooting in the earth in search of invertebrates and plant material, pigs disturb and destroy native vegetation, and trample plants and seedlings. They may also reduce or eliminate plant regeneration by consuming seeds and seedlings (Diong 1982, pp. 161–164). In forest habitats, pigs consume many native plants including lobelioids (plants in the bellflower family), which are an important nectar source for nectarivorus birds such as the 'i'iwi (Pratt *et al.* 2009, p. 150). Pigs also tear open tree fern trunks when feeding, leaving troughs that fill with rain water and develop into mosquito breeding sites (Pratt *et al.* 2009, p. 150); mosquitoes may carry avian malaria (see Factor C). Their continued rooting on the forest floor promotes the establishment of nonnative plants, particularly grasses, ferns, and aggressive shrubs. Pigs are also responsible for dispersing some of the most invasive rainforest weeds (Pratt *et al.* 2009, p. 150). Their rooting contributes to erosion by clearing vegetation and creating large areas of disturbed soil, particularly on slopes (Aplet *et al.* 1991, p. 56; Smith 1985, pp. 190, 192, 196, 200, 204, 230–231; Stone 1985, pp. 254–255, 262–264; Medeiros *et al.* 1986, pp. 27–28; Scott *et al.* 1986, pp. 360–361; Tomich 1986, pp. 120–126; Cuddihy and Stone 1990, pp. 64–65; Loope *et al.* 1991, pp. 1–21; Wagner *et al.* 1999, p. 51–52).

Goats occupy a wide variety of habitats on each of the five islands where the 'i'iwi occurs. Goats are able to access and forage in extremely rugged terrain, have a high reproductive capacity (Clarke and Cuddihy 1980, pp. C–19, C–20; Culliney 1988, p. 336; Cuddihy and Stone 1990, p. 64), and are believed to have completely eliminated some plant species from the islands (Atkinson and Atkinson 2000, p. 21). Goats can be highly destructive to natural vegetation and contribute to erosion by trampling roots and seedlings, eating young trees and young shoots of plants before they can become established, creating trails that can damage native vegetation, destabilizing substrate, creating gullies that exacerbate erosion, promoting the invasion of nonnative plants, and dislodging stones from ledges that can damage vegetation below (van Riper and van Riper 1982, pp. 35–35; Cuddihy and Stone 1990, p. 64). Feral goats have been reported to impact the reproduction of native tree species such as *Acacia koa* and *Sophora chrysophylla* (mamane), which provide forest habitat and a source of nectar for the 'i'iwi (Pratt *et al.* 2009, p. 152).

Domestic sheep were introduced to five Hawaiian Islands (Niihau, Kauai, Lanai, Kahoolawe, and Hawaii), but are currently known only on Hawaii Island (Pratt *et al.* 2009, p. 151). Their browsing behavior and stripping of bark from native *Sophora chrysophylla* trees on Mauna Kea has been documented as a threat to endangered palila (*Loxioides bailleui*), a Hawaiian forest bird that is completely dependent on that species for food and habitat. However, we do not have any information in our files that would indicate this activity may be also a direct threat to the 'i'iwi.

Mouflon sheep were introduced to Lanai and Hawaii islands in the 1950s for sport hunting purposes, and have become widely established (Tomich 1986, pp. 163–168; Cuddihy and Stone 1990, p. 66; Hess 2008, p. 1). Mouflon sheep are grazers and browsers, and have decimated vast areas of native forest and shrubland as a result of this behavior (Stone 1985, p. 271; Cuddihy and Stone 1990, pp. 63, 66; Hess 2008, p. 3). Studies on the island of Hawaii found that two of the plant species most affected are *Acacia koa* and *Sophora chrysophylla,* both of which provide food and habitat for the 'i'iwi (Giffin 1981, pp. 22–23; Scowcroft and Conrad 1992, pp. 628–662; Hess 2008, p. 3). Mouflon sheep also create trails and pathways through thick vegetation, which leads to increased runoff and erosion because of soil compaction. According to Pratt *et al.* (2009, p. 151), mouflon sheep represent a threat to forest bird habitat wherever they occur.

Axis deer were introduced to Molokai and Maui, where the 'i'iwi occurs (Tomich 1986, p. 126), and in April 2011, it was confirmed that they had been introduced illegally to the island of Hawaii (Cravalho 2011, in litt.). On Molokai, axis deer are thought to occur throughout the island, from the coast to the summit (approximately 5,000 ft (1,500 m)) (Kessler 2011, pers. comm.). They prefer to browse and graze in lower more open vegetated areas, but can move into urban and forested areas to search for food during drought conditions, as was observed on Maui between 1998 and 2001 (Medeiros 2010, pers. comm.; Waring 1996, in litt., p. 5; Nishibayashi 2001, in litt.). Axis deer can be highly destructive to native vegetation, and contribute to erosion by creating trails that convey water. They eat young trees and plants before they can become established, damage native vegetation, and destabilize substrate. They can also dislodge stones from ledges, causing rockfalls and landslides, which damage the vegetation below (Cuddihy and Stone 1990, pp. 63–64). Their reproductive potential, extreme habitat flexibility and ability to use diverse types of forage make them a serious threat to forest bird habitat, including the forest habitat used by the 'i'iwi (Pratt *et al.* 2009, p. 152).

Black-tailed deer (also known as mule deer) were introduced on Kauai in 1961, for sport hunting. They are currently limited to the western side of Kauai, up to 4,000 ft (1,200 m) in elevation, where they feed on a variety of native (*e.g., Acacia koa* and *Metrosideros polymorpha*) and nonnative plants (Pratt *et al.* 2009, p. 152; 75 FR 18959, April 13, 2010). During dry periods, black-tailed deer have been reported in native forest bird habitat, including 'i'iwi habitat, in the Alakai Swamp on Kauai (Pratt *et al.* 2009, p. 152). In addition to directly impacting native plants through browsing, they likely serve as a primary source for spreading nonnative plants by distributing seeds through their feces as they travel (Center for Invasive Plant Management 2009, p. 2).

Cattle were introduced to the Hawaiian Islands in 1793. Large feral herds (as many as 12,000 on the island of Hawaii) developed as a result of restrictions on the killing of cattle, decreed by King Kamehameha I over 200 years ago (Cuddihy and Stone 1990, p. 40). Although relatively small cattle ranches were developed on Kauai, Oahu, Molokai, west Maui, and Kahoolawe, much larger ranches encompassing tens of thousands of acres were established on east Maui and Hawaii Island (Stone 1985, pp. 256, 260; Broadbent in litt., 2010). Establishing cattle ranches required the logging of native *Acacia koa* trees, which converted native forest habitat to agricultural grassland (Tomich 1986, p. 140; Cuddihy and Stone 1990, p. 47). According to Pratt *et al.* (2009, p. 149), cattle are present on Kauai, Molokai, Maui, and Hawaii, where the 'i'iwi occurs. They eat native vegetation, trample roots and seedlings, cause erosion, create disturbed areas into which alien plants invade, and spread seeds of alien plants in their feces and on their bodies. Forests in areas grazed by cattle are converted to grassland pasture, and plant cover is reduced for many years following their removal.

During this time, this degraded habitat is unsuitable as forest bird habitat (Tomich 1986, pp. 140–150; Cuddihy and Stone 1990, p. 29).

Nonnative Plants

Native vegetation on all the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices such as ranching, nonnative species introductions, and agricultural development (Cuddihy and Stone 1990, pp. 27, 58). The original native flora of Hawaii consisted of about 1,000 taxa, 89 percent of which were endemic (species that occur only in the Hawaiian Islands). Since humans arrived, over 800 nonnative plant taxa have been introduced, approximately 100 of which have become injurious in Hawaii (Smith 1985, p. 180; Cuddihy and Stone 1990, p. 73; Gagne and Cuddihy 1999, p. 45). When plantation owners (and the then-territorial government of Hawaii) became alarmed at the reduction of water resources for their crops as a result of native forest destruction, they introduced nonnative trees for reforestation. Ranchers also introduced pasture grasses and other nonnative plants for agricultural purposes, which introduced other weed species. Other nonnative plants were imported to Hawaii for potential horticultural value (Scott *et al.* 1986, pp. 361–363; Cuddihy and Stone 1990, p. 73), or for food and cultural reasons by various groups, including Polynesians. Nonnative plants adversely impact native habitat in Hawaii, including forest habitat used by the ‘i’iwi, by modifying or altering light availability, soil-water regimes, and nutrient cycling processes. They also alter fire characteristics by opening areas where successive fires can burn farther into native habitats, destroying native vegetation and creating conditions that favor the establishment of nonnative species (Cuddihy and Stone, 1990, p. 74; D’Antonio and Vitousek 1992, p. 73; Smith 1985, pp. 180–181; Vitousek *et al.* 1997, p. 6).

Rats

According to the petitioners, the nonnative black rat impacts forest bird habitat by feeding on native plant fruits and flowers (Petition, p. 8), which impacts native plant regeneration. Snetsinger *et al.* (1994, p. 47) stated that few studies have documented the food habits of several introduced mammals in Hawaii, particularly in upland forests. However, Pratt *et al.* (2009, pp. 152–153) reported that rats feed on seeds and flowers, and strip bark from plants, changing the composition of native forest plant communities, including habitat that supports the ‘i’iwi.

Insects

The petition (Petition, p. 8) claims introduced predatory insects may reduce or eliminate specialized native insects that pollinate plants important to the ‘i’iwi. According to Pratt *et al.* (2009, p. 153), *Metrosideros polymorpha,* the native tree that provides habitat and food for the ‘i’iwi, may be particularly susceptible to damage by the nonnative two-spotted leaf-hopper (*Sophonia rufofascia*). This insect was first reported on Oahu in 1987, and now occurs on each of the main Hawaiian islands. However, we have no substantive information indicating this species, or any other predatory insects, may present a threat to the ‘i’iwi.

Summary of Factor A

In summary, we find that information provided in the petition, and other information in our files, presents substantial scientific or commercial information to indicate that the petitioned action may be warranted due to habitat destruction, modification, or curtailment caused by nonnative animals (feral pigs, goats, mouflon sheep, axis deer, black-tailed deer, cattle, and rats) and nonnative plants. Land use practices, such as agriculture (*e.g.,* food crop production, ranching, tree plantations) and urban development, have significantly reduced native vegetation below 2,000 ft (600 m) (TNC 2007) throughout the Hawaiian Islands. The resulting conversion of native to nonnative habitat likely reduced the availability of lowland forest habitat for native birds, including the ‘i’iwi (Pratt *et al.* 2009, pp. 146–148). The ‘i’iwi appears to be restricted to forest habitat above 2,000 ft (600 m) in elevation, and usually above 3,600 ft (1,100 m), because of habitat loss and degradation. The prevalence of mosquito-borne avian diseases at lower elevations may also be a factor in this apparent habitat constriction (see Factor C).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petitioners did not present information suggesting overutilization may be a current threat to the ‘i’iwi, and we have no information in our files in this regard. We will further investigate whether overutilization for commercial, recreational, scientific, or educational purposes may be a threat to the ‘i’iwi during the status review.

C. Disease or Predation

Information Provided in the Petition

Disease

The petitioners claim avian disease is a primary reason for the decline of the ‘i’iwi and other Hawaiian honeycreepers (Petition, p. 8). They state experimental evidence demonstrates the high susceptibility of the ‘i’iwi to avian malaria, with mortality significantly higher in birds exposed to malaria-infected mosquitoes than in uninfected controls (Petition, p. 8). According to Atkinson *et al.* (2001), Freed *et al.* (2005), and Valkiunas (2005), as cited in the petition (Petition, p. 9), some individual birds are capable of an immunological response to some strains of malaria (i.e., birds are infected but able to survive), but it is likely these birds retain chronic infection for life. In addition, there is likely a reduced survivorship of these birds in the wild due to a host of other factors, including challenges to the immune system by stress, excessive energy expenditure, weight loss, predation, unfavorable weather, and other diseases like avian pox (Petition, p. 9). The petition states that avian pox is also a threat to the ‘i’iwi, and its lethal effects have been experimentally demonstrated in Hawaiian honeycreepers (Petition, p. 9). The petition (Petition, p. 9) cites Atkinson *et al.* (2005), who found that a significant proportion of Hawaiian forest birds with avian pox also had avian malaria, which suggested an interaction between the two diseases.

The petitioners claim ‘i’iwi populations are on a downward trajectory, similar to the decline of federally endangered Hawaiian forest birds that are vulnerable to disease, such as the akikiki (*Oreomystis bairdi*), the akekee (*Loxops caeruleirostris*), and the Hawaii akepa (*Loxops coccineus coccineus*) (Pratt *et al.* 2009, pp. 126 and 127). The petitioners also claim the effects of climate change are expected to increase the ‘i’iwi’s exposure to avian disease (Petition, pp. 9–11).

The petition claims ectoparasites, such as chewing lice (order Phthiraptera), may increase ‘i’iwi morbidity, reduce the ability of birds to survive environmental challenges, and affect the ability of parasitized birds to successfully overcome diseases such as avian malaria and pox (Petition, p. 11). According to the petitioners, additional disease risks to the ‘i’iwi include potential introductions of the West Nile virus, new avian malaria vectors, and biting midges (Culicoides) that transmit avian diseases (Petition, p. 11).

Predation

According to the petition (Petition, p. 11), predation by introduced rats (*Rattus* spp.), which are abundant at high elevations, is a serious threat to adult Hawaiian forest birds and their nests, including the 'i'iwi. The petitioners also claim that predation by feral cats (*Felis domesticus*), the native short-eared owl or pueo (*Asio flammeus sandwichensis*), the introduced barn owl (*Tyto alba*), and the introduced small Indian mongoose (*Herpestes auropunctatus*) may also threaten the 'i'iwi (Petition, p. 11).

Evaluation of Information Provided in the Petition and Available in Service Files

Disease

Several studies cited in Pratt *et al.* (2009, pp. 234–252, 405–425) identified substantial threats from avian malaria and pox to Hawaii's native forest birds, including the 'i'iwi. Other studies indicate avian diseases transmitted by the introduced southern house mosquito (*Culex quinquefasciatus*), including avian pox and malaria, play a major role in limiting the distribution of many Hawaiian forest bird species (Benning *et al.* 2002, p. 14,246; Pratt *et al.* 2009, p. 234). Like many other native Hawaiian forest birds, 'i'iwi are no longer observed at lower elevations, and are restricted to higher elevation montane forest habitat, where mosquitoes and the diseases they carry are less prevalent (Scott *et al.* 1986, pp. 367–368; Pratt *et al.* 2009, pp. 237–238).

Native Hawaiian forest birds are more susceptible to malaria than are nonnative bird species (van Riper *et al.* 1986, pp. 327–328; Pratt *et al.* 2009, p. 238). They evolved in the absence of mosquito-borne avian diseases, and became exposed to avian pox and malaria when mosquitoes were accidentally introduced to the islands in 1827 with imported cage birds and domestic fowl (Yorinks and Atkinson 2000, p. 731; Pratt *et al.* 2009, pp. 235–236, 406). Avian malaria appears to be highly pathogenic for the Hawaiian honeycreepers, including the 'i'iwi (Yorinks and Atkinson 2000, p. 737; Pratt *et al.* 2009, pp. 238–240). Atkinson *et al.* (1995, p. 1) described extraordinarily high mortality of birds infected with malaria in a pathogenicity study of avian malaria in experimentally infected 'i'iwi. Another study demonstrated that the native forest bird apapane (*Himatione sanguinea*), when experimentally infected with malaria, demonstrated altered behaviors that increase their vulnerability to predation (Yorinks and Atkinson 2000, pp. 731–738). Infected birds devoted less time to locomotory activities involving flight, walking, or hopping, as well as stationary activities such as singing, preening, feeding, and probing. This susceptibility to avian malaria, in combination with observations that other Hawaiian honeycreepers have become restricted to high-elevation forests, led Atkinson *et al.* (1995, p. 1) and Pratt *et al.*(2009, p. 251) to predict that a shift in the current mosquito distribution to higher elevations could be disastrous for species with already reduced populations. In addition, climate change may exacerbate this threat by increasing the elevation at which regular transmission of avian malaria occurs (Benning *et al.* 2002, pp. 14,246–14,247). See Factor D for a more complete discussion of the potential relationship between avian malaria and climate change.

The limited information about the potential effects of avian pox virus on Hawaiian forest birds is based on observations of pox-like lesions on captured wild birds (Pratt *et al.* 2009, p. 242). VanderWerf (2001, cited in Pratt *et al.* 2009, p. 242) found a correlation between pox epizootics and decreases in the size of breeding cohorts in the Hawaii elepaio (*Chasiempis sandwichensis*), a native forest bird. Little is known about the interaction of avian pox and avian malaria. Some studies indicate infections of pox and malaria are independent of each other, although other studies found concurrent malaria infections were more frequent than expected in birds with pox like lesions (Pratt *et al.* 2009, p. 244). Accordingly, more research is needed to fully understand the possible effects of pox virus on the 'i'iwi.

Although the petition asserts the potential introduction of the West Nile virus to Hawaii may have severe impacts on Hawaii's native birds, this virus has not been recorded in Hawaii, and there is no experimental or other data available with which to assess the susceptibility of the 'i'iwi to this potential disease. The petitioners did not provide any information or studies substantiating the claim that biting midges or other avian malaria vectors may be a threat to the 'i'iwi, and we have no information in our files in this regard. There is some evidence that chewing lice (Phthiraptera) increase food requirements of host bird species, which reduces their individual immune defenses against disease. However, there is no indication chewing lice represent a threat to the 'i'iwi, which have shortened upper bills that may be effective in removing lice (Freed *et al.* 2008, pp. 1,017, 1,019).

Predation

At least three rat species have been introduced to the Hawaiian Islands. The Polynesian rat (*Rattus exulans*) and the black rat (*Rattus rattus*) occur primarily in dry to wet habitats, while the Norway rat (*Rattus norvegicus*) is typically observed in manmade habitats, such as urban areas or agricultural fields (Tomich 1986, p. 41). The Polynesian rat is an agile climber but is seldom observed in trees, which may be due to competitive exclusion by the larger black rat (Pratt *et al.* 2009, p. 276). The black rat is considered to be the most significant avian predator among the three rat species (Pratt *et al.* 2009, p. 275). It is known to prey on incubating forest birds, their eggs, and nestlings in mesic and wet forest habitats (Snetsinger *et al.* 2005, p. 83; Tweed *et al.* 2006, p. 753). The Norway rat is not believed to be a threat to forest birds because of its limited distribution in forest habitats (Pratt *et al.* 2009, p. 277).

Forest bird predation by feral cats has been documented since the late 1800s (Pratt *et al.* 2009, p. 277). Feral cats are believed to prey on roosting or incubating native forest bird adults, on eggs, and on young (Scott *et al.* 1986, pp. 363–364; VanderWerf and Smith 2002, p. 73). Although most common at lower elevations, they have been observed in high-elevation rain forests on Kauai, Maui, and Hawaii (Scott *et al.* 1986, p. 363; Tweed *et al.* 2006, p. 753). In montane wet forests on Hawaii Island, native forest birds are a regular component in the diet of feral cats (Smucker *et al.* 2000, p. 233). An examination of the stomach contents of 118 feral cats at Hakalau forest determined that native and introduced birds were the most common prey item (Banko *et al.* 2004, p. 16.2).

Although the petition describes potential adverse impacts of the small Indian mongoose on native forest birds, they are weak climbers and there is no indication they represent a threat to canopy-dwelling birds (Pratt *et al.* 2009, p. 278), such as the 'i'iwi.

Two species of owls, the native pueo and the introduced barn owl, are known to prey on forest birds. Between 1996 and 1998, 10 percent of nest failures of a rare forest bird on Kauai, the puaiohi (*Mayadestes palmeri*), were attributed to owls (Snetsinger *et al.* 1994, p. 47; Snetsinger *et al.* 2005, pp. 72, 79). The 'i'iwi occurs in the same habitat as the puaiohi, and may be exposed to similar threats.

Summary of Factor C

In summary, we find that the information provided in the petition, as

well as other information in our files, presents substantial scientific or commercial information to indicate that the petitioned action may be warranted because of disease threats such as avian malaria and avian pox, and predation by nonnative rats, cats, and potentially by native and nonnative owls. We did not find substantial scientific or commercial information in the petition or in our files that would indicate the West Nile virus, chewing lice infestation, or predation by the small Indian mongoose represent potential threats to the 'i'iwi.

D. The Inadequacy of Existing Regulatory Mechanisms

Information Provided in the Petition

Climate Change

The petitioners claim existing U.S. and international regulatory mechanisms, including the United Nations Framework Convention on Climate Change and the Kyoto Protocol, are inadequate to safeguard the 'i'iwi against the effects of climate change, and inadequate to conserve high-elevation forests needed to serve as refugia for native forest birds, including the 'i'iwi, from the climate-induced advance of mosquito-transmitted avian diseases (Petition, pp. 12–13). The petitioners also claim existing laws such as the Clean Air Act (42 U.S.C. 7401 *et seq.*), Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), and the Endangered Species Act (16 U.S.C. 1531 *et* seq.) provide authority to executive branch agencies to require virtually all major U.S. sources to reduce greenhouse gas emissions, but U.S. agencies fail to implement or only partially implement those laws (Petition, p. 12).

Habitat Conservation

The petition claims most of the lands identified for forest bird recovery are not being managed for conservation, and most management actions identified in forest bird recovery plans to restore and conserve habitat have either not been implemented or are inadequately implemented (Petition, p. 13). According to the petitioners (Petition, p. 13), conflicting management goals and policies involving State forest lands, the lack of funding, conflicts between management of game animals and conservation of rare native species, and agency decisions regarding land uses contribute to the inadequate protection of native forest birds. They also stated the 'i'iwi, like all other Hawaiian honeycreepers, is not included on the list of species protected under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), and thus receives no protection under Federal law.

Evaluation of Information Provided in the Petition and Available in Service Files

Climate Change

Environmental conditions that may result from climate change and their potential impacts on the 'i'iwi are unpredictable at this time (see Factor E, below). Although there are some existing regulatory mechanisms to address anthropogenic causes of climate change, there are no known regulatory mechanisms in place at the national or international level that directly and effectively reduce or reverse this overall trend.

Habitat Conservation

There are no existing regulatory mechanisms that were written to specifically conserve or protect high-elevation forest habitat needed by the 'i'iwi, or mitigate habitat-related threats described under Factors A, C, and E. Some State regulations might have an indirect impact on protecting this habitat. For example, although nonnative ungulates destroy and degrade 'i'iwi habitat, the State of Hawaii supports and manages game mammal hunting (H.A.R. 13–123; DLNR 2009, pp. 20–21) in areas inhabited by this species. Many public hunting areas are not fenced, which allows game mammals unrestricted access to most areas across the landscape. While fences have been installed to protect certain areas from game mammals, these efforts have not been adequate to prevent native forest bird habitat degradation and destruction on a larger scale. The Hawaii Department of Agriculture (HDOA) regulates the import of plants into the State from domestic origins under Hawaii Revised Statute 150A, and while all plants require inspection upon entry into the State and must be ''apparently free'' of insects and diseases, not all plants require import permits. Nonnative plants have been shown to outcompete native plants and convert native-dominated plant communities to nonnative plant communities, throughout the 'i'iwi's range. Accordingly, developing management strategies or other measures to mitigate the impacts of nonnative plants to 'i'iwi habitat may be an important habitat conservation need.

Nonnative Species

The capacity of Federal and State agencies and their nongovernmental partners to mitigate the effects of introduced pests in Hawaii is limited because of the large number of taxa causing damage (Coordinating Group on Alien Pest Species (CGAPS) 2009, pp. 1–14). The CGAPS partnership was formed in 1995, and is comprised primarily of managers from major Federal, State, county, and private agencies and organizations that work with invasive species in Hawaii. The CGAPS goal was to influence policy and funding decisions, improve communication, increase collaboration, and promote public awareness of invasive species (CGAPS 2009). The CGAPS facilitated the formation of the Hawaii Invasive Species Council (HISC), which was created by gubernatorial executive order in 2002. The HISC is responsible for coordinating local initiatives for the prevention and control of invasive species, by providing policy level direction and planning for the State departments responsible for invasive species issues. In 2003, the Governor signed Act 85 into law, conveying statutory authority to the HISC to continue to coordinate approaches among the various State and Federal agencies, and international and local initiatives for the prevention and control of invasive species (DLNR 2003, p. 3–15; HISC 2009; H.R.S. Chapters 194–2(a)).

Many established invasive plants have currently limited but expanding ranges. Resources available to reduce their spread are limited, and largely focused on those that cause significant economic or environmental damage to public and private lands. The State noxious weed list (H.A.R. Chapter 4–68) and U.S. Department of Agriculture—Animal Plant Health Inspection Service—Plant Protection Quarantine (USDA–APHIS–PPQ) Restricted Plants List prohibit the importation of a limited number of noxious weeds. The State allows the importation of plant taxa shipped from domestic ports (HLRB 2002; USDA–APHIS–PPQ), and USDA–APHIS–PPQ risk assessments for plant pests are based on species considered threats to the continental United States. These assessments may not address the many species that could be pests in Hawaii (HLRB 2002; USDA–APHIS–PPQ; CGAPS 2009, pp. 1–14). In addition, unless specifically prohibited or restricted, Federal regulations allow plants to be imported to Hawaii from international ports.

State of Hawaii law prohibits the importation of animals unless specifically authorized (Hawaii Legislative Reference Bureau (HLRB) 2002). Generally, the HDOA has sole responsibility to regulate species entering Hawaii from other parts of the United States. Its authority extends only to interstate movement, that is,

materials coming from the continental United States, and it relies on referrals from U.S. Customs, USDA–APHIS–PPQ, and the Service's Office of Law Enforcement to intercept foreign and trust territory items imported into the United States that are prohibited by the State of Hawaii. The Hawaii Board of Agriculture is responsible for enforcing the list of species prohibited by statute and determining which plant and animal species are prohibited or permitted into the State. The board maintains three lists for animals: conditionally approved (permit required for importation), restricted (permit required for both importation and possession), and prohibited. If an animal is not included on either of the first two lists, importation into the State is prohibited.

The importation or transportation of invasive vertebrate species is regulated under the injurious wildlife provisions of the Lacey Act (18 U.S.C. 42; 16 U.S.C. 3371 *et seq.*) by the U.S. Fish and Wildlife Service (Fowler *et al.* 2007, pp. 353–359). Fowler *et al.* 2007 (p. 353) evaluated the efficacy of the Lacey Act at disrupting the injurious wildlife invasion processes, and concluded that, while the Lacey Act may have been somewhat effective at preventing transport into the country of the few taxa listed prior to their introduction, over half of the listed taxa were already present when listed, and most taxa that were already established in the wild continued to spread after listing. The authors suggest that if the goals of the Lacey Act are to be achieved in the face of increasing international trade in live organisms, revision or replacement of the provision would be necessary (Fowler *et al.* 2007, p. 353).

The introduction of most nonnative invertebrate pests to the State of Hawaii likely has been and continues to be accidental or incidental to other activities. Although Hawaii State government and Federal agencies have regulations and some controls in effect, as identified above, the introduction and movement of nonnative invertebrate pest species between islands and from one watershed to the next continues. For example, an average of 20 new alien invertebrate species have been introduced to Hawaii per year since 1970, an increase of 25 percent over the previous totals between 1930 to 1970 (TNC 1992, p. 8).

The lack of adequate staffing, facilities, and equipment for Federal and State pest inspectors and identifiers in Hawaii devoted to invasive species interdiction has been identified as a critical biosecurity gap (USDA–APHIS–PPQ 2007; HLRB 2002; CGAPS 2009). State laws have recently been passed that allow the HDOA to collect fees for quarantine inspection of freight entering Hawaii (*e.g.,* Act 36 (2011) H.R.S. 150A—5.3), and legislation was signed into law in 2011 (H.B. 1568) requiring commercial harbors and airports in Hawaii to provide biosecurity and inspection facilities to facilitate the movement of cargo through the ports.

Nonnative species may prey upon, modify, or destroy habitat, or directly compete with the 'i'iwi for food, space, and other necessary resources. On the basis of the above information, existing regulatory mechanisms do not appear to adequately protect the 'i'iwi's habitat from the threat of new introductions of nonnative species, or the expansion of nonnative species on and between islands and watersheds.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703–712) is the domestic law that implements the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of shared migratory bird resources, and each of the conventions protects selected species of birds. Under the MBTA, it is illegal to pursue, hunt, take, capture, kill, possess, sell, purchase, barter, import, export, or transport any migratory bird, or any part, nest, or egg, unless authorized under a permit issued by the Secretary of the Interior. The petitioners claim the 'i'iwi is not a protected species under the MBTA. However, contrary to the petitioner's claim, the 'i'iwi is protected under the MBTA (75 FR 9282; March 1, 2010). As the petitioners did not present information suggesting that overcollection is a threat to the 'i'iwi, and we have no information in our files in this regard (see Factor B), we did not find substantial scientific or commercial information that the MBTA is an inadequate regulatory mechanism.

Summary of Factor D

The petition suggests that international and national-level regulatory mechanisms may not be adequate to address the environmental effects of climate change to the 'i'iwi, which will be further evaluated during our 12-month status review. The capacity of Federal and State agencies and their nongovernmental partners in Hawaii to mitigate the effects of introduced pests, such as ungulates and weeds, appears to be limited by resources and the large number of taxa currently causing damage (CGAPS 2009, pp. 1–14). Because the control of established pests is largely focused on a few invasive species that cause significant economic or environmental damage to public or private lands, the impacts of those and other established pests (*e.g.,* nonnative ungulates, weeds, and invertebrates) are expected to continue. Environmental changes that may affect the 'i'iwi could include habitat loss or alteration, changes in disturbance regimes (*e.g.* storms and hurricanes), and the movement of mosquitoes and bird diseases to higher elevations (see Factor C). In addition, the State's current management of nonnative game mammals may be inadequate to prevent the degradation and destruction of native forest bird habitat used by the 'i'iwi (see Factor A). Existing State and Federal regulatory mechanisms do not appear to be effectively preventing the introduction and spread of nonnative plant and animal species from outside and between islands and watersheds within the State of Hawaii. There is, however, no substantial scientific or commercial information in the petition or in our files indicating that the 'i'iwi may be threatened by overutilization, or that the MBTA is inadequate to protect this species from that potential threat.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

Information Provided in the Petition

Climate Change and Avian Diseases

The petitioners state that climate change will facilitate the spread of avian diseases and severely curtail the 'i'iwi's range (Petition, p. 7). Please refer to Factor C above, which identifies the specific concerns raised by the petitioners and discusses the potential interrelationship between climate change and avian disease.

Hurricanes

The petitioners state that hurricanes have devastating effects on island birds (Foster *et al.* 2004, cited in the Petition, p. 14), and can reduce habitat by blowing down trees and creating forest openings that facilitate the spread of nonnative plants. According to the petitioners, the 'i'iwi decline on Kauai may have been associated with Hurricane Iniki in 1992, and attributed to birds having to find alternative nectar resources at lower elevations after the storm, where the risk of malaria transmission is higher (Petition, p. 14). The petitioners claim hurricane intensity is likely to increase with increasing global temperatures, although their frequency may decrease (Petition, p. 14). They allege strong winds can carry disease-transmitting mosquitoes to

higher elevations, potentially resulting in avian disease outbreaks. They identified the avian malaria outbreak above 6,200 ft (1,900 m) elevation on the island of Hawaii as evidence of this potential disease pathway (Petition, p. 14, citing Freed *et al.,* 2005).

Volcanism

According to the petition, volcanic eruption and inundation of habitat by lava is a potential threat to the 'i'iwi and other native forest birds on the island of Hawaii (Petition, p. 14). They identified the inundation of prime habitat for the native honeycreeper ou (*Psittirostra psittacea*) in the Upper Waiakea Forest Reserve in 1984, which destroyed thousands of acres of forest and created a treeless corridor over 0.6 mi (1 km) wide, as evidence of this potential threat.

Competition

The petition states nonnative birds and insects may compete with native Hawaiian forest birds for food and other resources, including the malaria-resistant nonnative Japanese white-eye (*Zosterops japonicus*). They cite a study by Fancy and Ralph (1998) that found negative correlations between Japanese white-eye and 'i'iwi densities as supporting evidence (Petition, pp. 14–15).

Population Fragmentation and Isolation

The petitioners state that 'i'iwi populations are fragmented and reduced in size and range (Petition, p. 15). According to Primack (2006, cited in Petition, p. 15), there is an extinction risk from random demographic fluctuations, localized catastrophes (*e.g.,* severe storms, wildfire, disease, volcanism, *etc.*), inbreeding depression, and genetic drift for small population units.

Evaluation of Information Provided in the Petition and Available in Service Files

Climate Change and Avian Diseases

We find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information to indicate that climate change and avian diseases may present a threat to the 'i'iwi.

The average worldwide ambient air temperature (at sea level) is projected to increase by about 4.1 degrees Fahrenheit (°F) (2.3 degrees Centigrade (°C)), with a range of 2.7–6.7 °F (1.5–3.7 °C) by 2100 (Intergovernmental Panel on Climate Change (IPCC) 2007). According to citations in Pratt *et al.* (2009, p. 564), overall temperature increases in the tropics are predicted to increase about 3.6–5.4 °F (2–3 °C), and mean temperature increases are already occurring in the Hawaiian Islands. Overall, the daily temperature range in Hawaii is decreasing, resulting in a warmer environment, especially at higher elevations and at night (Pratt *et al.* 2009, p. 564). In the main Hawaiian Islands, predicted changes associated with increases in temperature include shifts in vegetation zones to higher elevations, shifts in animal species' ranges, changes in mean precipitation with unpredictable effects on local environments, increased occurrence of drought cycles, and increases in the intensity and number of hurricanes (Loope and Giambelluca 1998, pp. 514–515; U.S. Global Change Research Program (US–GCRP) 2009).

The synergistic implications of climate change and habitat fragmentation are the most threatening facet of climate change for biodiversity, according to Hannah *et al.* (2005, p. 4). The magnitude and intensity of the impacts of global climate change and increasing temperatures on native Hawaiian ecosystems are uncertain, and there are no climate change studies that specifically address impacts to the 'i'iwi. Changes to weather patterns such as droughts and floods will likely occur because of increased annual average temperatures related to more frequent El Niño episodes in Hawaii (Giambelluca *et al.* 1991, p. v). However, there is high uncertainty in predicting changes to future weather patterns, because they partly depend on how the El Niño-La Niña weather cycle (a disruption of the ocean atmospheric system in the tropical Pacific having important global consequences for weather and climate) might change (DBEDT 1998, pp. 2–10). Environmental changes that may affect the 'i'iwi could include habitat loss or alteration, changes in disturbance regimes (*e.g.,* storms and hurricanes), and the establishment of mosquitoes and bird diseases at higher elevations (Pratt *et al.* 2009, p. 564). Despite considerable progress in understanding the impacts of climate change on many of the processes that contribute to El Niño variability, it is not possible to predict whether weather patterns will be enhanced or damped, or if the frequency of events will change (Collins *et al.* 2010, p. 391).

Environmental changes triggered by global warming that may affect the 'i'iwi could include habitat loss or alteration, changes in disturbance regimes (*e.g.,* storms and hurricanes), and the movement of mosquitoes and bird diseases to higher elevations (Pratt *et al.* 2009, p. 564). If this occurs, 'i'iwi populations in mid- and high-elevation forests could potentially decline, similar to observations made in lower elevation forests (Pratt *et al.* 2009, pp. 123, 238). We will more fully evaluate this potential threat in our status review.

Hurricanes

Climate modeling has projected changes in tropical cyclone frequency and intensity due to global warming over the next 100 to 200 years (Vecchi and Soden 2007, pp. 1,068–1,069; Emanuel *et al.* 2008, p. 360, Figure 8; Yu *et al.* 2010, p. 1,371). The frequency of hurricanes generated by tropical cyclones is projected to decrease in the central Pacific (*i.e.,* the Northwestern and main Hawaiian Islands, including those that provide 'i'iwi habitat), although storm intensity (strength) is projected to increase (Vecchi and Soden 2007, pp. 1,068–1,069; Emanuel *et al.* 2008, p. 360, Figure 8; Yu *et al.* 2010, p. 1,371). Although climate models include projections for the frequency and intensity of Pacific tropical cyclones, there are no projections for changes in their duration (which currently runs from May through November). In general, hurricanes have been a rare occurrence in the Hawaiian Islands. From the 1800s until 1949, hurricanes were only rarely reported from ships in the area. Between 1950 and 1997, 22 hurricanes passed near or over the Hawaiian Islands, 5 of which caused serious damage (Businger 1998, in litt., pp. 1–2). Hurricanes can destroy native vegetation and open the native canopy, allowing an invasion of nonnative plant species (Kitayama and Mueller-Dombois 1995, p. 671). Following Hurricane Iniki in 1992, the 'i'iwi population declined significantly on Kauai, which may have been due to several factors, including direct mortality, long-term impacts on food resources, and the need to seek food resources in areas where birds may have been exposed to disease-transmitting mosquitoes (Conant *et al.* 1998 cited in Foster *et al.* 2004, p. 724). Similar effects to 'i'iwi populations could occur on other Hawaiian Islands, if they are exposed to hurricanes of comparable magnitude and intensity.

Volcanism

The petition claims that substantial 'i'iwi habitat loss could occur as a result of volcanic eruptions on Hawaii Island, comparable to the Upper Waiakea forest habitat destroyed by lava flows in 1984. Although the largest population of the 'i'iwi occurs on Hawaii, which is the youngest and only volcanically active island in the Hawaiian chain, there is no information demonstrating volcanic

activity may represent a threat to this species or to its habitat. However, we will further investigate the petitioners' concern during our status review for this species.

Competition

There was little information presented in the petition, and we have no information in our files, regarding competition between the 'i'iwi and nonnative birds for habitat and food resources. In addition, the diets of nonnative birds in Hawaii are poorly described, and comparison studies of the diets of native and nonnative birds have not been published (Pratt *et al.* 2009, p. 325). Although some studies suggest that the Japanese white-eye may compete with the 'i'iwi and other native forest birds, additional research is needed to confirm whether this is occurring (Mountainspring and Scott 1985; Ralph and Noon 1988; Freed *et al.* 2008 cited in Pratt *et al.* 2009, p. 325).

Population Fragmentation and Isolation

On Oahu, the most recent comprehensive 'i'iwi surveys were conducted from 1994 to 1996, during which only eight birds were recorded in three isolated populations (Pratt *et al.* 2009, p. 123). On west Maui, a 1980 survey estimated the population to number fewer than 200 birds, and subsequent surveys found lower numbers (Pratt *et al.* 2009, p. 123). The west Maui population is separated from the east Maui population (estimated at approximately 19,000 birds in 1980) by over 30 km (17 mi). More recent surveys indicate the east Maui population may now be higher (Pratt *et al.* 2009, p. 123). On Molokai, a 2004 survey recorded only three birds (Pratt *et al.* 2009, p. 123).

Small, isolated populations often exhibit reduced levels of genetic variability, diminishing the species' capacity to adapt and respond to environmental changes, thereby lessening the probability of long-term persistence (Barrett and Kohn 1991, p. 4; Newman and Pilson 1997, p. 361). These populations are also more susceptible to reduced reproductive vigor due to inbreeding depression and genetic drift. Challenges associated with small population size and vulnerability to random demographic fluctuations or natural catastrophes can also be further magnified by synergistic interactions with other threats, such as those discussed above (see Factors A and C).

Summary of Factor E

In summary, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information to indicate that the 'i'iwi may be threatened by environmental changes triggered by global warming, changes in disturbance regimes (*e.g.,* storms and hurricanes), and the movement of mosquitoes and bird diseases to higher elevations. Certain 'i'iwi populations may also be threatened because of their small size and isolation from other populations, making them susceptible to inbreeding depression, genetic drift, and random demographic fluctuations, or natural catastrophes. We did not find substantial scientific or commercial information in the petition or in our files to indicate that volcanism may be a threat to the continued existence of the 'i'iwi. Although there is no substantial scientific or commercial information indicating that competition with nonnative birds represents a threat to the 'i'iwi, we will further investigate this claim during our status review.

Finding

On the basis of our review under section 4(b)(3)(A) of the Act, we determine that the petition presents substantial scientific or commercial information indicating that listing the 'i'iwi throughout its entire range may be warranted. The petition presents substantial information indicating the 'i'iwi may be threatened by the destruction, modification, or curtailment of habitat from nonnative animals (feral pigs, goats, mouflon, deer, and cattle; rats; and insects) and nonnative plants (Factor A); disease (avian malaria and pox) and predation by nonnative animals (rats, cats, and possibly barn owls), and possibly the native pueo (Factor C); inadequate regulatory mechanisms to prevent degradation and destruction of native forest bird habitat by nonnative game mammals, and the introduction and spread of nonnative plant and animal species (Factor D); and environmental changes triggered by climate change (storm and hurricane intensity, upslope movement of disease-transmitting mosquitoes), and the species' occurrence in small and isolated populations (Factor E). The petition does not present substantial information that the 'i'iwi may be threatened by overutilization for commercial, recreational, scientific, or educational purposes (Factor B). Because we have found that the petition presents substantial information indicating that listing the 'i'iwi may be warranted, we are initiating a status review to determine whether listing this species under the Act is warranted.

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not necessarily mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 6, 2012.

Rowan W. Gould,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–1043 Filed 1–23–12; 8:45 am]

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Notices

Federal Register

Vol. 77, No. 15

Tuesday, January 24, 2012

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0117]

Notice of Request for Extension of Approval of an Information Collection; Importation of Tomatoes From Certain Central American Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of tomatoes from certain Central American countries.

DATES: We will consider all comments that we receive on or before March 26, 2012.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0117-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0117, 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-2011-0117* 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) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of tomatoes from certain Central American countries, contact Ms. Donna L. West, Senior Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 734–0627. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION: *Title:* Importation of Tomatoes From Certain Central American Countries.

OMB Number: 0579–0286.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–54).

Under these regulations, pink or red tomatoes from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama are subject to certain conditions before entering the United States to prevent the introduction of plant pests into the United States. The regulations require information collection activities, including phytosanitary certificates with an additional declaration statement, production site and packinghouse inspection records, monitoring and auditing of the trapping program, trapping records, and labeling of boxes.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.140236445 hours per response.

Respondents: Importers and Central American national plant protection organizations and producers.

Estimated annual number of respondents: 40.

Estimated annual number of responses per respondent: 61.325.

Estimated annual number of responses: 2,453.

Estimated total annual burden on respondents: 344 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of January 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–1309 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0032]

RIN 0579–AB35

Notice of Request for Reinstatement of an Information Collection; Chronic Wasting Disease Herd Certification Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection to help eliminate chronic wasting disease from farmed or captive cervid herds in the United States.

DATES: We will consider all comments that we receive on or before March 26, 2012.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0032-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0032, 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-2011-0032* 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) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on chronic wasting disease in the United States, contact Dr. Patrice N. Klein, Senior Staff Veterinarian, Ruminant Health Programs, NCAHP, VS, APHIS, 4700 Road Unit 43, Riverdale, MD 20737; (301) 734–0738. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Chronic Wasting Disease Herd Certification Program.

OMB Number: 0579–0237.

Type of Request: Reinstatement of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized, among other things, to protect the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible.

Chronic wasting disease (CWD) is a transmissible spongiform encephalopathy of cervids, which include elk, deer, and moose, typified by chronic weight loss leading to death. The presence of CWD in cervids causes significant economic and market losses to U.S. producers. In an effort to accelerate the control and limit the spread of this disease, APHIS initiated rulemaking to create a cooperative, voluntary Federal-State-private sector CWD Herd Certification Program designed to actively identify farmed or captive herds infected with CWD and provide for the management of these herds to prevent further disease spread.

On July 21, 2006, APHIS published a final rule in the **Federal Register** (71 FR 41682–41707, Docket No. 00–108–1–3) establishing regulations in 9 CFR part 55 for a Chronic Wasting Disease Herd Certification Program to help eliminate CWD from farmed or captive cervid herds in the United States and in 9 CFR part 81 for interstate movement requirements to prevent CWD spread.

After publication of the CWD 2006 final rule, and before its effective date of October 19, 2006, APHIS received three petitions requesting consideration of several requirements of the rule. On September 8, 2006, we published a document in the **Federal Register** (71 FR 52983, Docket No. 00–108–4) that delayed the effective date of the final rule while APHIS considered those petitions. On November 3, 2006, we published another document in the **Federal Register** (71 FR 64650–64651, Docket No. 00–108–5) that described the nature of the petitions and made the petitions available for public review and comment, with a comment period closing on December 4, 2006. We subsequently extended that comment period until January 3, 2007, in a **Federal Register** document published on November 21, 2006 (71 FR 67313, Docket No. 001086).

As part of the 2006 final rule, the Office of Management and Budget (OMB) approved information collection activities associated with the voluntary CWD program requirements (OMB number 0579–0237). Because the final rule never went into effect, APHIS did not collect information related to the voluntary CWD program, and OMB's approval of the information collection was discontinued in April 2009.

After reviewing the merits of the petitions and public comments received in response to them, APHIS proposed changes to the 2006 final rule on March 31, 2009 (74 FR 14495–14506, Docket No. 00–108–7), with a comment period closing June 1, 2009. APHIS is in the process of developing rulemaking that would, if adopted, implement a voluntary CWD herd certification program and any approved information collection activities for the program.

Further, reinstatement of the information collection for a CWD program would involve a memorandum of understanding between APHIS and participating States; requests by businesses (VS forms 11–1/11–1A) and States to participate in the program; wild cervid identification for interstate movement; farmed cervid identification; reporting of cervid escapes, disappearances, and deaths; recordkeeping (herd records); certificates and/or animal identification documents to move cervids interstate; a letter to appeal suspension; a herd plan; and a laboratory submission form.

We are requesting OMB to approve for 3 years the reinstatement of information collection activities for the voluntary CWD program, if implemented, to help eliminate CWD from farmed or captive cervid herds in the United States.

The purpose of this notice is to solicit comments from the public (as well as agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g.,

permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 3.4897877 hours per response.

Respondents: State animal health officials; attending veterinarians; and owners/producers of elk, deer, and moose herds.

Estimated annual number of respondents: 2,390.

Estimated annual number of responses per respondent: 18.887866.

Estimated annual number of response hours: 45,142.

Estimated total annual burden on respondents: 157,536 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of January 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–1310 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0115]

General Conference Committee of the National Poultry Improvement Plan; Cancellation of Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of cancellation of meeting.

SUMMARY: We are giving notice that the meeting of the General Conference Committee of the National Poultry Improvement Plan scheduled for January 25, 2012, has been canceled.

FOR FURTHER INFORMATION CONTACT: Dr. C. Stephen Roney, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1506 Klondike Road, Suite 300, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 9, 2012 (77 FR 1051–1052, Docket No. APHIS–2011–0115), we announced that there would be a meeting of the General Conference Committee of the National Poultry Improvement Plan in Atlanta, GA, on January 25, 2012. Due to circumstances beyond our control, we must cancel the meeting. We regret any inconvenience caused by the cancellation.

Done in Washington, DC, this 19th day of January 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–1427 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Development's intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 4284, subpart K, Agriculture Innovation Demonstration Centers.

DATES: Comments on this notice must be received by March 26, 2012 to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Chadwick O. Parker, Deputy Administrator, Cooperative Programs, Rural Development, USDA, STOP 3252, Room 4016-South, 1400 Independence Avenue SW., Washington, DC 20250–3252. Telephone: (202) 720–7558, Email: *chad.parker@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agriculture Innovation Centers.

OMB Number: 0570–0045.

Expiration Date of Approval: July 31, 2012.

Type of Request: Extension of currently approved information collection.

Abstract: Agriculture Innovation Center applicants must provide required information to demonstrate eligibility for the program and compliance with applicable laws and regulations. Grantees are required to provide progress reports for the duration of the grant agreement to ensure continued compliance and to measure the success of the program.

Estimate of Burden: Public reporting burden for this collection is estimated to average 107.5 hours per response.

Estimated Number of Respondents: 2.

Estimated Number of Responses per Respondent: 12.

Estimated Number of Responses: 24.

Estimated Total Annual Burden on Respondents: 58.5 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, (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 Rural Development, including whether the information will have practical utility; (b) the accuracy of Rural Development's estimate of the burden to collect the required information, including the validity of the strategy 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 on the paperwork burden may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 13, 2012.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2012–1273 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability: Rural Development Voucher Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of Rural Development Voucher Program Availability.

SUMMARY: The U.S. Department of Agriculture (USDA) in Fiscal Year 2006 established a demonstration Rural Development Voucher Program, as authorized under Section 542 of the Housing Act of 1949 as amended, (without regard to Section 542(b)). This Notice informs the public that funding

is available for the Rural Development Voucher Program. The notice also sets forth the general policies and procedures for use of these vouchers for Fiscal Year 2012. Pursuant to the requirements in the Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112–55 (November 18, 2011), Rural Development Vouchers are only available to low income tenants of Rural Development-financed multifamily properties where the Section 515 loan has been prepaid, either through prepayment or a foreclosure action, prior to the loan's maturity date and after September 30, 2005.

DATES: January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Stephanie B.M. White, Director, Multi-Family Housing Portfolio Management Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 0782, Washington, DC 20250–0782, telephone (202) 720–1615. Persons with hearing or speech impairments may access this number via TDD by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–55, November 18, 2011) provided that the Secretary of the USDA shall carry out the Rural Development Voucher program as follows:

> That of the funds made available under this heading, $11,000,000 shall be available for rural housing vouchers to any low-income household (including those not receiving Rental Assistance) residing in a property financed with a Section 515 loan which has been prepaid after September 30, 2005: *Provided further,* that the amount of such voucher shall be the difference between comparable market rent for the Section 515 unit and the tenant paid rent for such unit: *Provided further,* That funds made available for such vouchers shall be subject to the availability of annual appropriations: *Provided further,* that the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (HUD).

This notice outlines the process for providing voucher assistance to the eligible impacted families when an owner prepays a Section 515 loan or USDA action results in a foreclosure after September 30, 2005.

Design Features of the Rural Development Voucher Program

This section sets forth the design features of the Rural Development Voucher Program, including the eligibility of families, the inspection of the units, and the calculation of the subsidy amount.

Rural Development Vouchers under this part are administered by the Rural Housing Service; an Agency under the Rural Development mission area, in accordance with requirements set forth in this Notice and further explained in, ''The Rural Development Voucher Program Guide,'' which can be obtained by contacting any Rural Development office. Contact information for Rural Development offices can be found at *http://offices.sc.egov.usda.gov/locator/app.* These requirements are generally based on the housing choice voucher program regulations of HUD set forth at 24 CFR part 982, unless otherwise noted by this Notice.

The Rural Development Voucher Program is intended to offer protection to eligible multifamily housing tenants in properties financed through Rural Development's Section 515 Rural Rental Housing Program (515 property) who may be subject to economic hardship through prepayment of the Rural Development mortgage. When the owner of a 515 property pays off the loan prior to the loan's maturity date (either through prepayment or foreclosure action), the Rural Development affordable housing requirements and rental assistance subsidies generally cease to exist. Rents may increase, thereby making the housing unaffordable to tenants. When a prepayment occurs, whether or not the rent increases, the tenant may be responsible for the full payment of rent. The Rural Development Voucher Program applies to any 515 property where the mortgage is paid off prior to the maturity date in the promissory note and the payment occurs after September 30, 2005. This includes foreclosed properties. Tenants in foreclosed properties are eligible for a Rural Development Voucher under the same conditions as properties that go through the standard prepayment process.

The Rural Development Voucher will help tenants by providing an annual rental subsidy, renewable on the terms and conditions set forth herein and subject to the availability of funds, that will supplement the tenant's rent payment. This program enables a tenant to make an informed decision about remaining in the property, moving to a new property, or obtaining other financial housing assistance. Low-income tenants in the prepaying property are eligible to receive a voucher to use at their current rental property, or to take to any other rental unit in the United States and its territories.

There are some general limitations on the use of a voucher:

(1) The rental unit must pass a Rural Development health and safety inspection, and the owner must be willing to accept a Rural Development Voucher;

(2) Also, Rural Development Vouchers cannot be used for units in subsidized housing like Section 8 and public housing where two housing subsidies would result. The Rural Development Voucher may be used for rental units in other properties financed by Rural Development, but it will not be used in combination with the Rural Development Rental Assistance program.

(3) The Rural Development Voucher may not be used to purchase a home.

1. Family Eligibility

In order to be eligible for the Rural Development Voucher under this Notice, a family must:

(a) Be residing in the Section 515 project on the date of the prepayment of the Section 515 loan or upon foreclosure by Rural Development;

(b) The date of the prepayment or foreclosure must be after September 30, 2005;

(c) As required by Section 214 of the Housing and Community Development Act of 1980 [42 U.S.C. 1436a] the primary tenant and co-tenant, if applicable, must be a United States citizen, United States non-citizen national or qualified alien.

(1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to Rural Development a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status:

(i) For each adult, the declaration must be signed by the adult; and

(ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) Each family member, regardless of age, must submit the following evidence to the responsible entity:

(i) For citizens, the evidence consists of a signed declaration of U.S. citizenship. Rural Development may request verification of the declaration by requiring presentation of a United States

passport, social security card, or other appropriate documentation;

(ii) For noncitizens who are 62 years of age or older, the evidence consists of:

(A) A signed declaration of eligible immigration status; and

(B) Proof of age document; and

(iii) For all other noncitizens, the evidence consists of:

(A) A signed declaration of eligible immigration status;

(B) Alien registration documentation or other proof of immigration registration from the United States Citizenship and Immigration Services (USCIS) that contains the individual's alien admission number or alien file number; and

(C) A signed verification consent form, which provides that evidence of eligible immigration status may be released to Rural Development and USCIS for purposes of verifying the immigration status of the individual. Rural Development shall provide a reasonable opportunity, not to exceed 30 days, to submit evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service; and;

(d) The family must be a low-income family on the date of the prepayment or foreclosure. A low-income family is a family whose annual income does not exceed 80 percent of the family median income for the area as defined by HUD. HUD's definition of median income can be found at: *http://www.huduser.org/portal/datasets/il/il11/index.html*

During the prepayment or foreclosure process, Rural Development will evaluate every tenant family to determine if it is low income. If Rural Development determines a family is low-income, immediately following the foreclosure or prepayment Rural Development will send the primary tenant a letter offering the family a voucher and will enclose a Voucher Obligation Request Form and a citizenship declaration form. If the family wants to participate in the Rural Development Voucher Program, the tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the citizenship declaration to the local Rural Development office. If Rural Development determines that the tenant is ineligible, Rural Development will provide administrative appeal rights pursuant to 7 CFR part 11.

2. Obtaining a Voucher

Rural Development will monitor the prepayment request process or foreclosure process, as applicable. As part of prepayment or foreclosure Rural Development will obtain a rent comparability study for the property ninety days prior to the date of prepayment or foreclosure. The rent comparability study will be used to calculate the amount of voucher each tenant is entitled to receive. All tenants will be notified if they are eligible and the amount of the voucher within 90 days following the date of prepayment or foreclosure. The tenant notice will include a description of the Rural Development Voucher Program, a Voucher Obligation Request Form, and letter from Rural Development offering the tenant participation in Rural Development Voucher Program. The tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the signed citizenship declaration. Failure to submit the Voucher Obligation Request Form and the signed citizenship declaration within the required timeframes will terminate the tenant's the voucher. A tenant's failure to respond within the required timeframes is not appealable. Once the primary tenant returns the Voucher Obligation Request Form and the citizenship declaration to Rural Development, a voucher will be issued within 30 days. All information necessary for a housing search, explanations of unit acceptability, and Rural Development contact information will be provided by Rural Development to the tenant at the time the Voucher Obligation Form and citizenship declaration is received.

The family receiving a Rural Development Voucher has an initial period of 60 calendar days from issuance of the voucher to find a housing unit. At its discretion, Rural Development may grant one or more extensions of the initial period for up to an additional 60 days. Generally the maximum voucher period for any family participating in the Rural Development Voucher Program is 120 days. Only if the family needs and requests an extension of the initial period as a reasonable accommodation to make the program accessible to a disabled family member, Rural Development will extend the voucher search period beyond the 120 days. If the Rural Development Voucher remains unused after a period of 150 days from original issuance, the Rural Development Voucher will become void, any funding will be cancelled, and the tenant will no longer be eligible to receive a Rural Development Voucher.

3. Initial Lease Term

The initial lease term for the housing unit where the family wishes to use the Rural Development Voucher must be for one year.

4. Inspection of Units and Unit Approval

Once the family finds a housing unit, Rural Development will inspect and determine if the housing standard is acceptable within 30 days of Rural Development's receipt of the HUD Form 52517 ''Request for Tenancy Approval Housing Choice Voucher Program'' found at *http://www.hud.gov/offices/adm/hudclips/forms/files/52517.pdf* and the Disclosure of Information on Lead-Based Paint Hazards. The inspection standards currently in effect for the Rural Development Section 515 Multi-Family Housing Program apply to the Rural Development Voucher Program. Rural Development must inspect the unit and ensure that the unit meets the housing inspection standards set forth at 7 CFR 3560.103. Under no circumstances may Rural Development make voucher rental payments for any period of time prior to the date that Rural Development physically inspects the unit and determines the unit meets the housing inspection standards. In the case of properties financed by Rural Development under the Section 515 program, Rural Development may accept the results of physical inspections performed no more than one year prior to the date of receipt by Rural Development of Form HUD 52517, in order to make determinations on acceptable housing standards. Before approving a family's assisted tenancy or executing a Housing Assistance Payments contract, Rural Development must determine that the following conditions are met: (1) The unit has been inspected by Rural Development and passes the housing standards inspection or has otherwise been found acceptable as noted previously; and (2) the lease includes the HUD Tenancy Addendum. A copy of the HUD Tenancy Addendum will be provided by Rural Development when the tenant is informed he/she is eligible for a voucher.

Once the conditions in the above paragraph are met, Rural Development will approve the unit for leasing. Rural Development will then execute with the owner a Housing Assistance Payments (HAP) contract, Form HUD–52641. The HAP contract must be executed before Rural Development Voucher payments can be made. Rural Development will use its best efforts to execute the HAP contract on behalf of the family before

the beginning of the lease term. In the event that this does not occur, the HAP contract may be executed up to 60 calendar days after the beginning of the lease term. If the HAP contract is executed during this 60-day period, Rural Development will pay retroactive housing assistance payments to cover the portion of the approved lease term before execution of the HAP contract. Any HAP contract executed after the 60-day period is untimely, and Rural Development will not pay any housing assistance payment to the owner for that period. In establishing the effective date of the voucher HAP contracts, Rural Development may not execute a HAP contract that is effective prior to the Section 515 loan prepayment.

5. Subsidy Calculations for Rural Development Vouchers

As stated earlier, if eligible, the tenant will be notified of the maximum voucher amount within 90 days following prepayment or foreclosure. The maximum voucher amount for the Rural Development Voucher Program is the difference between the comparable market rent for the family's former Section 515 unit and the tenant's rent contribution on the date of the prepayment. The voucher amount will be based on the comparable market rent; the voucher amount will never exceed the comparable market rent at the time of prepayment for the tenant's unit if the tenant chooses to stay in-place. Also, in no event may the Rural Development Voucher payment exceed the actual tenant lease rent. The amount of the voucher does not change either over time or if the tenant chooses to move to a more expensive location.

6. Mobility and Portability of Rural Development Vouchers

An eligible family that is issued a Rural Development Voucher may elect to use the assistance in the same project or may choose to move to another location. The Rural Development Voucher may be used at the prepaid property or any other rental unit in the United States and its territories that passes Rural Development physical inspection standards, and where the owner will accept a Rural Development Voucher and execute a Form HUD 52641. Tenants and landlords must inform Rural Development if the tenant plans to move during the HAP agreement term, even to a new unit in the same complex. All moves (within a complex or to another complex) require a new obligation, a new inspection and a new HAP agreement. In addition, HUD Section 8 and federally assisted public housing is excluded from the Rural Development Voucher Program because these units are already federally subsidized. Tenants with a Rural Development Voucher would have to give up the Rural Development Voucher to accept the assistance at those properties. The Rural Development Voucher may be used in other properties financed by Rural Development, but it cannot be used in combination with the Rural Development Rental Assistance program. Tenants with a Rural Development Voucher that apply for housing in a Rural Development-financed property must choose between using the voucher or Rental Assistance. If the tenant relinquishes the Rural Development Voucher in favor of Rental Assistance, the tenant is not eligible to receive another Rural Development Voucher.

7. Term of Funding and Conditions for Renewal for Rural Development Vouchers

The Rural Development Voucher Program provides voucher assistance for 12 monthly payments. The voucher is issued to the household in the name of the primary tenant, as the voucher holder. The voucher is not transferable from the voucher holder to any other household member except in the case of the voucher holder's death or involuntary household separation such as the incarceration of the voucher holder or transfer of the voucher holder to an assisted living or nursing home facility. Upon receiving documentation of such cases, the voucher may be transferred at the Agency's discretion to another tenant on the voucher holder's lease.

The voucher is renewable subject to the availability of appropriations to the USDA. In order to renew a voucher, a tenant must return a signed Voucher Obligation Form which will be sent to the tenant within 60–90 days before the current voucher expires. If the voucher holder fails to return the renewal Voucher Obligation Form before the current voucher funding expires, the voucher will be terminated.

In order to ensure continued eligibility to use the Rural Development Voucher, at the time they apply for renewal of the voucher, tenants must certify that the current family income does not exceed 80 percent of family median income. Rural Development will advise the tenant of the maximum income level when the renewal Voucher Obligation Form is sent.

Renewal requests will have no preference and will be processed as a new application as described in this Notice.

8. Non-Discrimination Statement

''The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, (including gender identity and expression) marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille), large print, audio tape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination write to USDA, Assistant Secretary for Civil Rights, Office of the Assistance Secretary for Civil Rights, 1400 Independence Avenue, SW., Stop 9410, Washington, DC 20250–9410 or call toll-free at (866) 632–9992 (English) or (800) 877–8339 (TDD) or (866) 733–8642 (English Federal relay) or (800) 845–6136 (Spanish Federal relay). USDA is an equal opportunity provider, and employer.''

9. Paperwork Reduction Act

The information collection requirements contained in this document are those of the Housing Choice Voucher Program, which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2577–0169. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Dated: January 16, 2012.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2012–1270 Filed 1–23–12; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Georgia Advisory Committee (Committee) to the Commission will be held on Thursday, February 16, 2012, at the Conference Center, Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303. The meeting is scheduled to begin at 10

a.m. and adjourn at approximately noon. The purpose of the meeting is for Committee members to discuss the Committee's report on school discipline.

Members of the public are entitled to submit written comments. The comments must be received in the Southern Regional Office of the Commission by March 16, 2012. The address is Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. Persons wishing to email their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Peter Minarik, Regional Director, Southern Regional Office, at (404) 562–7000, (or for hearing impaired TDD (800) 877–8339), or by email *pminarik@usccr.gov.* Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, www.usccr.gov, or to contact the Southern Regional Office at the above email or street address. The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, January 18, 2012.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2012–1291 Filed 1–23–12; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fisheries Finance Program Requirements.

OMB Control Number: 0648–0012.

Form Number(s): 88–1.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 474.

Average Hours per Response: Application, 8 hours; annual report, 2 hours.

Burden Hours: 1,332.

Needs and Uses: This request is for revision and extension of a current information collection.

NOAA operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. Application information is required to determine eligibility pursuant to 50 CFR Part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from the recipients to monitor the financial status of the loan. *Revision:* Loans for crab individual fishing quota holders have been added to this collection.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Dated: January 19, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–1294 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Bycatch Reduction Device Certification Family of Forms.

OMB Control Number: 0648–0345.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 32.

Average Hours per Response: Application for testing and gear specification form, 30 minutes each; station sheet bycatch reduction device (BRD) evaluation form, species characterization form, length frequency form, condition and fate form and trip report/cover sheet, signatures only, 5 minutes each; duplication and mailing of non-federal test documents, 5 minutes.

Burden Hours: 70.

Needs and Uses: This request is for an extension of a currently approved information collection.

National Marine Fisheries Service (NMFS) Southeast Region manages the United States (U.S.) fisheries of the exclusive economic zone (EEZ) off the South Atlantic, Caribbean, and Gulf of Mexico under the Fishery Management Plans (FMP) for each Region. The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs that have reporting requirements are at 50 CFR Part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. NMFS Southeast Region requests information from the shrimp fishery participants to certify individual Bycatch Reduction Devices (BRDs). This information, upon receipt, results in an increasingly more efficient and accurate database for management and permitting of the fisheries of the EEZ off the South Atlantic, Caribbean, and Gulf of Mexico.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Dated: January 19, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–1299 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on February 9, 2012, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session:

1. Opening Remarks and Introductions.
2. Remarks from Bureau of Industry and Security Senior Management.
3. Report on Composite Working Group and other working groups.
4. Report on regime-based activities.
5. Public Comments and New Business.

Closed Session:

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ l0(a)(I) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than February 2, 2012.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 16, 2011, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: January 19, 2012.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2012–1346 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–981, A–552–814]

Utility Scale Wind Towers From the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations

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

DATES: *Effective Date:* January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Erin Kearney at (202) 482–4081 or (202) 482–0167, respectively (the People's Republic of China (the ''PRC'')), AD/CVD Operations, Office 4; or Brandon Farlander or Trisha Tran at (202) 482–0182 or (202) 482–4852, respectively (the Socialist Republic of Vietnam (''Vietnam'')), AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On December 29, 2011, the Department of Commerce (the ''Department'') received petitions concerning imports of utility scale wind towers (''wind towers'') from the PRC and Vietnam filed in proper form on behalf of the Wind Tower Trade Coalition (''Petitioner''). *See* Petitions for the Imposition of Antidumping and Countervailing Duties on Utility Scale Wind Towers from the People's Republic of China and Antidumping Duties on Utility Scale Wind Towers from Vietnam filed on December 29, 2011 (the ''Petitions''). On January 5 and 6, 2012, the Department requested additional information and clarification of certain areas of the Petitions. Petitioner filed responses to these requests on January 11, 2012, (hereinafter, ''First Supplement to the PRC Petition,'' ''First Supplement to the Vietnam Petition,'' and ''First Supplement to the AD/CVD Petitions,'' respectively). The Department requested additional clarifications from Petitioner on January 12, 2012. *See* Memorandum to the File from Meredith Rutherford, titled ''Phone Call to Counsel for the Petitioner,'' dated January 12, 2012. Petitioner provided these additional clarifications on January 12, 2012, (hereinafter, ''Second Supplement to the PRC Petition'' and ''Second Supplement to the Vietnam Petition,'' respectively). Further, the Department requested additional information and clarifications to the scope and the Petitions on January 13, 2012. Petitioner filed responses to these requests on January 17, 2012, (hereinafter, ''Second Supplement to the AD/CVD Petitions,'' ''Third Supplement to the PRC Petition,'' and ''Third Supplement to the Vietnam Petition,'' respectively). The Department requested additional clarifications concerning the surrogate value for one material input from Petitioner on January 17, 2012. *See* Memorandum to the File from Karine Gziryan, titled ''Phone Call to Counsel for the Petitioner,'' dated January 17, 2012. Petitioner provided these additional clarifications on January 18, 2012, (hereinafter, ''Fourth Supplement to the PRC Petition'').

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the ''Act''), Petitioner alleges that imports of wind towers from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) and (E) of the Act and has demonstrated sufficient industry

support with respect to the antidumping duty investigations that Petitioner is requesting that the Department initiate (*see* ''Determination of Industry Support for the Petitions'' section below).

Period of Investigation

19 CFR 351.204(b) states that, in the case of a nonmarket economy (''NME'') country, the Department normally will examine in an investigation merchandise sold during the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed. The regulations further state that the Department may examine merchandise sold during any additional or alternate period it concludes is appropriate.

Pursuant to 19 CFR 351.204(b), the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed would be the second and third fiscal quarters of 2011, April through September 2011.

For this investigation, Petitioner has requested that the Department consider expanding the period of investigation (''POI'') to include more than two fiscal quarters. According to Petitioner, the subject merchandise involves a lengthy bidding process, custom specifications for production and long lead times. Petitioner claims that a POI of normal duration may not capture a large number of sales.

The Department will consider Petitioner's arguments, as well as comments from other interested parties, on this matter and will make a determination regarding the POI as the investigation proceeds. *See, e.g., Initiation of Antidumping Duty Investigation: Certain Folding Gift Boxes From the People's Republic of China,* 66 FR 15400, 15400–01 (March 19, 2001) (where the Department did not make a determination regarding the length of the POI at initiation in a case where the merchandise was sold using long-term contracts).

Scope of the Investigations

The products covered by these investigations are wind towers from the PRC and Vietnam. For a full description of the scope of the investigations, please *see* the ''Scope of the Investigations'' in Appendix I of this notice.

Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Petitioner submitted revised scope language on January 12, 2012, and January 17, 2012. Among the revisions was the following substantive provision:

> Future utility scale wind tower configurations that meet the minimum height requirement, which may include lattice masts, and are designed to support wind turbine electrical generators greater than 100 kW are also included within this scope.

The Department has not adopted this specific revision recommended by Petitioner for the purposes of initiation.[1] Given the scarcity of information on this product, the Department has had neither the time nor the administrative resources to evaluate this proposed language prior to the initiation date. However, as discussed in the preamble to the Department's regulations, we are setting aside a period during the investigation for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments by February 7, 2012, 5 p.m. Eastern Standard Time, 20 calendar days from the signature date of this notice. All comments must be filed on the records of the PRC and Vietnam antidumping duty investigations as well as the PRC countervailing duty investigation concurrently initiated with this investigation. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping Countervailing Duty Centralized Electronic Service System (IA ACCESS).[2] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

The period of scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of wind towers to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe wind towers, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments filed in accordance with the Department's electronic filing requirements, available at 19 CFR 351.303(g), by February 7, 2012. Additionally, rebuttal comments must be received by February 14, 2012.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25

[1] The Department has independent authority to determine the scope of its investigations. *See Diversified Products Corp.* v. *United States,* 572 F. Supp. 883, 887 (CIT 1983).

[2] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using IAACCESS can be found at *https://iaaccess.trade.gov/help.aspx* and a handbook can be found at *https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988)), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that wind towers constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from the PRC (''PRC Initiation Checklist'') at Attachment II, and Antidumping Duty Investigation Initiation Checklist: Utility Scale Wind Towers from Vietnam (''Vietnam Initiation Checklist'') at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own 2010 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions at 2–3 and Exhibits I–3 and I–29, and First Supplement to the AD/CVD Petitions at 5–6 and Supplemental Exhibits I–2 and I–3; *see also* PRC Initiation Checklist at Attachment II and Vietnam Initiation Checklist at Attachment II.

Our review of the data provided in the Petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. *See* PRC Initiation Checklist at Attachment II and Vietnam Initiation Checklist at Attachment II. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 732(c)(4)(D) of the Act; *see also* PRC Initiation Checklist at Attachment II and Vietnam Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. *See* PRC Initiation Checklist at Attachment II and Vietnam Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. *See id.* Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) and (E) of the Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigations that it is requesting the Department initiate. *See id.*

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act. Petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales and revenues, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration. *See* Volume I of the Petitions at 23–54. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* PRC Initiation Checklist at Attachment III and Vietnam Initiation Checklist at Attachment III.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of wind towers from the PRC and Vietnam. The sources of data for the deductions and adjustments relating to

the U.S. price and the factors of production (''FOPs'') are also discussed in the country-specific initiation checklists. *See* PRC Initiation Checklist and Vietnam Initiation Checklist.

Export Price

The PRC

Petitioner calculated export price (''EP'') based on declarations of the price bid for wind towers by a certain Chinese exporter/reseller and the lost U.S. sale by a U.S. producer during the POI, as identified in one Declaration Regarding Lost U.S. Sales and one Declaration Regarding U.S. Sales Offers provided by Petitioner. *See* Volume II of the Petitions at Exhibits II–4 and II–1; First Supplement to the PRC Petition at Supplemental Exhibit II–5; *see also* PRC Initiation Checklist. Petitioner calculated the EP using the quoted transaction price as the best information reasonably available. According to Petitioner, the offer made by the Chinese producer reflects the ex-factory EP; therefore, Petitioner made no adjustments to the quoted price. *See* Volume II of the Petitions at 6 and Exhibits II–4 and II–22; *see also* PRC Initiation Checklist.

Vietnam

Petitioner calculated EP based on a Vietnamese exporter's sales of wind towers to wind tower users and distributors in the United States. Specifically, Petitioner stated that official import statistics were used to calculate two U.S. prices by month and port for shipments from the Vietnamese exporter. *See* Volume I of the Petitions at 4–8 and Exhibit I–19; Volume IV of the Petitions at 4 and Exhibit IV–2; First Supplement to the Vietnam Petition at 3–4; Second Supplement to the Vietnam Petition at Attachment 1; *see also* Vietnam Initiation Checklist. Petitioner stated that, because these U.S. prices were derived from official U.S. import statistics and were based on the Customs value of the goods, its U.S. prices are already ex-work prices and, therefore, no adjustments for movement expenses are necessary. *See* Volume IV of the Petitions at 8–9 and Exhibit IV–8; *see also* Vietnam Initiation Checklist.

Normal Value

The PRC

Petitioner states that the Department has long treated the PRC as a non-market economy (''NME'') country and this designation remains in effect today. *See* Volume II of the Petitions at 7; *see also Drill Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 76 FR 1966, 1968 (January 11, 2011); *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, in Part,* 75 FR 57449, 57452 (September 21, 2010).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of the PRC investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on FOPs valued in a surrogate market-economy (''ME'') country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, in addition to the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner claims that South Africa is an appropriate surrogate country under section 773(c) of the Act because it is a ME country that is at a comparable level of economic development to the PRC, and is a significant producer of comparable merchandise, such as fabricated steel towers and masts. *See* Volume II of the Petitions at 8–9 and Exhibit II–8. Further, surrogate values data from South Africa are available and reliable. *See* Volume II of the Petitions at 8 and Exhibit II–6. Moreover, Petitioner notes that the Department has previously used South Africa as the surrogate country in previous investigations involving the PRC. See Volume II of the Petitions at 9, *citing Notice of Final Determination of Sales at Less Than Fair Value: Ferrovanadium from the People's Republic of China,* 67 FR 71137, 71139 (November 29, 2002). Based on the information provided by Petitioner, we believe that it is appropriate to use South Africa as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 40 days after the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins for the U.S. price, discussed above, using the Department's NME methodology as required by section 773(c) of the Act, 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on consumption rates of one producer of wind towers (''Wind Tower Producer''). Petitioner asserts that, to the best of Petitioner's knowledge, production methods and consumption rates of the Wind Tower Producer are similar to the production methods and consumption rates of Chinese producers. *See* Volume II of the Petitions at 10–11, 15–16, and Exhibit II–10; First Supplement to the PRC Petition at 5–6 and Supplemental Exhibit II–4.

Petitioner valued most FOPs based on reasonably available, public surrogate country data, specifically, South Africa import statistics from the Global Trade Atlas (''GTA''). *See* Volume II of the Petitions at 19–20 and Exhibits II–16 through II–17; *see also* First Supplement to the PRC Petition at 5–6 and Supplemental Exhibits II–4 and II–6. Petitioner excluded from these import statistics values from countries previously determined by the Department to be NME countries, and from India, Indonesia, the Republic of Korea and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[3] *See* Volume II of the Petitions at 19.

In addition, Petitioner made adjustments for inflation for certain FOPs using the South African producer price index, as reported in the International Monetary Fund publication, *International Financial Statistics (IFS)—South Africa. See* Volume II of the Petitions at 16 and Exhibit II–11. Petitioner also made South African Rand/U.S. dollar (''USD'') currency conversions using average exchange rates for the POI, based on Federal Reserve exchange rates. *See* Volume II of the Petitions at 16 and Exhibit II–12.

Petitioner determined labor costs using the labor consumption rates of the Wind Tower Producer. *See* Volume II of

[3] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008) (''*PET Film*'').

the Petitions at 10. Petitioner calculated labor costs using South African wage rates for manufacturing industries, as reported by the International Labor Organization (''ILO'') in its *Yearbook of Labor Statistics*. The Department's normal methodology is to value labor in a specific industry using Chapter 6A of the *Yearbook of Labor Statistics*. However, Petitioner stated that the ILO does not report industry-specific South African wages in Chapter 6A, so Petitioner used manufacturing data reported in Chapter 5A, for the year 2008, as the best information available, and then inflated the value to be contemporaneous with the POI using the South African consumer price index. *See* Volume II of the Petitions at 22–23 and Exhibit II–20; First Supplement to the PRC Petition at 7–8 and Supplemental Exhibit II–8.

Petitioner determined electricity costs using the electricity consumption rates, in kilowatt hours, derived from the Wind Tower Producer's experience. *See* Volume II of the Petitions at 10. Petitioner valued electricity using an average of South African electricity rates published by Eskom for industrial or heavy commercial use during the POI. *See* Volume II of the Petitions at 21 and Exhibit II–18, and First Supplement to the PRC Petition at 6–7 and Supplemental Exhibit II–7.

Petitioner determined natural gas costs using the natural gas consumption rates derived from the Wind Tower Producer's experience. *See* Volume II of the Petitions at Exhibits II–10 and II–15. Petitioner valued natural gas costs using rates published by the National Energy Regulator of South Africa, which demonstrate a gas reseller ''reference price'' per gigajoule (''Gj'') of natural gas. Petitioner converted the Gj denominated rate to a rate per mill British Thermal Unit. *See* Volume II of the Petitions at 21 and Exhibit II–19; *see also* First Supplement to the PRC Petition at 7.

Petitioner used the 2010–2011 financial statements of the South African construction company Mazor Group Ltd. (''Mazor Group'') to value factory overhead, selling, general, and administrative expenses (''SG&A''), and profit. Petitioner identified Mazor Group as a producer of comparable merchandise because it has a steel division that fabricates large scale steel structures. *See* PRC Initiation Checklist; *see also* First Supplement to the PRC Petition at 8–9 and Supplemental Exhibits II–9 and II–10.

Based on our review of Petitioner's submissions, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation. *See* PRC Initiation Checklist.

Vietnam

Petitioner states that the Department has long treated Vietnam as a NME country and this designation remains in effect today. *See* Volume IV of the Petitions at 9–10; *see also Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 56813 (November 3, 2009), unchanged in *Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value,* 75 FR 16434 (April 1, 2010).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for Vietnam has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of the Vietnam investigation. Accordingly, the NV of the product for the Vietnam investigation is appropriately based on FOPs valued in a surrogate ME country in accordance with section 773(c) of the Act. In the course of the Vietnam investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of Vietnam's NME status and the granting of separate rates to individual exporters.

Petitioner claims that India is an appropriate surrogate country under section 773(c) of the Act because it is an ME country that is at a comparable level of economic development to Vietnam and is a significant producer of comparable merchandise. *See* Volume IV of the Petitions at 11–12 and Exhibit IV–10. Further, surrogate values data from India are available and reliable. *See* Volume IV of the Petitions at 11 and Exhibit IV–9. Moreover, Petitioner states that the Department has previously found that India was an appropriate source of surrogate value information in previous investigations involving Vietnam. See Volume IV of the Petitions at 11, *citing Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 56813, 56815 (November 3, 2009). Based on the information provided by Petitioner, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 40 days after the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins for the U.S. price, discussed above, using the Department's NME methodology as required by section 773(c) of the Act, 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on consumption rates of one producer of wind towers (''Wind Tower Producer''). Petitioner asserts that, to the best of Petitioner's knowledge, production methods and consumption rates of the Wind Tower Producer are similar to the production methods and consumption rates of Vietnamese producers. *See* Volume IV of the Petitions at 12–13, 17–18, and Exhibit IV–12; *see also* First Supplement to the Vietnam Petition at 4–5 and Supplemental Exhibit IV–2.

Petitioner valued most FOPs based on reasonably available, public surrogate country data, specifically, Indian import statistics from GTA. *See* Volume IV of the Petitions at 21–24 and Exhibit IV–17; *see also* First Supplement to Vietnam Petition at 5, 8, and Supplemental Exhibit IV–4. Petitioner excluded from these import statistics values from countries previously determined by the Department to be NME countries, and from Indonesia, the Republic of Korea and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[4] *See* Volume IV of the Petitions at 20–21.

In addition, Petitioner made Indian Rupee/USD currency conversions using average exchange rates for the POI, based on Federal Reserve exchange rates. *See* Volume IV of the Petitions at 19 and Exhibit IV–15; *see also* First Supplement to the Vietnam Petition at 8 and Supplemental Exhibit IV–4.

Petitioner determined labor costs using the labor consumption rates of the Wind Tower Producer. *See* Volume IV of the Petitions at 24–25 and Exhibit IV–12. Petitioner calculated labor costs using Indian wage data collected by the

[4] *See, e.g., PET Film.*

ILO and disseminated in Chapter 6A of the ILO *Yearbook of Labor Statistics* in 2005, under the industry category ''Manufacture of Machinery and Equipment NEC,'' as this category reflects the nature of work performed to make wind towers and then inflated the value to be contemporaneous with the POI using the Indian consumer price index. *See* Volume IV of the Petitions at 24–25 and Exhibit IV–21; *see also* First Supplement to the Vietnam Petition at 7–8.

Petitioner determined electricity costs using electricity consumption rates, in kilowatt hours, derived from the Wind Tower Producer. *See* Volume IV of the Petitions at 23 and Exhibit IV–12. Consistent with the Department's practice, Petitioner utilized the Indian electricity rate reported by Central Electric Authority of the Government of India to value electricity. *See* Volume IV of the Petitions at 23 and Exhibit IV–18.

Petitioner determined natural gas costs using the natural gas consumption rates derived from the Wind Tower Producer. *See* Volume IV of the Petitions at 24 and Exhibit IV–12. To value natural gas, Petitioner calculated an average natural gas rate relevant to Indian consumers of natural gas. *See* Volume IV of the Petitions at 24. The average was obtained from a schedule of natural gas tariffs collected throughout India, disseminated in a January 2011 report entitled ''Pricing of Natural Gas in India.'' *See* Volume IV of the Petitions at 24; *see also* First Supplement to the Vietnam Petition at 9 and Supplemental Exhibit IV–6.

Petitioner determined stacking frame costs based on the usage depicted in production process pictures on a Vietnamese producer's Web site.[5] *See* Volume IV of the Petitions at 27–28 and Exhibits IV–2, IV–13, and IV–24; *see also* First Supplement to the Vietnam Petition at 6–7; Third Supplement to the Vietnam Petition at 1 and Supplemental Exhibit IV–2. Petitioner valued the stacking frame packing materials using GTA India import statistics. *See* Volume IV of the Petitions at 28 and Exhibit IV–17.

One financial statement was placed on the record for consideration to value factory overhead, SG&A, and profit. Petitioner submitted the 2010–2011 financial statements of an Indian ship producer, ABG Shipyard Limited (''ABG''). *See* Vietnam Initiation Checklist; see also Volume IV of the Petitions at 25–26 and Exhibit IV–22. The Department finds that ABG's financial statements are sufficiently representative to value the surrogate financial ratios for wind towers for purposes of initiation.

The Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation. *See* Vietnam Initiation Checklist.

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of wind towers from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EP and NV calculated in accordance with section 773(c) of the Act, the estimated dumping margin for wind towers from the PRC is 213.54 percent. *See* PRC Initiation Checklist. Based on a comparison of EPs and NV calculated in accordance with section 773(c) of the Act, the estimated dumping margins for wind towers from Vietnam range from 140.54 percent to 143.29 percent. *See* Vietnam Initiation Checklist.

Initiation of Antidumping Investigations

Based upon the examination of the Petitions on wind towers from the PRC and Vietnam, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of wind towers from the PRC and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that ''(w)ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.'' *See id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in either of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country-specific preliminary determination.

Respondent Selection

For the PRC investigation, the Department will request quantity and value information from known exporters/producers identified with complete contact information in the Petitions and Supplements to the Petitions. *See* Volume I of the Petitions at Exhibit I–14, and First Supplement to the PRC Petition at 1–2 and Supplemental Exhibits II–1 and II–2. The quantity and value data received from NME exporters/producers in the PRC will be used as the basis to select the mandatory respondents.

The Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. *See, e.g., Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 73 FR 10221, 10225 (February 26, 2008). On the date of the publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaires, along with the filing instructions, on the Import Administration Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html,* and a response to the quantity and value questionnaire is due no later than February 8, 2012.

For the Vietnam investigation, Petitioner listed only two known exporters/producers in its Petition. *See* Volume I of the Petitions at Exhibit I–14, and First Supplement to the Vietnam Petition at 1 and Supplemental Exhibit IV–1. Accordingly, the Department will send these two companies the Department's antidumping questionnaires.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate

[5] Stacking frames were not considered part of the NV analysis for the PRC because, unlike for Vietnamese producers, there is no information in the Petitions and Supplements to the Petitions that Chinese producers use stacking frames.

status application. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (''Separate Rates and Combination Rates Bulletin''), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull05–1.pdf.* Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for these investigations to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in these investigations are outlined in detail in the application itself, which will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. In the PRC investigation, for exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the ''Respondent Selection'' section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of the publication of this initiation notice in the **Federal Register**. In the Vietnam investigation, the Department will request information regarding separate rate eligibility in the questionnaire being sent to the two known exporters/producers identified in the Petition. If any other Vietnamese exporters/producers wish to file a separate rate application, they must follow the instructions described above and on the Department's Web site. Such applications are due 60 days after publication of this initiation notice.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

> (w)hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petitions have been provided to the representatives of the Governments of the PRC and Vietnam. Because of the large number of producers/exporters identified in the Petitions, the Department considers the service of the public version of the Petitions to the foreign producers/exporters satisfied by the delivery of the public versions of the Petitions to the Governments of the PRC and Vietnam, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than February 13, 2012, whether there is a reasonable indication that imports of wind towers from the PRC and Vietnam are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO 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). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD 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 in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *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) & (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: January 18, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigations

The merchandise covered by these investigations are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.,* where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into

cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by these investigations are currently classified in the Harmonized Tariff System of the United States (''HTSUS'') under subheadings 7308.20.0020[6] or 8502.31.0000.[7] Prior to 2011, merchandise covered by these investigations were classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2012–1377 Filed 1–23–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–982]

Utility Scale Wind Towers From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* January 24, 2012.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Patricia Tran, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–1503, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On December 29, 2011, the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of utility scale wind towers from the People's Republic of China (PRC) filed in proper form by the Wind Tower Trade Coalition (the Petitioner).[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties Against Utility Scale Wind Towers from the People's Republic of China and the Socialist Republic of Vietnam, dated December 29, 2011 (Petition).

On January 5, 2012, the Department issued supplemental questionnaires requesting information and clarification of certain areas of the general issues and CVD sections of the Petition.[2] On January 6, 2012, the Department issued a supplemental questionnaire regarding the scope. Petitioner filed a supplement to the Petition regarding the CVD section on January 9, 2012. Petitioner filed a response to the general issues and scope requests on January 11, 2012 (hereinafter, First Supplemental to the AD/CVD Petitions). Further, the Department issued a request for additional clarification to the scope on January 13, 2012. Petitioner filed a response to this request on January 17, 2012, (hereinafter, Second Supplemental to the AD/CVD Petitions).

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that producers/exporters of utility scale wind towers from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, and threaten further material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate. *See* ''Determination of Industry Support for the Petition,'' below.

Period of Investigation

The period of investigation (POI) is January 1, 2011, through December 31, 2011.

Scope of Investigation

The products covered by this investigation are utility scale wind towers from the PRC. For a full description of the scope of the investigation, please *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Petitioner submitted revised scope language on January 12, 2012, and January 17, 2012. Among the revisions was the following substantive provision:

> Future utility scale wind tower configurations that meet the minimum height requirement, which may include lattice masts, and are designed to support wind turbine electrical generators greater than 100 kW are also included within this scope.

The Department has not adopted this specific revision recommended by Petitioner for the purposes of initiation.[3] Given the scarcity of information on this product, the Department has had neither the time nor the administrative resources to evaluate this proposed language prior to the initiation date. However, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments by February 7, 2012, 5 p.m. Eastern Standard Time (EST), 20 calendar days from the signature date of this notice. All comments must be filed on the record of the PRC CVD investigation, as well as the records of the PRC and Vietnam antidumping duty investigations. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping Countervailing Duty Centralized Electronic Service System (IA ACCESS).[4] An electronically filed

[6] Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

[7] Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades).

[1] The following companies compose the Coalition: Broadwind Towers, Inc., DMI Industries, Katana Summit LLC, and Trinity Structural Towers, Inc. *See* Petition at Volume I, Exhibit I–1.

[2] These public documents and all other public documents and public versions generated in the course of this proceeding by the Department and interested parties are available to the public through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), located in Room 7046 of the main Department building.

[3] The Department has independent authority to determine the scope of its investigations. *See Diversified Products Corp.* v. *United States,* 572 F. Supp. 883, 887 (CIT 1983).

[4] *See http://www.gpo.gov/fdsys/pkg/FR–2011–07–06/pdf/2011–16352.pdf* for details of the

Continued

document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on January 3, 2012, the Department invited representatives of the Government of the PRC (GOC) for consultations with respect to the CVD petition. On January 11, 2012, the Department held consultations with representatives of the GOC via conference call. *See* Memorandum to the File, regarding ''Consultations with Officials of the Government of the People's Republic of China on the Petition for the Imposition of Countervailing Duties on Imports of Utility Scale Wind Towers,'' dated January 18, 2012 (Consultations Memorandum).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that utilty scale wind towers constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* ''Countervailing Duty Investigation Initiation Checklist: Utility Scale Wind Towers from the People's Republic of China'' (CVD Initiation Checklist) at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own 2010 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at 2–3, and Exhibits I–3 and I–29, and First Supplement to the AD/CVD Petitions, at 5–6, and Supp. Exhibits I–2 and I–3; *see also* CVD Initiation Checklist at Attachment II.

Our review of the data provided in the CVD Petition, supplemental submission, and other information readily available to the Department indicates that Petitioner has established industry support. *See* CVD Initiation Checklist at Attachment II. First, the CVD Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the CVD Petition account for at least 25 percent of the total production of the domestic like product. *See* CVD Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the CVD Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the CVD Petition. Accordingly, the Department determines that the CVD Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that Petitioner filed the CVD Petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) and (E) of the Act and it has

Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IAACCESS can be found at *https://iaaccess.trade.gov/help.aspx* and a handbook can be found at *https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *See id.*

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of utility scale wind towers from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the domestic industry producing utility scale wind towers. In addition, Petitioner alleges that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales and revenue, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* CVD Initiation Checklist at Attachment III.

Initiation of Countervailing Duty Investigation

Section 702(b)(i) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations.

The Department has examined the CVD Petition on utility scale wind towers from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of utility scale wind towers in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

A. Grant Programs

1. Export Product Research and Development Fund
2. Subsidies for Development of ''Famous Brands'' and ''China World Top Brands''
3. Sub-Central Government Subsidies for Development of ''Famous Brands'' and ''China World Top Brands''
4. Special Energy Fund of Shandong Province
5. National Defense Science and Technology Industry Grants for the Wind Power Equipment Industry
6. Funds for Outward Expansion of Industries in Guangdong Province
7. Renewable Energy Development Fund
8. Special Fund for Wind Power Manufacturing Grants

B. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

1. Government Provision of Hot-Rolled Steel for LTAR
2. Government Provision of Aluminum for LTAR
3. Government Provision of Electricity for LTAR

C. Government Provision of Land for LTAR

1. Government Provision of Land-Use Rights to State-Owned Enterpries for LTAR
2. Government Provision of Land-Use Rights by the Hunan Province Government for LTAR

D. Policy Lending to the Renewable Energy Industry

E. Income and Other Direct Tax Exemption and Reduction Programs

1. ''Two Free, Three Half'' Program for Foreign Invested Enterprises (FIEs)
2. Income Tax Reductions for Export-Oriented FIEs
3. Income Tax Benefits for FIEs Based on Geographic Location
4. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs
5. Tax Reductions for FIEs Purchasing Chinese-Made Equipment
6. Tax Offsets for Research and Development by FIEs
7. Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises
8. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
9. City Tax and Surcharge Exemptions for FIEs
10. Tax Reductions for High and New-Technology Enterprises Involved in Designated Projects
11. Preferential Income Tax Policy for Enterprises in the Northeast Region
12. Foregiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China
13. Hunan Province Special Fund for Renewable Energy Development

F. Indirect Tax and Tariff Exemption Programs

1. Value Added Tax (VAT) Exemptions for Use of Imported Equipment
2. VAT Rebates on FIE Purchases of Chinese-Made Equipment
3. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program
4. Tax Benefits for Imported Large Power Wind Turbine System Key Components and Raw Materials

G. Export Credit Subsidy Programs

H. Export Guarantees and Insurance for Green Technology

For a description of each of these above-listed programs and a full discussion of the Department's decision to initiate an investigation of these programs, *see* Initiation Checklist.

We are not including in our investigation the following programs alleged to benefit producers/exporters of the subject merchandise in the PRC.

A. Provincial Fund for Fiscal and Technological Innovation
B. Plans for the Development of the Industrial Cluster of Equipment Manufacturing in the Ningxia Region
C. Ride the Wind Program
D. National Debt Wind Power Program
E. Currency Undervaluation

For further information explaining why the Department is not initiating an investigation of the above-listed program, *see* Initiation Checklist.

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO shortly after the signature date of this notice. Interested parties may submit comments regarding the CBP data and respondent selection by 5 p.m. EST of the seventh

calendar day of publication of this notice. Comments should be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submissions requirements must be filed manually (*i.e.,* paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at: *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition and amendments thereto have been provided to representatives of the GOC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of subsidized utility scale wind towers from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

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. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD 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 in all segments of any AD or CVD proceedings initiated on or after March 14, 2011. *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). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule,* or in the format provided in the *Interim Final Rule. See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: January 18, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.,* where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by the investigation are currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 7308.20.0020 [5] or 8502.31.0000.[6] Prior to 2011, merchandise covered by this investigation was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2012–1342 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–DS–P

[5] Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

[6] Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA937

Guidelines for Assessing Marine Mammal Stocks

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS solicits public comments on draft revisions to the guidelines for preparing marine mammal stock assessment reports (SARs).

DATES: Comments must be received by March 26, 2012.

ADDRESSES: The following draft revisions to the guidelines for preparing marine mammal stock assessment reports are contained in full in Appendix IV of the Guidelines for Assessing Marine Mammal Stocks: Report of the GAMMS III Workshop; the workshop report is available in electronic form via the Internet at *http://www.nmfs.noaa.gov/pr/sars/*. Copies of the workshop report may be requested from Shannon Bettridge, Office of Protected Resources, (301) 427–8402, *Shannon.Bettridge@noaa.gov.*

You may submit comments, identified by [NOAA–NMFS–2012–0007], by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Send comments to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Attn: GAMMS.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, (301) 427–8402, *Shannon.Bettridge@noaa.gov;* Jeffrey Moore, (858) 546–7000, *jeff.e.moore@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

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

NMFS convened a workshop in June 1994, including representatives from NMFS, FWS, and the Marine Mammal Commission (Commission), to prepare draft guidelines for preparing SARs. The report of this workshop (Barlow *et al.,*1995) included the guidelines for preparing SARs and a summary of the discussions upon which the guidelines were based. The draft guidelines were made available, along with the initial draft SARs, for public review and comment (59 FR 40527, August 9, 1994) and were finalized August 25, 1995 (60 FR 44308).

In 1996, NMFS convened a second workshop (referred to as the Guidelines for Assessing Marine Mammal Stocks, or ''GAMMS,'' workshop) to review the guidelines and to recommend changes to them, if appropriate. Workshop participants included representatives from NMFS, FWS, the Commission, and the three regional scientific review groups (SRGs). The report of that workshop (Wade and Angliss, 1997) summarized the discussion at the workshop and contained revised guidelines. The revised guidelines represented minor changes from the initial version. The revised guidelines were made available for public review and comment along with revised stock assessment reports on January 21, 1997 (62 FR 3005) and later finalized.

In September 2003, NMFS again convened a workshop (referred to as GAMMS II) to review guidelines for SARs and again recommend minor changes to the guidelines. Participants at the workshop included representatives of NMFS, FWS, the Commission, and the regional SRGs. Changes to the guidelines resulting from the 2003 workshop were directed primarily toward identifying population stocks and estimating PBR for declining stocks of marine mammals. The revised guidelines were made available for public review and comment on November 18, 2004 (69 FR 67541), and the revisions were completed and finalized on June 20, 2005 (70 FR 35397).

In February 2011, NMFS convened another workshop (referred to as GAMMS III) to review guidelines for preparing SARs and again recommends changes to the guidelines. Participants at the workshop included representatives from NMFS, FWS, the Commission, and the three regional SRGs. NMFS solicits public comments on the draft revisions to the guidelines for preparing SARs, contained in Appendix IV of the GAMMS III workshop report. The GAMMS III workshop report is available at *http://www.nmfs.noaa.gov/pr/sars/*. Below are brief summaries of the recommended revisions to the guidelines based on the most recent workshop.

Revisions to Guidelines

The objectives of the GAMMS III workshop were to (1) consider methods for assessing stock status (i.e., how to apply the Potential Biological Removal framework, or PBR) when abundance data are outdated, nonexistent, or only partially available; (2) develop policies on stock identification and application of PBR to small stocks, transboundary stocks, and situations where stocks mix; and (3) develop consistent national approaches to a variety of other issues, including reporting mortality and serious injury (M&SI) information in assessments. Nine specific topics were discussed at the workshop. The deliberations of these nine topics resulted in a series of suggested modifications to the current Report guidelines (NMFS, 2005). The report of the GAMMS III workshop includes summaries of the presentations and discussions for each of the agenda topics, as well as suggested revisions to the guidance document for preparing Reports. Appendices of the workshop report provide a variety of supporting documents, including the full suggested text revision of the Guidelines for Preparing the Stock Assessment Reports (Appendix IV).

PBR calculations with outdated abundance estimates: For an increasing number of marine mammal stocks, the most recent abundance estimates are more than 8 years old. Under existing guidelines (NMFS, 2005), these are considered to be outdated and thus not used to calculate PBR. The current practice is to consider the PBR for a stock ''undetermined'' after supporting survey information is more than eight years old, unless there is compelling evidence that the stock has not declined. However, ''undetermined'' PBR is confusing, does not support management decisions, and may be interpreted in such a way that there is no limit to the level of allowable mortality. The following revisions to calculate PBRs for stocks with old abundance information are: (1) During years 1–8 after the most recent abundance survey, ''uncertainty projections'' will be used, based on uniform distribution assumptions, to

serially reduce the N_{min} estimate by a small increment each year; (2) After 8 years, and assuming no new estimate of abundance has become available, then a worst-case scenario is assumed (i.e., a plausible 10 percent decline per year since the most recent survey), and so a retroactive 10 percent decline per year is applied; and (3) If data to estimate a population trend model are available, such a model can be used to influence the uncertainty projections during the first 8 years.

Improving stock identification: For most marine mammal species, few stock definition changes have been made since the initial SARs were written. Most stocks were defined at scales that were larger than major eco-regions, suggesting that the scale is likely too large. A recommended addition to the guidelines is the direction that each Report will state in the ''Stock Definition and Geographic Range'' section whether it is plausible the stock contains multiple demographically independent populations that should be separate stocks, along with a brief rationale. If additional structure is plausible and human-caused mortality or serious injury is concentrated within a portion of the range of the stock, the Reports should identify the portion of the range in which the mortality or serious injury occurs.

Assessment of very small stocks: The PBR estimate for some stocks may be very small (just a few animals or even less than one). In such cases, low levels of observer coverage may introduce substantial small-sample bias in bycatch estimates. A draft revision to the guidelines is the inclusion of a table that provides recommendations for the amount of sampling effort (observer coverage and/or number of years of data pooling) required to limit small-sample bias, given a certain PBR level, in the Technical Details section of the SARs guidelines. Further, if suggested sampling goals (per the table) cannot be met, then mortality should be estimated and reported, but the estimates should be qualified in the SARs by stating they very well could be biased.

Assessment of small endangered stocks: Some endangered species, like Hawaiian monk seals, are declining with little to no direct human-caused mortality and the stock's dynamics therefore do not conform to the underlying model for calculating PBR. Thus, PBR estimates for some endangered species stocks have not been included, or have been considered ''undetermined'' in SARs. In such cases, if feasible, PBR should still be calculated and included in the SARs to comply with the MMPA, but a draft revision to the guidelines is that Report authors may depart from these guidelines if sound reasons are given in the SAR.

Apportioning PBR across feeding aggregations, allocating mortality for mixed stocks, and estimating PBR for transboundary stocks: In some cases, mortality and serious injury occur in areas where more than one stock of marine mammals occur. The draft revised guidelines specify that when biological information is sufficient to identify the stock from which a dead or seriously injured animal came, the mortality or serious injury should be associated only with that stock. When one or more deaths or serious injuries cannot be assigned directly to a stock, then those deaths or serious injuries may be partitioned among stocks within the appropriate geographic area, provided there is sufficient information to support such partitioning (e.g., based on the relative abundances of stocks within the area). The Reports will contain a discussion of the potential for over or under-estimating stock-specific mortality and serious injury. In cases where mortalities and serious injuries cannot be assigned directly to a stock and available information is not sufficient to support partitioning those deaths and serious injuries among stocks, the draft revised guidelines state that the total unassigned mortality and serious injuries should be assigned to each stock within the appropriate geographic area. When deaths and serious injuries are assigned to each overlapping stock in this manner, the Reports will contain a discussion of the potential for over-estimating stock-specific mortality and serious injury.

NMFS strengthened the language in the draft guidelines regarding trans-boundary stocks, cautioning against extrapolating abundance estimates from one surveyed area to another unsurveyed area to estimate range-wide PBR. However, informed interpolation (e.g.,. based on habitat associations) may be used, as appropriate and supported by existing data, to fill gaps in survey coverage and estimate abundance and PBR over broader areas. If estimates of mortality or abundance from outside the U.S. EEZ cannot be determined, PBR calculations should be based on abundance in the EEZ and compared to mortality within the EEZ.

Clarifying reporting of mortality and serious injury incidental to commercial fishing: Currently, SARs do not consistently summarize mortality and serious injury incidental to commercial fishing. The draft revised guidelines specify that SARs include a summary of all human-caused mortality and serious injury including information on all sources of mortality and serious injury. Additionally, a summary of mortality and serious injury incidental to U.S. commercial fisheries should be presented in a table, while mortality and serious injury from other sources (e.g., recreational fisheries, other sources of M&SI within the U.S. EEZ, foreign fisheries on the high seas) should be clearly distinguished from U.S. commercial fishery-related mortality. Finally, the draft revised guidelines contain the addition of a subsection entitled ''Summary of the most important potential Human-caused Mortality and Serious Injury threats that are unquantified'' in the SARs, and the SARs should also indicate if there are no known major sources of unquantifiable human-caused mortality and serious injury.

When stock declines are sufficient for a strategic designation: There is no formal process to periodically evaluate the depleted status of non-ESA listed marine mammal stocks, and the current Report guidelines (NMFS, 2005) do not provide any guidance for recommending that a stock be designated as depleted. Therefore, the draft revised guidelines include the following: ''Stocks that have evidence suggesting at least a 50 percent decline, either based on previous abundance estimates or historical abundance estimated by back-calculation, should be noted in the Status of Stocks section as likely to be below OSP. The choice of 50 percent does not mean that OSP is at 50 percent of historical numbers, but rather that a population below this level would be below OSP with high probability. Similarly, a stock that has increased back to levels pre-dating the known decline may be within OSP; however, additional analyses may determine a population is within OSP prior to reaching historical levels.''

Additionally, the draft revised guidelines include the following clarification: ''A stock shall be designated as strategic if it is declining and has a greater than 50 percent probability of a continuing decline of at least 5 percent per year. Such a decline, if not stopped, would result in a 50 percent decline in 15 years and would likely lead to the stock being listed as threatened. The estimate of trend should be based on data spanning at least 8 years. Alternative thresholds for decline rates and duration, as well as alternative data criteria, may also be used if sufficient rationale is provided to indicate that the decline is likely to result in the stock being listed as threatened within the foreseeable future. Stocks that have been designated as

strategic due to a population decline may be designated as non-strategic if the decline is stopped and the stock is not otherwise strategic.''

And finally, to the draft revised guidelines include the following direction regarding recovery factors for declining stocks: ''A stock that is strategic because, based on the best available scientific information, it is declining and is likely to be listed as a threatened species under the ESA within the foreseeable future (sec. 3(19)(B) of the MMPA) should use a recovery factor between 0.1 and 0.5.''

Assessing stocks without abundance estimates or PBR: For many stocks, data are so sparse that it is not possible to produce an N_{min} or therefore not possible to estimate PBR. When mortality and/or population abundance estimates are unavailable, the PBR approach cannot be used to assess populations, in spite of a statutory mandate to do so. The draft revised guidelines include the addition to the Status of Stocks section the following sentence: ''Likewise, trend monitoring can help inform the process of determining strategic status.''

Characterizing uncertainty in key SAR elements: It is difficult to infer the overall uncertainty for key parameters as they are currently reported in the SARs. The draft revised guidelines direct that in the Stock Definition and Geographic Range, Elements of the PBR Formula, Population Trend, Annual Human-Caused Mortality and Serious Injury and Status of the Stock sections, SAR authors are to provide a description of key uncertainties associated with parameters in these sections and evaluate the effects of these uncertainties in sufficient detail to support a synthesis of how accurately stock status could be assessed.

Including non-serious injuries and disturbance in SARs: A final draft revision to the guidelines is the addition that if there are no known habitat issues or other factors causing a decline or impeding recovery, this should be stated in the Status of Stocks section.

Dated: January 18, 2012.

James H. Lecky,

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

[FR Doc. 2012–1344 Filed 1–23–12; 8:45 am]

BILLING CODE 3510–22–P

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP (OJJDP) Docket No. 1581]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) announces its winter meeting.

DATES: Friday, February 10, 2012 from 10 a.m. to 12:30 p.m.

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the Web site for the Coordinating Council at *www.juvenilecouncil.gov* or contact Robin Delany-Shabazz, Designated Federal Official, by telephone at (202) 307–9963 [Note: this is not a toll-free telephone number], or by email at *Robin.Delany-Shabazz@usdoj.gov* or *Geroma.Void@usdoj.gov*. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. app. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, et seq. Documents such as meeting announcements, agendas, minutes, and reports will be available on the Council's Web page, *www.juvenilecouncil.gov,* where you may also obtain information on the meeting.

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Secretary of Health and Human Services (HHS), the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. The nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States. Other federal agencies take part in Council activities including the Departments of Agriculture, Defense, the Interior, and the Substance and Mental Health Services Administration of HHS.

Meeting Agenda

The preliminary agenda for this meeting includes: (a) A presentation on and discussion of the import of the Pathways to Desistance study, research conducted by Dr. Edward Mulvey on serious youth offending; (b) a demonstration by the U. S. Department of Housing and Urban Development and GreatSchools of their initiative to provide evidence-based data to help inform families' decisions about housing and schools; and (c) other agency announcements.

Registration

For security purposes, members of the public who wish to attend the meeting must pre-register online at *www.juvenilecouncil.gov* no later than Friday, February 3, 2012. Should problems arise with web registration, call Daryel Dunston at (240) 221–4343 or send a request to register to Mr. Dunston. Include name, title, organization or other affiliation, full address and phone, fax and email information and send to his attention either by fax to (301) 945–4295, or by email to *ddunston@edjassociates.com*. [**Note:** these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

Note: Photo identification will be required for admission to the meeting.

Written Comments: Interested parties may submit written comments and questions by Friday, February 3, 2012, to Robin Delany-Shabazz, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Robin.Delany-Shabazz@usdoj.gov*. The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions from the public may also be invited at the meeting.

Melodee Hanes,

Acting Administrator.

[FR Doc. 2012–1362 Filed 1–23–12; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces; Notice of Meeting

AGENCY: Department of Defense, Office of the Assistant Secretary of Defense.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal Advisory Committee meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces (subsequently referred to as the Task Force) will take place.

DATES: Tuesday, February 21, 2012, from 8 a.m. to 5 p.m.; Wednesday, February 22, 2012, from 8 a.m. to 4:45 p.m.; and Thursday, February 23, 2012, from 8 a.m. to 5:30 p.m. EST.

ADDRESSES: Crowne Plaza Old Town Alexandria, 901 N. Fairfax St, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mail Delivery service through Recovering Warrior Task Force, Hoffman Building II, 200 Stovall St, Alexandria, VA 22332–0021 ''Mark as Time Sensitive for February Meeting''. Emails to *rwtf@wso.whs.mil*. Denise F. Dailey, Designated Federal Officer; Telephone (703) 325–6640. Fax (703) 325–6710.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is for the Task Force Members to convene and gather data from panels and briefers on the Task Force's topics of inquiry.

Agenda: (Please refer to *http://dtf.defense.gov/rwtf/meetings.html* for the most up-to-date meeting information).

Day 1: Tuesday, February 21

8:00–9:30 a.m. Site Visit Review & Administration
9:30–9:45 a.m. Break
9:45–10:45 a.m. Report on the August 2011 President's DoD/VA Task Force on Veteran Employment
10:45–11:45 a.m. WWCTP
11:45 a.m.–12:45 p.m. Lunch
12:45–2:15 p.m. Army WTC Briefing
2:15–2:30 p.m. Break
2:30–4 p.m. Air Force Programs for Wounded, Ill, and Injured Briefing
4:00–5 p.m. FRCP Update

Day 2: Wednesday, February 22

8:00–8:30 a.m. Public Forum
8:30–9:30 a.m. TRICARE Management Activity Telephone Survey of Ill or Injured Service Members Post-Operational Deployment, Dr. Richard R. Bannick
9:30–9:45 a.m. Break
9:45–10:45 a.m. OSD Office of Military Community and Family Policy (MCFP)
10:45–11:45 a.m. SOCOM Care Coalition Update
11:45 a.m.–12:45 p.m. Lunch
12:45–2:15 p.m. Navy Safe Harbor Update
2:15–2:30 p.m. Break
2:30–3:30 p.m. VCE and EACE Updates
3:30–3:45 p.m. Break
3:45–4:45 p.m. OSD (HA) on Case Management Policy

Day 3: Thursday, February 23

8:00–8:30 a.m. Administration
8:30–9:45 a.m. DCoE PH &TBI Update
9:45–10 a.m. Break
10 a.m.–12 p.m. Panel on Evidence-Based Treatment Modalities for PTSD (Program
12:00–1 p.m. Lunch
1:00–2:15 p.m. Interagency Program Office
2:15–2:30 p.m. Break
2:30–4 p.m. Marine Corps WWR Update
4:00–4:15 p.m. Break
4:15–5:15 p.m. Marine Corps WWR Staff Training
5:15–5:30 p.m. Wrap Up

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces about its mission and functions. If individuals are interested in making an oral statement during the Public Forum time period, a written statement for a presentation of two minutes must be submitted as below and must identify it is being submitted for an oral presentation by the person making the submission. Identification information must be provided and at a minimum must include a name and a phone number. Individuals may visit the Task Force Web site at *http://dtf.defense.gov/rwtf/* to view the Charter. Individuals making presentations will be notified by Friday, February 17, 2012. Oral presentations will be permitted only on Wednesday, February 22, 2012 from 8:00–8:30 a.m. EST before the Task Force. The number of oral presentations will not exceed ten, with one minute of questions available to the Task Force members per presenter. Presenters should not exceed their two minutes.

Written statements in which the author does not wish to present orally may be submitted at any time or in response to the stated agenda of a planned meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces.

All written statements shall be submitted to the Designated Federal Officer for the Task Force through the contact information in **FOR FURTHER INFORMATION CONTACT**, and this individual will ensure that the written statements are provided to the membership for their consideration.

Statements, either oral or written, being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed no later than 5 p.m. EST, Wednesday, February 15, 2012 which is the subject of this notice. Statements received after this date may not be provided to or considered by the Task Force until its next meeting. Please mark mail correspondence as ''Time Sensitive for February Meeting.'' The Designated Federal Officer will review all timely submissions with the Task Force Co-Chairs and ensure they are provided to all members of the Task Force before the meeting that is the subject of this notice.

Reasonable accommodations will be made for those individuals with disabilities who request them. Requests for additional services should be directed to Heather Jane Moore, (703) 325–6640, by 5 p.m. EST, Wednesday, February 15, 2012.

Dated: January 18, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–1275 Filed 1–23–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before February 23, 2012.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or emailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 19, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: Schools and Staffing Survey (SASS) Teacher Status Update 2012 for Teacher Follow-up Survey (TFS:13).

OMB Control Number: 1850–0598.

Agency Form Number(s): N/A.

Frequency of Responses: Once.

Affected Public: State, Local or Tribal Government.

Total Estimated Number of Annual Responses: 12,870.

Total Estimated Annual Burden Hours: 2,145.

Abstract: The Schools and Staffing Survey (SASS) is an in-depth, nationally-representative survey of first through twelfth grade public and private school teachers, principals, schools, library media centers, and school districts. Kindergarten teachers in schools with at least a first grade are also surveyed. For traditional public school districts, principals, schools, teachers and school libraries, the survey estimates are state-representative. For public charter schools, principals, teachers, and school libraries, the survey estimates are nationally-representative. For private school principals, schools, and teachers, the survey estimates are representative of private school types. There are two additional components within SASS's 4-year data collection cycle: The Teacher Follow-up Survey (TFS) and the Principal Follow-up Survey (PFS), which are conducted a year after the SASS main collection. In preparation for TFS, in the year following SASS, schools that provided a teacher list form in SASS schools are sent a Teacher Follow-up Survey Teacher Status update form (TFS–1) requesting information regarding the occupational status of each interviewed teacher. These data are used to stratify the teachers for TFS sampling into groups of ''stayers'' (still teaching at the same school), ''movers'' (still teaching, but at a different school) or ''leavers'' (no longer teaching). The current school principal or someone else in the front office knowledgeable about the school's staff completes the TFS–1. This submission requests approval for collecting data on the current status of SASS teachers using the TFS–1 form.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04755. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to (202) 401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339.

[FR Doc. 2012–1348 Filed 1–23–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Migrant Education Bypass Program Student Database

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled ''Migrant Education Bypass Program Student Database (MEBPSD)'' (18–14–06). The Secretary has awarded a contract to the Central Susquehanna Intermediate Unit (CSIU) to identify, recruit, and serve migratory children in Connecticut, Rhode Island, and West Virginia (collectively, the ''target States''), three states that no longer choose to receive Migrant Education Program (MEP) funding to provide educational programs to migratory children. The MEBPSD consists of records that the contractor needs to collect on eligible migrant students in order to carry out migrant education activities that the target States no longer provide.

DATES: We must receive your comments on the proposed routine uses for the system of records described in this notice on or before February 23, 2012.

This system of records will become effective at the later date of the expiration of the 40-day period for OMB review on February 28, 2012 or February 23, 2012, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Lisa Gillette, Office of Elementary and Secondary Education, U.S. Department of Education, Dallas Regional Office (Harwood Center), 1999 Bryan Street, Suite 1510, Dallas, TX 75201. Telephone: (214) 661–9657. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Migrant Education Bypass Program Student Database'' in the subject line of the electronic message.

During and after the comment period, you may inspect all public comments about this notice at the Department in room 3E315, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Lisa Gillette, Office of Elementary and Secondary Education, U.S. Department of Education, Dallas Regional Office (Harwood Center), 1999 Bryan Street, Suite 1510, Dallas, TX 75201. Telephone: (214) 661–9657. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–(800) 877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under this section.

SUPPLEMENTARY INFORMATION: The Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations at 34 CFR part 5b.

The Privacy Act applies to information about an individual and that is individually identifying information that is retrieved by a unique identifier associated with each individual, such as a name or social security number (SSN). The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.''

The Migrant Education Program (MEP) is authorized under Title I, Part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA). Section 1307 of the ESEA authorizes the Secretary to bypass a State educational agency (SEA) and use all or part of the State's allocation under Title I, Part C, to make arrangements with any public or private nonprofit agency to carry out the purpose of the MEP in that State. The Secretary may do so if the State is unable or unwilling to conduct educational programs for migratory children, if the bypass would result in more efficient and economic administration of this program, or if the bypass would add substantially to the children's welfare. The target states no longer choose to receive Federal MEP funding and therefore no longer operate a MEP. Under the authority of section 1307 of the ESEA, in July 2011 the Department issued a contract to the Central Susquehanna Intermediate Unit (CSIU) of Pennsylvania to assist with the administration and operation of the MEP in the target States.

The Department, through the CSIU and its subcontractors, will collect, maintain, use, and disseminate information on eligible migratory children in order to: (1) Verify children's eligibility for MEP services; (2) help ensure that migratory children in the target States receive educational and supportive services that address their special needs in a coordinated and efficient manner; (3) help to ensure, by collecting, maintaining, and transferring children's educational records, that migratory children in the target States are not penalized by disparities in State curricula, graduation requirements, academic content, and student academic achievement standards as they move among States; (4) help migratory children overcome educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that inhibit their ability to make a successful transition to postsecondary education or employment; (5) enable the contractor to provide to the Department MEP performance report data typically submitted by SEAs; and (6) enable the contractor to report to the Department the numbers of eligible children in the target States so that the Department can continue to determine the amount of funds to be made available to provide educational and supportive services to eligible migratory children in the target States.

The CSIU will document children's eligibility for MEP services on a Certificate of Eligibility (COE), as required by 34 CFR 200.89(c). The COE serves as the official record of the contractor's determination of MEP eligibility in accordance with program regulations in 34 CFR part 200, subpart C. Data from the MEBPSD will be transmitted to the Migrant Student Information Exchange (MSIX) system (18–14–04)—an electronic system of records maintained by the Department that exchanges, on an interstate and intrastate basis, as necessary and appropriate, educational and health information about migrant children who are eligible to participate in the MEP.

Whenever an agency publishes a new system of records or makes a significant change to an established system of records, the Privacy Act requires the agency to publish a system of records notice in the **Federal Register.** The agency is also required to submit reports to the Administrator of the Office of Information and Regulatory Affairs at OMB, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Chair of the House of Representatives Committee on Oversight and Government Reform.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, OMB on January 19, 2012.

Accordingly, this system of records will become effective at the later date of the expiration of the 40-day period for OMB review on February 28, 2012 or February 23, 2012, unless the system of records needs to be changed as a result of public comment or OMB review.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 19, 2012.

Michael Yudin,

Acting Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Acting Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education (Department) publishes a notice of a new system of records to read as follows:

SYSTEM NUMBER:

18–14–06

SYSTEM NAME:

Migrant Education Bypass Program Student Database (MEBPSD).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

(1) U.S. Department of Education, Office of Elementary and Secondary Education, Office of Migrant Education, 400 Maryland Avenue SW., Room 3E315, Washington, DC 20202–4614.

(2a) Central Susquehanna Intermediate Unit (CSIU), 90 Lawton Lane, Milton, PA 17847 (main database server and primary location of staff serving West Virginia (WV)).

(2b) Central Susquehanna Intermediate Unit, 911 Greenough Street, Suite 1, Sunbury, PA 17801 (secure off-site location where electronic backup media will be stored).

(3) LEARN Regional Educational Service Center, 44 Hatchetts Hill Road, Old Lyme, CT 06371 (subcontractor of CSIU and primary location of staff serving Connecticut (CT) and Rhode Island (RI)).

(4) ESCORT, Eastern Stream Center—South, 3750 Gunn Highway, Suite 210, Tampa, FL 33618.

(5) Contractor and subcontractor staff will keep and maintain a subset of MEBPSD records in print format or on tablet personal computers.

(6) Contractor and subcontractor staff may access the MEBPSD through the Internet using secure network connections that utilize encryption and Virtual Private Network technology.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on all children in the target States whom the U.S. Department of Education (Department) has determined to be eligible to participate in the Migrant Education Program (MEP), authorized in Title I, Part C, of the Elementary and Secondary Education Act of 1965, as amended (ESEA). For purposes of this notice, these children are referred to as ''migrant children''.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system include, but are not limited to, the migrant child's: name; date of birth; birth city; birth State; birth country; home address; telephone number; personal identification numbers assigned by the Department's contractor, the Migrant Student Information Exchange (MSIX) system, the State educational agency (SEA), and the local educational agency (LEA); and relevant family information (*e.g.,* parent's or parents' name or names and proficiency in English). The system also includes data on the migrant child's school enrollment, school contacts, assessments, school readiness, educational interests, and other educational and health data necessary for: providing educational and support services in a coordinated and efficient manner; ensuring accurate and timely school enrollment, grade and course placement, and accrual of course credits; and reporting aggregate, non-personally identifiable information to the Department. The system also includes information related to the child's eligibility for the MEP. In cases where the child is a migratory agricultural worker or migratory fisher, the MEBPSD includes information about the child's move, the types of work the child performs and has performed in the past, and the name of the workplace where this work is or was performed. In cases where the child moves with a parent, guardian, or spouse who is a migratory agricultural worker or migratory fisher, the MEBPSD includes information about the moves the child and worker made; the type of work the parent, guardian, or spouse performs and has performed in the past; and the name of the workplace where this work is or was performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The MEBPSD is authorized under section 1307 of the ESEA, (20 U.S.C. 6397).

PURPOSE(S):

The purposes of the MEBPSD are to enable the Department, through its contractor, CSIU, to: (1) Verify the eligibility of migratory children in the target States for MEP services; (2) help migratory children in the target States receive appropriate educational and supportive services that address their special needs in a coordinated and efficient manner; (3) help to ensure, by collecting, maintaining, and transferring children's education records, that migratory children in the target States are not penalized by disparities in State curriculum, graduation requirements, academic content, and student academic achievement standards as they move among States; (4) help migratory children overcome educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that inhibit their ability to make a successful transition to postsecondary education or employment; (5) enable the contractor to provide to the Department MEP performance report data typically submitted by SEAs; and (6) enable the contractor to report on the numbers of eligible children in the target States so that the Department can continue to determine the amount of funds available to provide educational and supportive services to eligible migratory children in the target States.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose a record in this system of records to representatives of SEAs, LEAs, MEP local operating agencies (LOAs), public schools, private and non-public schools, and charter schools to facilitate one or more of the following for a student: (a) Eligibility for and participation in the MEP, (b) eligibility for federally- or State-funded programs, (c) coordination and delivery of educational and supportive services, (d) enrollment in school, (e) grade or course placement, (f) credit accrual, and (g) unique student match resolution. Unique student match resolution is a process to determine if two students in a database, who share similar identifying characteristics (e.g. name and date of birth), are the same student. The Department may disclose a record in this system of records to representatives of community-based organizations and health and social service providers to help migratory children overcome social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school. The Department may also disclose a record in this system of records to institutions of higher education (IHEs) or private

nonprofit organizations that operate a federally funded College Assistance Migrant Program (CAMP) or a High School Equivalency Program (HEP); State or local government entities, IHEs, or nonprofit organizations that operate a Migrant Education Even Start (MEES) Program; nonprofit organizations and for-profit organizations that operate a Migrant and Seasonal Head Start program; and public agencies and private nonprofit organizations that receive funding from the National Farmworker Jobs Program, so that they can determine children's eligibility for these Federal grant programs and provide services accordingly.

(2) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records in this system to the contractor's employees, the Department may disclose the records to those employees who have received the appropriate level of security clearance from the Department. Before entering into such a contract, the Department will require the contractor to establish and maintain the safeguards required under the Privacy Act (5 U.S.C. 552a(m)) with respect to the records in the system.

(3) *Software Vendor Disclosure.* The Department, through its contractor, CSIU, may disclose the records in this system to the database vendor, Management Services for Education Data (MS/EdD), for the sole purpose of resolving contractor-initiated calls for assistance related to the software (MIS2000) used to operate the contractor's database.

(4) *Research Disclosure.* The Department may disclose records from this system to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher will be required to maintain Privacy Act safeguards with respect to the disclosed records.

(5) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to the Department of Justice (DOJ) or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary to determine whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(6) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the MEBPSD has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of the MEBPSD or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(7) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components.

(ii) Any Department employee in his or her official capacity.

(iii) Any Department employee in his or her individual capacity where the DOJ has agreed to or has been requested to provide or arrange for representation of the employee.

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee.

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ.* If the Department determines that disclosure of certain records to the DOJ, or attorneys engaged by DOJ, is relevant and necessary to litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to a court, an administrative body before which the Department is authorized to appear, or an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body or individual or entity.

(d) *Disclosures to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to a party, counsel, representative, or witness.

(8) *Congressional Member Disclosure.* The Department may disclose records to a Member of Congress and his or her staff in response to an inquiry from the Member made at the written request of the individual who requested it. The Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The main database server of the Department's contractor, CSIU, stores computerized student records on server hardware. The data are stored in a Firebird Database file. Backup media are encrypted and transported daily to a second secure location. Electronic records are also stored on portable devices (e.g., tablet computers and thumb drives) used by contractor and subcontractor staff.

Print data are locked securely at the contractor's and subcontractors' offices. At times, contractor and subcontractor staff may need to carry print records with them. These records will be locked securely when not in use.

RETRIEVABILITY:

Records in the database are indexed and retrieved by unique numbers assigned to each person. The Firebird database, located at the main data center, uses Transmission Control Protocol (TCP) transport within a local computer.

SAFEGUARDS:

(1) *Introduction*

Department, contractor, and subcontractor employees who collect,

maintain, use, or disseminate data in this system, must comply with the requirements of the Privacy Act.

(2) *Physical Security of Electronic Data*

Physical security of electronic data will be maintained. The main database server for this system is located in a secure room at the contractor's data center. Access to the secure room is monitored electronically. Personnel entering the room without electronic passes are logged in and admitted only by authorized personnel. The secure room is located behind closed doors in a passage limited to contractor personnel only. Finally, all entrances to the building are monitored both electronically and by front-desk personnel.

Off-site backup media are encrypted, locked in a container, and transported securely by contractor staff to a second secure location that is also protected by electronic security measures. The locked container is stored in a dedicated locked room at the backup location. Access to the room is controlled by a key that is maintained by the backup location's office manager. The office manager maintains a log of all individuals who access the room.

(3) *Physical Security of Print Data*

Physical security of print data will be maintained. Print data will be locked securely at contractor's and subcontractors' offices. At times, contractor or subcontractor staff may need to carry print records with them. These records will be locked securely when not in use.

(4) *User Access to Electronic Data*

Access to the database server and software is restricted to the system administrators for the MEBPSD. The Database Vendor, MS/EdD, is granted access to server data for the sole purpose of resolving contractor-initiated calls for assistance. The Department's contractor and the database vendor maintain a signed confidentiality agreement.

All MEBPSD user accounts will be granted by MEBPSD System Administrator staff and will leverage role-based accounts and security controls to limit access to the database application, its server, and infrastructure, to authorized users only. MEBPSD System Administrators will grant access to data in the MEBPSD to authorized contractor and subcontractor staff by creating accounts and assigning appropriate roles that restrict access based on user category (*e.g.,* data administrator, MEP advocate, or project coordinator). MEBPSD System Administrators will grant access to data in the MEBPSD to the Database Vendor, MS/EdD, as needed, to address contractor initiated calls for assistance with the database.

The MEBPSD requires the use of ''strong'' passwords comprised of alphanumeric and special characters. Department, contractor, and subcontractor staff are granted access to student information on a ''need to know'' basis. All physically unsecured database installations, e.g., user workstations, reside on hard drives that are fully encrypted. Access to the system will be limited to secure network sessions such as Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) and Virtual Private Network (VPN) connections.

All electronic records stored on portable devices reside on fully encrypted hard drives or media. Electronic documents (e.g., spreadsheets and word processing documents) with student data are password protected. Records from the system are shared in accordance with the Privacy Act.

(5) *Additional Security Measures*

The CSIU uses a series of firewalls to limit internal access to specific Internet protocols and ports as well as intrusion detection systems to monitor any potential unauthorized access to the MEBPSD. The MIS2000 software logs and tracks login attempts, data modifications, and other key application events. CSIU staff monitor database and security logs on a regular basis.

A third party performs vulnerability scans on a routine basis, and contractor staff monitor the US Computer Emergency Response Team (CERT) bulletins (see *http://www.us-cert.gov/*for more details) and apply operating system and vendor patches as appropriate.

Confidentiality statements are maintained in job descriptions of all contractor and subcontractor employees. In addition, all contractor and subcontractor employees are required to sign data safeguarding statements.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedules as listed under ED 086—Information Systems Supporting Materials.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Migrant Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E317, Washington, DC 20202–0001.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, you must provide the system manager at the address listed under **SYSTEM MANAGER AND ADDRESS** with your name, date of birth, and other identification if requested. Your request must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to a record about you in this system of records, provide the system manager at the address listed under **SYSTEM MANAGER AND ADDRESS** with your name, date of birth, and other identification if requested. Your request must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager at the address listed under **SYSTEM MANAGER AND ADDRESS** with the information described in the **NOTIFICATION PROCEDURE** section. Your request for access to a record must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.7, including proof of identity, specification of the particular record you are seeking to have changed, and the written justification for making such a change.

RECORD SOURCE CATEGORIES:

The system will contain records that are obtained from MSIX; SEAs; LOAs; LEAs; schools; health service providers; social service providers; community based organizations; officials who operate federally-funded CAMPs, HEPs, MEES, and Migrant and Seasonal Head Start programs and projects; parents; guardians; spouses; and eligible migratory children.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–1353 Filed 1–23–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Cancellation of the Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project, Mason County, WV

AGENCY: U.S. Department of Energy.

ACTION: Notice of Cancellation of Environmental Impact Statement.

SUMMARY: The U.S. Department of Energy's (DOE) Office of Fossil Energy is cancelling the environmental impact statement (EIS) under the *National Environmental Policy Act of 1969*

(NEPA) for the Mountaineer Commercial Scale Carbon Capture and Storage (CCS) Project in Mason County, WV (DOE/EIS–0445). DOE selected this project proposed by American Electric Power (AEP) under the Round 3 solicitation of the Clean Coal Power Initiative. DOE's proposed action was to provide $334 million in cost-shared financial assistance to AEP to support the construction and operation of AEP's proposed project.

FOR FURTHER INFORMATION CONTACT: For further information on the cancellation of this EIS, contact Mark W. Lusk, NEPA Document Manager, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, M/S B07, P.O. Box 880, Morgantown, WV 26507–0880; by email at *Mark.Lusk@netl.doe.gov;* toll-free number at 1–(800) 553–7681; or facsimile at (304) 285–4403. For general information on the DOE's NEPA review process, contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0119, telephone (202) 586–4600 or 1–(800) 472–2756, facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION: The DOE's Office of Fossil Energy is cancelling the EIS for the proposed Mountaineer Commercial Scale CCS Project in Mason County, WV. DOE selected this project, as proposed by AEP, under a competitive solicitation in Round 3 of the Clean Coal Power Initiative. DOE's proposed action was to provide $334 million in cost-shared financial assistance to AEP to support the construction and operation of AEP's proposed project. On June 7, 2010, DOE announced its intent (75 FR 32171) to prepare an environmental impact statement for the proposed project and held a public scoping meeting.

The U.S. Environmental Protection Agency announced the availability of the *Draft Environmental Impact Statement for the Mountaineer Commercial Scale Carbon Capture and Storage Project* (DOE/EIS–0445D) for public review and comment on March 4, 2011 (76 FR 12108). DOE also announced availability of the draft EIS and provided the location and time for a public hearing in a separate announcement on March 11, 2011 (76 FR 13396). The planned public hearing was postponed in late March 2011 due to the uncertainty of AEP's plans. DOE received a letter from AEP, dated July 7, 2011, announcing its intent to terminate its cooperative agreement with DOE at the end of Phase I, ''Project Definition,'' citing unfavorable economic conditions and regulatory uncertainty. AEP completed its Phase I obligations to DOE and is in the process of completing final reporting in accordance with the cooperative agreement.

Issued in Pittsburgh, PA, on December 20, 2011.

Anthony V. Cugini,

Director, National Energy Technology Laboratory, Office of Fossil Energy.

[FR Doc. 2012–1351 Filed 1–23–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Reimbursement for Costs of Remedial Action at Active Uranium and Thorium Processing Sites

AGENCY: Department of Energy.

ACTION: Notice of the acceptance of Title X claims during fiscal year (FY) 2012.

SUMMARY: This Notice announces the Department of Energy's (DOE) acceptance of claims in FY 2012 from eligible active uranium and thorium processing site licensees for reimbursement under Title X of the Energy Policy Act of 1992. In FY 2009, Congress appropriated $70 million for Title X in the American Recovery and Reinvestment Act of 2009 (Recovery Act). Also in FY 2009, Congress provided $10 million for Title X through the normal appropriation process. As of the end of FY 2011, there are approximately $15.0 million of Recovery Act funds available for reimbursement in FY 2012. Of the $10 million provided by the FY 2009 appropriation, $9.9 million of unobligated balances was rescinded by the Department of Defense and Full Year Continuing Appropriations Act (Pub. L. 112–10); and the remaining $100,000 had been obligated for Title X audit support. No funds were appropriated for Title X in FY 2012. All of the remaining Recovery Act funds will be reimbursed to licensees in early calendar year 2012 following the review of claims received by June 3, 2011. Since the available Recovery Act funds are less than the total estimated amounts eligible for reimbursement (approximately $23 million), the reimbursements to licensees will be paid on a prorated basis.

DATES: The closing date for the submission of claims in FY 2012 is April 30, 2012. These new claims will be processed for payment by April 30, 2013, together with any eligible unpaid approved claim balances from prior years, based on the availability of funds from congressional appropriations. If the total of approved claim amounts exceeds the available funding, the approved claim amounts will be reimbursed on a prorated basis. All reimbursements are subject to the availability of funds from congressional appropriations.

ADDRESSES: Claims should be forwarded by certified or registered mail, return receipt requested, to U.S. Department of Energy, Office of Legacy Management, Attn: Title X Coordinator, 2597 Legacy Way, Grand Junction, Colorado 81503. Two copies of the claim should be included with each submission.

FOR FURTHER INFORMATION CONTACT: Contact David Mathes at (301) 903–7222 of the U.S. Department of Energy, Office of Environmental Management, Office of Disposal Operations.

SUPPLEMENTARY INFORMATION: DOE published a final rule under 10 CFR Part 765 in the **Federal Register** on May 23, 1994, (59 FR 26714) to carry out the requirements of Title X of the Energy Policy Act of 1992 (sections 1001–1004 of Public Law 102–486, 42 U.S.C. 2296a *et seq.*) and to establish the procedures for eligible licensees to submit claims for reimbursement. DOE amended the final rule on June 3, 2003, (68 FR 32955) to adopt several technical and administrative amendments (*e.g.,* statutory increases in the reimbursement ceilings). Title X requires DOE to reimburse eligible uranium and thorium licensees for certain costs of decontamination, decommissioning, reclamation, and other remedial action incurred by licensees at active uranium and thorium processing sites to remediate byproduct material generated as an incident of sales to the United States Government. To be reimbursable, costs of remedial action must be for work which is necessary to comply with applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or, where appropriate, with requirements established by a State pursuant to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021). Claims for reimbursement must be supported by reasonable documentation as determined by DOE in accordance with 10 CFR part 765. Funds for reimbursement will be provided from the Uranium Enrichment Decontamination and Decommissioning Fund established at the Department of Treasury pursuant to section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Payment or obligation of funds shall be subject to the requirements of the Anti-Deficiency Act (31 U.S.C. 1341).

Authority: Section 1001–1004 of Pub. L. 102–486, 106 Stat. 2776 (42 U.S.C. 2296a *et seq.*).

Issued in Washington, DC, on this 17th of January 2012.

David E. Mathes,

Office of Disposal Operations, Office of Technical and Regulatory Support.

[FR Doc. 2012–1352 Filed 1–23–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No. EERE–2011–BT–NOA–0065]

Request for Information (RFI) Regarding Miscellaneous Residential and Commercial Electrical Equipment

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

ACTION: Request for Information.

SUMMARY: The Department of Energy (DOE) is evaluating the energy use and energy efficiency potential of miscellaneous residential and commercial electrical equipment, including: audio-video equipment, computer systems, household cleaning equipment, imaging equipment, network equipment, personal space heating equipment, thermal household equipment, thermal kitchen equipment, uninterruptible power supplies (UPS), and vertical transport equipment. DOE is requesting information from interested parties regarding product markets, energy use, test procedures, and energy efficient product design.

DATES: Written comments and information are requested by March 26, 2012.

ADDRESSES: Interested persons may submit comments in writing, identified by docket number EERE–2011–BT–NOA–0065 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: MEL-RFI-2011-NOA-0065@ee.doe.gov.*
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Request for Information for on Miscellaneous Electrical Equipment, EERE–2011–BT–NOA–0065. 1000 Independence Avenue SW., Washington, DC 20585–0121. *Phone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number.

Docket: For access to the docket to read background documents or comments received, please call Ms. Brenda Edwards at the above telephone number.

FOR FURTHER INFORMATION CONTACT: Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *jeremy.dommu@ee.doe.gov.*

In the Office of General Counsel, Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

1. Statutory Authority

Title III of the Energy Policy and Conservation Act (EPCA), as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part B of Title III of EPCA established the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' [1] Part C of Title III includes measures to improve the energy efficiency of commercial and industrial equipment.

2. Miscellaneous Residential and Commercial Electrical Equipment Considered

In this notice, DOE seeks data and information on the energy use of a variety of miscellaneous residential and commercial electrical equipment. For the purposes of this request for information, these products are organized into the following categories.

a. Audio-Video Equipment

This category includes devices that offer audio amplification, optical disc drive functions, and/or audio digital signal processing as a primary function. Example products include DVD and Blu-ray players, stereo systems, and clock radios.

b. Computer Systems

This category includes devices and systems that primarily perform logical operations and process data, and components of such devices. Example products include desktop computers (including integrated computers), laptop computers, servers, monitors, and video game consoles.

c. Household Cleaning Equipment

This category includes devices whose principle function is to remove dirt, stains, and/or odors from interior dwelling spaces and furniture. Example products include steam cleaners and vacuum cleaners.

d. Imaging Equipment

This category includes devices whose primary function(s) include generating hard copy output from electronic input, generating electronic output from hard copy input, generating hard copy duplicates from hard copy originals, or some combination of these. Example products include printers, scanners, copiers, facsimile (fax) machines, and multi-function devices (such as a combination printer, scanner and fax).

e. Network Equipment

This category includes devices whose principle function(s) is to pass Internet Protocol traffic among various network interfaces. Example products include routers, modems, switches, and integrated home access devices. This category also includes security equipment.

f. Personal Space Heating Equipment

This category includes electrical devices that primarily deliver thermal energy (heat) for the purpose of space conditioning a person's body or single room. Example products include electric blankets and space heaters.

g. Thermal Household Equipment

This category includes electrical devices that primarily deliver thermal energy (heat) for the purpose of personal grooming. Example products include clothing irons and hair dryers.

h. Thermal Kitchen Equipment

This category includes electrical devices that primarily deliver thermal energy (heat) for the purpose of food or beverage preparation. Example products include toasters, toaster ovens, slow and rice cookers, and coffee makers.

i. Uninterruptible Power Supplies (UPSs)

This category includes devices that are a combination of converters, switches, and energy storage devices

[1] For editorial reasons, upon codification in the U.S. Code, Parts B and C were re-designated as Parts A and A–1, respectively.

(such as batteries) constituting a power system for maintaining continuity of load power in case of input power failure. Example products include static, rotary, modular and multi-mode UPSs. (Note that while DOE currently has an ongoing rulemaking to cover residential UPSs,[2] it does not cover exclusively commercial-sector UPSs.).

j. Vertical Transport Equipment

This category includes electrical equipment designed to move people or goods between floors of a structure. Example products include elevators and escalators.

3. Preliminary Evaluation of Miscellaneous Residential and Commercial Electrical Equipment

The energy use of many miscellaneous residential and commercial electrical equipment (including audio-video equipment, computer systems, imaging equipment, network equipment, thermal kitchen equipment, and uninterruptible power supplies) has been increasing in the last twenty years due to increased ownership and use of miscellaneous electrical (particularly electronic) devices, rapid growth in internet connections in both residential and commercial settings, and increased computing power of many electronic devices. The energy use of household cleaning equipment, personal space heating equipment, thermal household equipment, and vertical transport equipment may not have grown appreciably, but the energy use of these types of products and equipment remains high. Significant variation in the annual energy consumption of different basic models exists for many of these types of products and equipment, which indicates that technologies likely exist to reduce their energy consumption.

a. Consumer Products: Average Residential Energy Use

DOE calculated average energy use for the products described in this request for information based on several reports and DOE's own estimates.[3] Table 1 summarizes available estimates for miscellaneous residential electrical products. Subsequent discussion provides additional detail on DOE's energy use calculations for each product category. DOE seeks feedback from interested parties on any revised estimates of residential energy use for miscellaneous electrical equipment.

TABLE 1—ENERGY CONSUMPTION ESTIMATES OF MISCELLANEOUS RESIDENTIAL ELECTRICAL PRODUCTS[4]

	Stock[a] (millions)	Average unit energy use (kWh/yr)	Annual energy use[a] (TWh/yr)	Percentage of households	Household energy use (kWh/yr)	Source
Audio-Video Equipment						
Compact Audio	63	105	6.6	54	105	Urban et al. (2011).[5]
Computer Speakers	74	37	2.8	47	50	Urban et al. (2011).
Home Theater Systems (in-a-box)	30	91	2.7	26	91	Urban et al. (2011).
MP3 Player Docking Stations	48	25	1.2	41	25	Urban et al. (2011).
Portable Audio	120	6	0.7	30	19	Urban et al. (2011).
Radios	81	16	1.3	70	16	Urban et al. (2011).
Clock Radios	157	15	2.3	90	22	Roth et al. (2007).[6]
All audio equipment	577	.....	17.8	[b] 99+	154	
Blu-ray Players	12	14	0.2	11	13	Urban et al. (2011).
DVD Players	223	28	6.3	93	58	Urban et al. (2011).
Video Cassette Recorders (VCR)	57	47	2.7	49	47	Urban et al. (2011).
All video players	292	.....	9.1	[b] 97	81	
Audio/Video Receivers	99	65	6.4	50	111	Urban et al. (2011).
Total	962	.....	33.2	[b] 99+	286	
Computer Systems						
Desktop	101	220	22.2	66	290	Urban et al. (2011).
Portable	132	63	8.3	61	118	Urban et al. (2011).
All computers	233	.....	30.5	[b] 87	303	
Desktop PC Monitors	96	97	9.3	63	93	Urban et al. (2011).
Portable PC Monitors	35	97	3.4	16	25	Urban et al. (2011).
All monitors	131	.....	12.7	[c] 69	158	
External Storage Devices	80	11	0.8	69	11	Urban et al. (2011).

[2] Battery Chargers and External Power Supplies Preliminary Analysis Public Meeting, Appliances & Commercial Equipment Standards, U.S. Department of Energy, 13 October 2010. 75 FR 56021–56024 *http://www1.eere.energy.gov/buildings/appliance_standards/residential/battery_external_preliminaryanalysis_public_mtg.html.*

[3] Desroches, L.B., & Garbesi, K., 2011, *Max Tech and Beyond: Maximizing Appliance and Equipment Efficiency by Design*, Lawrence Berkeley National Laboratory Final Report, LBNL–4998E. *http://efficiency.lbl.gov/bibliography/max_tech_and_beyond.*

[4] Note: Some totals within the table may not sum precisely due to rounding.

[5] Urban, B., V. Tiefenbeck, and K. Roth. 2011. *Energy Consumption of Consumer Electronics in U.S. Homes in 2010,* Final Report to the Consumer Electronics Association (CEA), Fraunhofer Center for Sustainable Energy Systems, December.

[6] Roth, K.W. *et al.* 2007. *Residential Miscellaneous Electric Loads: Energy Consumption Characterization and Savings Potential.* Prepared by TIAX LLC for DOE.

TABLE 1—ENERGY CONSUMPTION ESTIMATES OF MISCELLANEOUS RESIDENTIAL ELECTRICAL PRODUCTS [4]—Continued

	Stock [a] (millions)	Average unit energy use (kWh/yr)	Annual energy use [a] (TWh/yr)	Percentage of households	Household energy use (kWh/yr)	Source
Video Game Consoles	109	135	14.7	48	264	Urban et al. (2011).
Total	553		58.8	[b,d] 93	544	
Household Cleaning Equipment						
Vacuum Cleaners	114	42	4.8	98	42	Roth et al. (2007).
Imaging Equipment						
Printers & Multi-Function Devices	113	12	1.3	71	16	Urban et al. (2011).
Copiers	9	14	0.1	8	14	Urban et al. (2011).
Fax Machines	10	46	0.5	9	46	Urban et al. (2011).
Total	132		1.9	[b] 76	21	
Network Equipment						
Integrated Access Devices	42	53	2.2	33	58	Urban et al. (2011).
Modems	46	44	2.0	36	48	Urban et al. (2011).
Routers	49	44	2.1	35	53	Urban et al. (2011).
All Network Equipment	137		6.4	[e] 69	79	
Security Equipment	27	61	1.7	23	61	Roth et al. (2007).
Total	164		8.0	[b] 76	90	
Personal Space Heating Equipment						
Electric Blankets	29	120	3.5	25	121	Sanchez et al. (2008).[7]
Thermal Household Equipment						
Clothes Irons	107	53	5.7	92	53	Roth et al. (2007).
Hair Dryers	100	42	4.2	86	42	Roth et al. (2007).
Total	207		9.9	[b] 99	86	
Thermal Kitchen Equipment						
Coffee Makers	71	60	4.2	61	60	Roth et al. (2007).
Rice Cookers	20	45	0.9	17	45	Desroches and Garbesi (2011).
Slow Cookers	51	25	1.3	43	25	Desroches and Garbesi (2011).
Toasters	105	39	4.1	90	40	Roth et al. (2007).
Toaster Ovens	65	33	2.1	56	33	Roth et al. (2007).
Total	311		12.7	[b] 99	110	

[a] Stock and annual energy use have been adjusted to reflect the number of households in 2011.
[b] Percentage of households owning at least one device is assumed to be uncorrelated for each device or device category.
[c] Percentage of households owning at least one device is assumed to be the sum of individual percentages.
[d] Monitors and external storage devices are assumed to be 100% correlated with owning a computer, so the percentage of households owning at least one type of computer equipment is assumed to be the joint uncorrelated probability of owning a computer and video game console.
[e] Percentage of households owning at least one device is assumed to be the sum of integrated access devices (which contain modems) and standalone modems.

i. Audio-Video Equipment

DOE calculated average residential energy use for audio-video equipment, in households that used the product, based on data from reports on residential miscellaneous electric loads.[9] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of residential audio-video equipment included compact audio, computer speakers, home theater in-a-box systems, MP3 player docking stations, portable audio, radios, clock radios, Blu-ray players, digital versatile disk (DVD) players, video cassette recorders (VCR) and audio-video

[7] Sanchez, M.C., Koomey, J.G., Moezzi, M.M., & Huber, W., 1998, *Miscellaneous Electricity Use in the U.S. Residential Sector*, Lawrence Berkeley National Laboratory Final Report, LBNL–40295.

[8] Energy Information Administration. 20110. *Annual Energy Outlook (AEO) 2011.*

[9] Roth *et al.,* 2011; Urban et al., 2011.

receivers. See Table 1 for more information. Based on these data, DOE believes the presence of one type of audio or video equipment within a household is not necessarily correlated with the presence of another type of audio or video equipment. Therefore, DOE estimated the percentage of households with at least one type of audio or video equipment to be more than 99%, by calculating the total uncorrelated probability of all device combinations.[10]

The total number of households in the U.S. in 2011 was 116 million;[11] therefore DOE estimated the number of households in which audio or video equipment was used to be 116 million. The estimated total household energy use of audio-video equipment was 33.2 billion kWh. Therefore, the estimated average annual U.S. household energy use for homes with audio-video equipment was 286 kWh.

ii. Computer Systems

DOE calculated average residential energy use for computer systems in households that used the product, based on data from a report on residential miscellaneous electric loads.[12] This report provides annual energy use per device and the total number of devices in operation in the U.S. Types of residential computer systems included desktop computers, portable (laptop, netbook, and tablet) computers, monitors (for desktop and portable computers), external storage devices, and video game consoles. See Table 1 for more information. Based on these data, DOE believes that monitors and external storage devices are only present along with a computer, but the presence of one type of computer system (desktop computer, portable computer or game console) within a household is not necessarily correlated with the presence of another type of computer system. Therefore, DOE estimated the percentage of households with at least one type of computer equipment to be 93%, by calculating the total uncorrelated probability of all device combinations.

The total number of households in the U.S. in 2011 was 116 million;[13] therefore, the number of households in which computer systems were used was approximately 108 million. The total reported household energy use of computer systems was 58.8 billion kWh. Therefore, the estimated average annual U.S. household energy use for computer systems was 544 kWh.

iii. Household Cleaning Equipment

DOE calculated average residential energy use for household cleaning equipment, in households that used the product, based on data from a report on residential miscellaneous electric loads.[14] This report provides annual energy use per device and the total number of devices in operation in the U.S. Types of household cleaning equipment included vacuum cleaners; no data were available for other types of devices, including steam cleaning equipment and possibly other devices, which may be potentially significant categories of residential energy use. See Table 1 for more information. The percentage of households with at least one type of household cleaning equipment is estimated to be 98%.

The total number of households in the U.S. in 2011 was 116 million;[15] therefore, the number of households using household cleaning equipment was approximately 114 million. The total estimated household energy use of household cleaning equipment was 4.8 billion kWh. Therefore, the average U.S. per-household energy use of household cleaning equipment was 42 kWh.

iv. Imaging Equipment

DOE calculated average residential energy use for imaging equipment in households that used the product, based on data from a report on residential miscellaneous electric loads.[16] This report provides annual energy use per device and the total number of devices in operation in the U.S. Types of residential imaging equipment included printers, copiers, fax machines, and multi-function devices (such as a combination printer, scanner and fax). See Table 1 for more information. Based on these data, DOE believes the presence of one type of imaging equipment in a household is not necessarily correlated with the presence of another type of imaging equipment. Therefore, DOE estimated the percentage of households with at least one type of imaging equipment to be 76%, by calculating the total uncorrelated probability of all device combinations.

The total number of households in the U.S. in 2011 was 116 million;[17] therefore, the number of households in which imaging equipment was used was approximately 88 million. The total reported household energy use of imaging equipment was 1.9 billion kWh. Therefore, the estimated average annual U.S. household energy use for imaging equipment was 21 kWh.

v. Network Equipment

DOE calculated average residential energy use for network equipment in households that used the product, based on data from reports on residential miscellaneous electric loads.[18] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of residential network equipment included modems, routers, integrated access devices (IAD, which are combination modem/routers), and security equipment. See Table 1 for more information. Based on these data, DOE believes the presence of an IAD within a household excludes the presence of a modem and vice-versa. DOE also believes that routers are 100% correlated with the presence of a modem or IAD, and that security equipment is uncorrelated with other network equipment. Therefore, DOE estimated the percentage of households with at least one type of network equipment to be 76%, by calculating the total probability of all device combinations.

The total number of households in the U.S. in 2011 was 116 million;[19] therefore, the number of households using network equipment was approximately 88 million. The total reported household energy use of network equipment was 8.0 billion kWh. Therefore, the average U.S. per-household energy use for network equipment was 90 kWh.

vi. Personal Space Heating Equipment

DOE calculated average residential energy use for personal space heating equipment, in households that used the product, based on data from a report on residential miscellaneous electric loads.[20] This report provides annual energy use per device and the total

[10] The uncorrelated probability of owning more than one type of device is equal to one minus the probability that a home has neither type. This latter quantity is found by multiplying the probabilities that a home does not have each type of device. For instance, for video players, the probability that a home has a Blu-ray player is 11%, a DVD player, 93% and a VCR, 49%. Therefore, the probability that a home has none of these types is (1—11%) (1—93%) (1—49%) = 3%, while the probability that a home has at least one type is 1—3% = 97%. Similarly, the probability that a home has at least one type of audio equipment is more than 99%, and of audio/video receivers is 50%. Therefore, the joint probability that a home has at least one type of audio or video equipment is 1— (1—97%) (1—99%) (1—50%) = 99.99%

[11] *AEO 2011.*

[12] Urban *et al.,* 2011.

[13] *AEO 2011.*

[14] Roth *et al.,* 2007.

[15] *AEO 2011.*

[16] Urban *et al.,* 2011.

[17] *AEO 2011.*

[18] Roth *et al.* 2007; Urban et al., 2011.

[19] *AEO 2011.*

[20] Sanchez *et al* (2008).

number of devices in operation in the U.S. Types of personal space heating equipment included electric blankets; no data were available for other types of devices, including electric space heaters, which may be a potentially significant category of residential energy use. See Table 1 for more information. The percentage of households with at least one type of personal space heating equipment was estimated to be 25%.

The total number of households in the U.S. in 2011 was 116 million;[21] therefore, the number of households using personal space heating equipment was approximately 29 million. The total reported household energy use of personal space heating equipment was 3.5 billion kWh. Therefore, the average U.S. per-household energy use of personal space heating equipment was 121 kWh.

vii. Thermal Household Equipment

DOE calculated average residential energy use for thermal household equipment, in households that used the product, based on data from a report on residential miscellaneous electric loads.[22] This report provides annual energy use per device and the total number of devices in operation in the U.S. Types of thermal household equipment included clothes irons and hair dryers; no data were available for other types of devices, which may be potentially significant categories of residential energy use. See Table 1 for more information. Based on these data, DOE believes the presence of one type of thermal household equipment within a household is not necessarily correlated with the presence of another type of thermal household equipment. Therefore, DOE estimated the percentage of households with at least one type of thermal household equipment to be 99%, by calculating the total uncorrelated probability of all device combinations.

The total number of households in the U.S. in 2011 was 116 million;[23] therefore, the number of households using thermal household equipment was approximately 115 million. The total reported household energy use of thermal household equipment was 9.9 billion kWh. Therefore, the average U.S. per-household energy use thermal household equipment was 86 kWh.

viii. Thermal Kitchen Equipment

DOE calculated average residential energy use for thermal kitchen equipment, in households that used the product, based on data from a report on residential miscellaneous electric loads[24] and DOE's own estimates.[25] These reports provide annual energy use per device, and the total number of devices in operation in the U.S. Types of residential thermal kitchen equipment included coffee makers, rice cookers, slow cookers, toasters and toaster ovens. See Table 1 for more information. Based on these data, DOE believes the presence of one type of thermal kitchen equipment within a household is not necessarily correlated with the presence of another type of thermal kitchen equipment. Therefore, DOE estimated the percentage of households with at least one type thermal kitchen equipment to be 99%, by calculating the total uncorrelated probability of all device combinations.

The total number of households in the U.S. in 2011 was 116 million;[26] therefore, the number of households using thermal kitchen equipment was approximately 115 million. The total reported household energy use of thermal kitchen equipment was 12.7 billion kWh. Therefore, the average U.S. per-household energy use of thermal kitchen equipment was 110 kWh.

ix. Other Devices

Many other types of residential products or equipment not covered in the discussion above are listed in Appendix A of Roth et al. (2007). The data available for these types of products and equipment include estimates of numbers of installed devices, unit energy consumption and national energy consumption, but no energy savings potentials. Some of these devices, and other devices not listed in the appendix, represent significant energy consumption and may warrant evaluation by DOE.

b. Commercial Equipment: Average Commercial Energy Use

DOE calculated average estimated energy use for the commercial equipment described in this request for information based on several reports and DOE's own estimates.[27] Table 2 summarizes available estimates for miscellaneous commercial electrical equipment. Subsequent discussion provides additional detail on DOE's energy use calculations for each product category. DOE seeks feedback from interested parties on any revised estimates of commercial energy use for miscellaneous electrical equipment.

TABLE 2—ENERGY CONSUMPTION ESTIMATES OF MISCELLANEOUS COMMERCIAL ELECTRICAL EQUIPMENT[28]

	Stock (millions)	Average unit energy use (kWh/yr)	Annual energy use (TWh/yr)	Notes	Source
Computer Systems					
Desktop	60	500	30.0		Zogg et al. (2009).
Laptop	48	28	1.3		Zogg et al. (2009).
All computers	108	290	31.3		
Desktop monitors	65	108	7.0	Low est	Zogg et al. (2009).
	160	169	27.0	High est	McKenney et al. (2010).[30]
Servers:					
—Low-end (volume) servers	12.8	2,100	27.3		Zogg et al. (2009).
—Mid-range servers	0.35	6,900	2.4	Low est	Zogg et al. (2009).

[21] *AEO 2011.*

[22] Roth *et al.* 2007.

[23] *AEO 2011.*

[24] Roth *et al.* 2007.

[25] Desroches and Garbesi, 2011.

[26] *AEO 2011.*

[27] Desroches and Garbesi, 2011.

[28] **Note:** Some totals within the table may not sum precisely due to rounding.

[29] Zogg, R. *et al.,* 2009. *Energy Savings Potential and RD&D Opportunities for Commercial Building Appliances.* Prepared by Navigant Consulting, Inc. for DOE.

[30] McKenney, K., *et al.,* 2010, *Commercial Miscellaneous Electric Loads: Energy Consumption Characterization and Savings Potential in 2008 by Building Type.* Prepared by TIAX LLC for DOE.

TABLE 2—ENERGY CONSUMPTION ESTIMATES OF MISCELLANEOUS COMMERCIAL ELECTRICAL EQUIPMENT [28]—Continued

	Stock (millions)	Average unit energy use (kWh/yr)	Annual energy use (TWh/yr)	Notes	Source
	1.3	3,923	5.1	High est	McKenney et al. (2010).
—High-end servers	0.018	81,400	1.5	Low est	Zogg et al. (2009).
	0.015	2.13×10^6	32.0	High est	McKenney et al. (2010).
—Subtotal	13.2	2,335	30.7	Low est	
	14.1	4,533	64.0	High est	
Total	186	371	69.5	Low est	
	282	434	122.8	High est	
Imaging Equipment					
Fax machines	5.5	55	0.3	Low est	McKenney et al. (2010).
	16.1	320	5.2	High est	Zogg et al. (2009).
Impact printers	2.9	120	0.3		Zogg et al. (2009).
Ink-jet printers	12.8	44	0.6		Zogg et al. (2009).
Laser printers	6.8	440	3.0		Zogg et al. (2009).
Printers	34.0	324	11.0		McKenney et al. (2010).
Copiers	3.7	730	2.7		McKenney et al. (2010).
Scanners	3.6	28	0.1	Low est	McKenney et al. (2010).
	12.3	37	0.5	High est	Zogg et al. (2009).
Multi-function devices	6.0	67	0.4	Low est	McKenney et al. (2010).
	8.6	890	7.7	High est	Zogg et al. (2009).
Total	75.3	244	18.4	Low est	
	97.2	318	30.9	High est	
Network Equipment					
Commercial Routers/WLAN	7	250	1.8		Lanzisera (2010).[31] Lanzisera et al. (2011).[32]
Commercial Switches	435	16.5	7.2		Lanzisera (2010). Lanzisera et al. (2011).
ISP Equipment	91	14	1.3		Lanzisera (2010). Lanzisera et al. (2011).
Security Equipment	2.5	920	2.3		Lanzisera (2010). Lanzisera et al. (2011).
Total	* 109	114	12.5		
Uninterruptible Power Supplies					
UPS (double conversion)	1.3	3498	4.5		Zogg et al. (2009).
UPS (line interactive)	4.5	158	0.7		Zogg et al. (2009).
UPS (standby)	9.0	131	1.2		Zogg et al. (2009).
Total	14.7	429	6.4		
Vertical Transport Equipment					
Elevators + Escalators	0.660	5,910	3.9	Low est	McKenney et al. (2010).
Elevators	0.700	7,600	5.3	High est	Zogg et al. (2009).
Escalators	0.035	22,850	0.8	High est	Zogg et al. (2009).
Total	0.660	5,910	3.9	Low est	
	0.735	8,330	6.1	High est	

* Assuming approximately 50 ports per commercial switch.

i. Computer Systems (Commercial Use)

DOE calculated average commercial energy use for computer systems based on data from reports on commercial miscellaneous electric loads.[33] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of commercial computer systems include desktop computers, laptop computers, desktop monitors, and servers. See Table 2 for more information. The total number of computer systems in all commercial settings in the U.S. was estimated at between 186 and 282 million in 2008. The total reported

[31] Lanzisera, S., 2010, personal communication, Lawrence Berkeley National Laboratory.

[32] Lanzisera, S., B. Nordman, and R. E. Brown, 2011. ''Data Network Equipment Energy Use and Savings Potential in Buildings.'' *Energy Efficiency,* 23 September, DOI: 10.1007/s12 (053–011–9136–4, *http://www.springerlink.com/content/tm23317547277650.*

[33] Zogg *et al.,* 2009; McKenney et al., 2010.

energy use of devices in all commercial settings was estimated at between 69.5 and 122.8 billion kWh.

ii. Imaging Equipment (Commercial Use)

DOE calculated average commercial energy use for imaging equipment based on data from reports on commercial miscellaneous electric loads.[34] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of commercial imaging equipment included ink-jet printers, laser printers, impact printers, copiers, scanners, fax machines, and multi-function devices (such as a combination printer, copier and fax). See Table 2 for more information. The total number of imaging equipment in all commercial settings in the U.S. was estimated at between 75.3 and 97.2 million in 2008. The total reported energy use of devices in all commercial settings was estimated at between 18.4 and 30.9 billion kWh.

iii. Network Equipment (Commercial Use)

DOE calculated average commercial energy use for network equipment based on data from a study on network equipment energy use.[35] This report provides annual energy use per device and the total number of devices in operation in the U.S. Types of commercial network equipment included commercial routers/wireless local area networks (WLAN), commercial switches, Internet service provider (ISP) equipment and security equipment. See Table 2 for more information. The total number of network equipment in the U.S. in all commercial settings was estimated to be 109 million in 2008. The total reported commercial energy use of network equipment was 12.5 billion kWh.

iv. Uninterruptible Power Supplies (UPS)

DOE calculated average commercial energy use for uninterruptible power supplies based on data from reports on commercial miscellaneous electric loads.[36] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of uninterruptible power supplies included double conversion, line interactive, and standby, all of which are typically found in data centers. See Table 2 for more information. The total number of uninterruptible power supplies in the U.S. in all commercial settings was 14.7 million in 2008. The total reported commercial energy use of uninterruptible power supplies was 6.4 billion kWh.

v. Vertical Transport Equipment

DOE calculated average commercial energy use for vertical transport equipment, based on data from reports on commercial miscellaneous electric loads.[37] These reports provide annual energy use per device and the total number of devices in operation in the U.S. Types of vertical transport equipment included elevators and escalators. See Table 2 for more information. The total number of vertical transport equipment in all commercial settings in the U.S. was estimated to lie between 660 and 735 thousand in 2008. The total reported energy use of devices in all commercial settings was estimated to lie between 3.9 and 6.1 billion kWh.

c. Energy Savings Estimates: Technical Potential

Reports on miscellaneous residential and commercial electric products and equipment as well as DOE's own estimates, as discussed above, provided estimates of typical energy savings from these products and equipment ranging from 3% to more than 80%. In the sections below, the technical savings potential has been determined by comparing the energy use of best-in-class devices to the average energy use for a particular device. DOE seeks feedback from interested parties on any revised estimates of energy savings potential for miscellaneous residential and commercial electrical equipment.

i. Audio-Video Equipment

Typical energy savings for audio equipment vary from approximately 3% to 60%, with most of the savings at the high end of the range, and typical energy savings for video equipment vary from approximately 35% to 85%. While the power draw in active and idle modes has generally decreased in home audio and video products as a result of gradual technology improvements and an increased focus on power management by manufacturers, the majority of energy savings opportunities continue to exist in these two modes.

ii. Computer Systems

Typical energy savings for computer systems and computer components vary from approximately 30% to 45%.[38] Most of these savings arise from better power management, but some savings are due to lower power draw values in each mode as well, presumably from more efficient components. Improvements in power consumption among notebook computers, particularly chip-level voltage and clock frequency scaling, can be applied to desktop computer systems as the architecture is virtually identical.[39]

iii. Household Cleaning Equipment

ENERGY STAR has evaluated potential savings for vacuum cleaners and determined that a 17% to 33% energy savings is possible by reducing motor size from 12 amps to between 8 and 10 amps, with no impact on performance.[40] Little other information exists about energy savings opportunities for vacuum cleaners, aside from one identified technology that utilizes a closed air circuit to reduce the suction motor power, achieving a 50% reduction in energy use.[41] The energy savings potential of other household cleaning equipment devices is unknown.

iv. Imaging Equipment

Typical energy savings for imaging equipment can be up to 90%.[42] Most of these savings arise from better power management, but some savings are due to lower power draw values in each mode (*i.e.,* active and standby modes). More efficient electrophotographic (e.g., laser) technology can also reduce active mode energy use in some devices.

v. Network Equipment

Typical energy savings for network equipment are approximately 40%.[43] Network equipment typically does not scale energy consumption with utilization. As a result, there is very little difference between the active and sleep mode power consumption. Some technologies exist that allow network ports to power down when not in use, but wake within a fraction of a second. It is not known, however, if such options are feasible for security systems.[44]

vi. Personal Space Heating Equipment

The energy savings opportunities of personal space heating equipment are mostly unknown.

vii. Thermal Household Equipment

While limited information exists, clothes irons and hair dryers appear to

[34] Zogg *et al.* 2009, excluding products listed elsewhere in this RFI.

[35] Lanzisera, 2010; Lanzisera *et al.,* 2011.

[36] Zogg *et al.,* 2009.

[37] Zogg *et al.,* 2009, excluding products listed elsewhere in this RFI.

[38] Roth *et al.,* 2007.

[39] Intertek, personal communication, 2011.

[40] Roth *et al.,* 2007.

[41] Roth *et al.,* 2007.

[42] Roth *et al.,* 2007; Zogg et al., 2009.

[43] Lanzisera, 2010; Lanzisera *et a*l., 2011.

have limited savings opportunities, though hair dryers may offer some savings by reducing standby losses from ground fault circuit interrupters (GFCI).[45] The energy savings potential of other thermal household equipment devices is unknown.

viii. Thermal Kitchen Equipment

Typical energy savings for examined types of thermal kitchen equipment vary from approximately 20% to 33%.[46] Approaches include use of more insulating materials, increasing the radiant efficiency of heating elements, modifying the internal geometry of the devices to prevent undesirable heat loss, and automatic shutoff control. In particular, for coffee makers, the use of a thermal insulating carafe to keep brewed coffee hot could reduce energy consumption by 26%, with minimal impact on consumer utility, other than a slightly smaller capacity (which could be compensated by a larger exterior volume) and slow cooling of the beverage (which could conceivably be addressed by periodic reheating). For toasters and toaster ovens, infrared heating elements offer the ability to reduce amount of energy required to heat the elements and are also very efficient radiators.

ix. Uninterruptible Power Supplies (UPS)

Typical energy savings for uninterruptible power supplies are approximately 50%.[47] The main means of accomplishing these savings are through replacement of double conversion (from AC to DC back to AC current) to DC-based power distribution, and minimizing UPS system sizing by moving from a single, central UPS system to distributional approach, where small UPS systems are dedicated to each machine.

x. Vertical Transport Equipment

Typical energy savings for vertical transport equipment vary from approximately 25% to 30%, though some manufacturers of efficient escalators claim savings up to 50%.[48] Some important improvements include: Variable-voltage, variable-frequency drives, gearless permanent magnet motors, regenerative braking drives (for elevators), motor efficiency controllers, controls to shut off lights and fans when not in use, destination control software to optimize elevator trips, and higher-efficiency lighting technology (CFL, LED).

d. Consumer Utility Considerations

Reducing energy consumption when equipment is idle or off must be balanced against network availability and the need for continuous communication among many types of miscellaneous electrical equipment, especially computer systems, imaging equipment, network equipment, and, increasingly, audio-video equipment. Security requirements and wake-up time are also important considerations for almost all equipment of these types. DOE seeks data and information on potential utility impacts associated with efficiency improvements for the various product and equipment types discussed above.

4. Other Regulatory Programs

The U.S. Environmental Protection Agency and DOE jointly administer the voluntary ENERGY STAR labeling program (*www.energystar.gov*) for various products and equipment. ENERGY STAR currently has standards for miscellaneous residential and commercial electrical equipment that includes audio-video equipment, computers, displays, imaging equipment, and set-top boxes & cable boxes. ENERGY STAR programs for network equipment and uninterruptible power supplies are currently under development.

5. Public Participation

A. Submission of Information

DOE will accept information and data in response to this Request for Information under the timeline provided in the **DATES** section above. Information submitted to the Department by email should be provided in WordPerfect, Microsoft Word, PDF, or text file format. Those responding should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Comments submitted to the Department by mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles will be accepted. Comments submitted in response to this notice will become a matter of public record and will be made publicly available.

B. Issues on Which DOE Seeks Information

DOE welcomes comments on all aspects of its consideration of miscellaneous residential and commercial electrical equipment. DOE is particularly interested in receiving comments from interested parties on the following issues:

(1) Which products or equipment should be included in the following categories of miscellaneous residential and commercial electrical products or equipment: Audio-video equipment, computer systems, household cleaning equipment, imaging equipment, medical equipment, network equipment, personal space heating equipment, thermal household equipment, thermal kitchen equipment, uninterruptible power supplies, and vertical transport equipment.

(2) Should DOE consider additional categories of miscellaneous residential electrical products or equipment, such as those referenced in Section 3.a)(ix)?

(3) Recent estimates of the energy use of the various types of miscellaneous residential and commercial electrical products and equipment.

(4) Examples of efficient technologies and energy savings potential of miscellaneous residential and commercial electrical products and equipment.

(5) Overview of miscellaneous residential and commercial electrical product and equipment markets, including stocks in U.S. residential and commercial buildings, shipments, and efficiency ranges.

(6) Availability and applicability of U.S. and international test procedures for miscellaneous residential and commercial electrical products and equipment.

(7) Information regarding potential test procedure designs or enhancements for categories of miscellaneous electrical products and equipment.

(8) Information regarding voluntary and mandatory product labeling programs in the U.S. or in other countries that have been effective in enabling consumers to chose more efficient miscellaneous electrical products and equipment.

Issued in Washington, DC, on January 4, 2012.

Kathleen B. Hogan,

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

[FR Doc. 2012–1347 Filed 1–23–12; 8:45 am]

BILLING CODE 6450–01–P

[45] Roth *et al.,* 2007.

[46] Roth *et al.,* 2007; Desroches and Garbesi, 2011.

[47] Zogg *et al.,* 2009.

[48] Zogg *et al.,* 2009; McKenney *et al.,* 2010.

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: ER07–562–000.

Applicants: Trans-Allegheny Interstate Line Company.

Description: Trans-Allegheny Interstate Line Company, Revised Electronic Informational Filing of 2011 Formula Rate Annual Update.

Filed Date: 12/19/11.
Accession Number: 20111219–5138.
Comments Due: 5 p.m. ET 1/23/12.

Docket Numbers: ER10–2124–002; ER10–2125–002; ER10–2127–002; ER10–2128–002; ER10–2129–002; ER10–2130–002; ER10–2131–003; ER10–2132–002; ER10–2133–003; ER10–2134–002; ER10–2135–002; ER10–2136–002; ER10–2137–003; ER10–2138–003; ER10–2139–003; ER10–2140–003; ER10–2141–003; ER10–2764–002; ER11–3872–003; ER11–4044–002; ER11–4046–002.
Applicants: Forward Energy LLC, Sheldon Energy LLC, Invenergy Cannon Falls LLC, Spindle Hill Energy LLC, Spring Canyon Energy LLC, Grays Harbor Energy LLC, Grand Ridge Energy LLC, Willow Creek Energy LLC, Hardee Power Partners Limited, Judith Gap Energy LLC, Invenergy TN LLC, Wolverine Creek Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Vantage Wind Energy LLC, Beech Ridge Energy LLC, Gratiot County Wind LLC, Stony Creek Energy LLC, Gratiot County Wind II LLC.
Description: Notification of Change in Facts Under Market-Based Rate Authority of Spring Canyon Energy LLC, et. al.
Filed Date: 1/13/12.
Accession Number: 20120113–5241.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER10–2319–003; ER10–2320–003; ER10–2317–002; ER10–2322–004; ER10–2324–003; ER10–2325–002; ER10–2332–003; ER10–2326–004; ER10–2327–005; ER10–2328–003; ER10–2343–004; ER10–2331–004; ER10–2330–004; ER11–4609–002.
Applicants: J.P. Morgan Ventures Energy Corporation, Triton Power Michigan LLC, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Rayle LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I LLC, Utility Contract Funding, LLC, Central Power & Lime LLC, Cedar Brakes II, LLC, J.P. Morgan Commodities Canada Corporation.
Description: Notice of Non-Material Change in Status of J.P. Morgan Ventures Energy Corporation et. al.
Filed Date: 1/13/12.
Accession Number: 20120113–5024.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER11–4396–001.
Applicants: Louisville Gas and Electric Company.
Description: Louisville Gas and Electric Company submits tariff filing per 35: 01_12_12 ITO Compliance Filing to be effective 9/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5129.
Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–701–001.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.17(b): NYISO Amendment to 12/28/11 Filing re: Coordinated Transaction Scheduling to be effective 12/31/9998.
Filed Date: 1/13/12.
Accession Number: 20120113–5207.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–802–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Original Service Agreement No. 3171; Queue Position W1–127 to be effective 12/13/2011.
Filed Date: 1/12/12.
Accession Number: 20120112–5156.
Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–803–000.
Applicants: Northern States Power Company, a Wisconsin corporation.
Description: Northern States Power Company, a Wisconsin corporation submits tariff filing per 35.13(a)(2)(iii: 2012–1–12_DPC E&P Agrmt NOC_314–NSPW to be effective 3/12/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5167.
Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–804–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Ltr Agmt Interim West of Devers Proj NextEra Desert Center Blythe, LLC to be effective 1/9/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5052.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–805–000.
Applicants: Midwest Independent Transmission System, ITC Midwest LLC.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: ITC–Nemo (1–13–12) to be effective 2/1/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5072.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–806–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2012–01–13 CAISO's Operations and Maintenance Cost Values Amendment to be effective 4/1/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5179.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–807–000.
Applicants: NAEA Energy Massachusetts LLC.
Description: NAEA Energy Massachusetts LLC submits tariff filing per 35: Notice of Succession to be effective 1/13/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5198.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–808–000.
Applicants: NAEA Newington Energy, LLC.
Description: NAEA Newington Energy, LLC submits tariff filing per 35: Notice of Succession to be effective 1/13/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5199.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–809–000.
Applicants: NAEA Ocean Peaking Power, LLC.
Description: NAEA Ocean Peaking Power, LLC submits tariff filing per 35: Notice of Succession to be effective 1/13/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5200.
Comments Due: 5 p.m. ET 2/3/12.

Docket Numbers: ER12–810–000.
Applicants: NAEA Rock Springs, LLC.
Description: NAEA Rock Springs, LLC submits tariff filing per 35: Notice of Succession to be effective 1/13/2012.
Filed Date: 1/13/12.
Accession Number: 20120113–5202.
Comments Due: 5 p.m. ET 2/3/12.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–4–000.
Applicants: Order 697–C 2011 4th Quarter Site Acquisition.
Description: Land Acquisition Report of Southern Company Services, Inc.
Filed Date: 1/13/12.
Accession Number: 20120113–5251.
Comments Due: 5 p.m. ET 2/3/12.

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 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: January 13, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–1282 Filed 1–23–12; 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: ER12–290–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35: Att. L_MVP Compliance to be effective 1/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5042.
Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–430–001.
Applicants: Southwest Power Pool, Inc.
Description: Request for Deferral of Commission Action for Revisions to Attachment AE to be effective 12/31/9998.
Filed Date: 1/11/12.
Accession Number: 20120111–5204.
Comments Due: 5 p.m. ET 2/1/12.

Docket Numbers: ER12–729–002.
Applicants: ISO New England Inc.
Description: Errata to XML Metadata: Proposed Effective Date ER12–729–000 to be effective 3/1/2012.
Filed Date: 1/11/12.
Accession Number: 20120111–5205.
Comments Due: 5 p.m. ET 2/1/12.

Docket Numbers: ER12–793–000.
Applicants: Public Service Company of Colorado.
Description: 2012–1–11_IBDRA_SLR E&P 291–PSCo-NOC to be effective 3/11/2013.
Filed Date: 1/11/12.
Accession Number: 20120111–5206.
Comments Due: 5 p.m. ET 2/1/12.

Docket Numbers: ER12–794–000.
Applicants: NRG Power Marketing LLC.
Description: Market-Based Rate Tariff Amendment to be effective 2/28/2012.
Filed Date: 1/11/12.
Accession Number: 20120111–5224.
Comments Due: 5 p.m. ET 2/1/12.

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

Docket Numbers: ES12–7–000.
Applicants: Westar Energy, Inc.
Description: Amendment to Application of Westar Energy, Inc.
Filed Date: 1/12/12.
Accession Number: 20120112–5012.
Comments Due: 5 p.m. ET 1/23/12.

Docket Numbers: ES12–10–000.
Applicants: Kansas Gas and Electric Company.
Description: Amendment to Application of Kansas Gas and Electric Company.
Filed Date: 1/12/12.
Accession Number: 20120112–5011.
Comments Due: 5 p.m. ET 1/23/12.

Docket Numbers: ES12–11–000.
Applicants: Kansas Gas and Electric Company.
Description: Amendment to Application of Kansas Gas and Electric Company.
Filed Date: 1/12/12.
Accession Number: 20120112–5010.
Comments Due: 5 p.m. ET 1/23/12.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM12–2–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits pleading (Answer to Protest) requesting to amend its application.
Filed Date: 1/11/12.
Accession Number: 20120111–5208.
Comments Due: 5 p.m. ET 2/8/12.

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 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: January 12, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–1283 Filed 1–23–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–308–000.
Applicants: Golden Pass Pipeline LLC.
Description: Golden Pass Pipeline LLC submits tariff filing per 154.204: GPPL FERC Gas Tariff Cleanup filing to be effective 3/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5126.
Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: RP12–309–000.
Applicants: Kern River Gas Transmission Company.
Description: Request for Limited Waiver of Kern River Gas Transmission Company.
Filed Date: 1/11/12.
Accession Number: 20120111–5257.
Comments Due: 5 p.m. ET 1/23/12.

Docket Numbers: RP12–310–000.
Applicants: Gas Transmission Northwest LLC.
Description: Gas Transmission Northwest LLC Submission of Refund Report.
Filed Date: 1/13/12.
Accession Number: 20120113–5023.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP12–311–000.
Applicants: Central New York Oil And Gas, LLC.
Description: Joint Facilities Filing in Compliance with Order in Docket No. CP10–480–000 to be effective 12/1/2011.
Filed Date: 1/13/12.
Accession Number: 20120113–5060.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP12–312–000.
Applicants: Dogwood Energy LLC, Missouri Joint Municipal Electric Util., City of Independence, Missouri, Kansas Power Pool, Kansas City Board of Public Utilities.
Description: Request of Dogwood Energy, LLC, Missouri Joint Municipal Electric Utility Commission, the City of Independence, Missouri, Kansas Power Pool and Kansas City Board of Public Utilities for Temporary Waiver.

Filed Date: 1/13/12.
Accession Number: 20120113–5192.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP12–313–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Sea Robin Pipeline Company, LLC submits tariff filing per 154.203: Compliance with RP09–995–000 and RP10–422–000 to be effective 8/24/2010.
Filed Date: 1/13/12.
Accession Number: 20120113–5201.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP12–314–000.
Applicants: Questar Overthrust Pipeline Company.
Description: Questar Overthrust Pipeline Company submits tariff filing per 154.204: Non-conforming TSAs V. 1.0.0 to be effective 2/17/2012.
Filed Date: 1/17/12.
Accession Number: 20120117–5104.
Comments Due: 5 p.m. ET 1/30/12.

Docket Numbers: RP12–315–000.
Applicants: Questar Southern Trails Pipeline Company.
Description: Questar Southern Trails Pipeline Company submits tariff filing per 154.204: Statement of Negotiated Rates V. 2.0.0 to be effective 2/17/2012.
Filed Date: 1/17/12.
Accession Number: 20120117–5108.
Comments Due: 5 p.m. ET 1/30/12.

Docket Numbers: RP12–316–000.
Applicants: White River Hub, LLC.
Description: White River Hub, LLC submits tariff filing per 154.204: Non-conforming TSAs V. 1.0.0 to be effective 2/17/2012.
Filed Date: 1/17/12.
Accession Number: 20120117–5110.
Comments Due: 5 p.m. ET 1/30/12.

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 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–263–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.205(b): Amended Negotiated Rate Filing—CIMA to be effective 1/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5058.
Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: RP12–264–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.205(b): Amended Negotiated Rate Filing—Concord to be effective 1/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5060.
Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: RP12–266–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.205(b): Amended Negotiated Rate Filing—MIECO to be effective 1/1/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5059.
Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: RP12–293–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.205(b): Amended Negotiated Rate Filing—United Energy Trading to be effective 1/7/2012.
Filed Date: 1/12/12.
Accession Number: 20120112–5062.
Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: RP06–298–015.
Applicants: Public Service Commission of New York v.
Description: Semi-Annual Report of Operational Sales of Gas filed by National Fuel Gas Supply Corporation under RP06–298.
Filed Date: 1/13/12.
Accession Number: 20120113–5177.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP11–1873–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Eastern Shore Natural Gas Company submits tariff filing per 154.203: Creditworthiness Compliance RP11–1873 to be effective 4/7/2011.
Filed Date: 1/13/12.
Accession Number: 20120113–5176.
Comments Due: 5 p.m. ET 1/25/12.

Docket Numbers: RP12–233–001.
Applicants: CenterPoint Energy Gas Transmission Company, LLC.
Description: CenterPoint Energy Gas Transmission Company, LLC submits tariff filing per 154.203: Compliance Filing—Discount Type Adjustment for Negotiated Rate Agreements to be effective 1/12/2012.
Filed Date: 1/17/12.
Accession Number: 20120117–5090.
Comments Due: 5 p.m. ET 1/30/12.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

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

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

Dated: January 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–1366 Filed 1–23–12; 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: ER10–2319–002; ER10–2320–002; ER10–2317–001; ER10–2322–003; ER10–2324–002; ER10–2325–001; ER10–2332–002; ER10–2326–003; ER10–2327–004; ER10–2328–002; ER10–2343–003; ER10–2331–003; ER10–2330–003; ER11–4609–001.
Applicants: J.P. Morgan Ventures Energy Corporation, Triton Power Michigan LLC, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Rayle LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I LLC, Central Power & Lime LLC, Cedar Brakes II LLC, J.P. Morgan Commodities Canada Corporation, Utility Contract Funding LLC.
Description: Notice of Non-Material Change in Status of J.P. Morgan Ventures Energy Corporation *et al.*
Filed Date: 1/12/12.
Accession Number: 20120112–5128.
Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER11–3876–001; ER11–2044–002; ER10–2611–001.
Applicants: Cordova Energy Company LLC, MidAmerican Energy Company, Saranac Power Partners, L.P.
Description: Revised transmittal letter to triennial update filed June 30, 2011 of Cordova Energy Company LLC, *et al.*
Filed Date: 7/1/11.
Accession Number: 20110701–5295.
Comments Due: 5 p.m. ET 1/19/12.

Docket Numbers: ER11–3876–001; ER11–2044–002; ER10–2611–001.
Applicants: Cordova Energy Company, LLC, MidAmerican Energy Company, Saranac Power Partners, L.P.

Description: Revised Attachment B to replace Attachment B in Applicants' June 30 market analysis of Cordova Energy Company LLC, *et al.*

Filed Date: 7/6/11.

Accession Number: 20110706–5086.

Comments Due: 5 p.m. ET 1/19/12.

Docket Numbers: ER12–795–000.

Applicants: High Liner Foods Incorporated.

Description: High Liner Foods Incorporated submits tariff filing per 35.12: MBR Application Filing to be effective 2/1/2012.

Filed Date: 1/12/12.

Accession Number: 20120112–5061.

Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–796–000.

Applicants: CalPeak Power—El Cajon LLC.

Description: CalPeak Power—El Cajon LLC submits tariff filing per 35.15: Cancellation of Market-Based Rate Tariff to be effective 3/12/2012.

Filed Date: 1/12/12.

Accession Number: 20120112–5081.

Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–798–000.

Applicants: Tatanka Wind Power, LLC.

Description: Tatanka Wind Power, LLC submits tariff filing per 35: Compliance Filing to be effective 1/12/2012.

Filed Date: 1/12/12.

Accession Number: 20120112–5103.

Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–799–000.

Applicants: Nevada Solar One, LLC.

Description: Nevada Solar One, LLC submits tariff filing per 35: Compliance Filing—Clone to be effective 1/12/2012.

Filed Date: 1/12/12.

Accession Number: 20120112–5107.

Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–800–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. Capacity Supply Obligation—Resource Termination—RIE Genco.

Filed Date: 1/12/12.

Accession Number: 20120112–5125.

Comments Due: 5 p.m. ET 2/2/12.

Docket Numbers: ER12–801–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): 2299 Rattlesnake Creek Wind Project GIA to be effective 12/14/2011.

Filed Date: 1/12/12.

Accession Number: 20120112–5127.

Comments Due: 5 p.m. ET 2/2/12.

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 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: January 12, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–1281 Filed 1–23–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR12–11–000]

Pelico Pipeline, LLC; Notice of Compliance Filing

Take notice that on January 13, 2012, Pelico Pipeline, LLC filed a revised Statement of Operating Conditions to comply with a Delegated letter order issued December 16, 2011, in Docket No. PR10–62–001.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 25, 2012.

Dated: January 17, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–1280 Filed 1–23–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0085; FRL–9622–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; NESHAP for Radionuclides (Renewal); EPA ICR No. 1100.14

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 31, 2012. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 26, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA HQ–OAR–2003–0085, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center,

Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

• *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0085. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Philip Egidi, Radiation Protection Division, Center for Waste Management and Regulations, (Mail code 6608J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9186; fax number: (202) 343–2305; email address: *egidi.philip@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0085, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OAR–2003–0085.

Affected entities: Entities potentially affected by this action are the following industries and associated NAICS Codes: Elemental Phosphorous—325188; Phosphogypsum Stacks—212392; Underground Uranium Mines—212291; and Uranium Mills—212291.

Title: NESHAP for Radionuclides (40 CFR part 61, subparts B, K, R and W) (Renewal).

ICR numbers: EPA ICR No. 1100.14, OMB Control No. 2060–0191.

ICR status: This ICR is currently scheduled to expire on July 31, 2012. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR Part 9.

Abstract: In the context of the Clean Air Act (42 U.S.C. 1857), Section 114 authorizes the Administrator of EPA to require any person who owns or operates any emission source or who is subject to any requirements of the Act to: (1) Establish and maintain records, (2) Make reports, install, use, and maintain monitoring equipment or method, (3) Sample emissions in accordance with EPA-prescribed locations, intervals and methods, and (4) Provide information as may be requested. EPA's regional offices use the information collected to ensure that

public health continues to be protected from the hazards of radionuclides by compliance with health based standards. This information is required for those facilities meeting the definition of each Subpart. EPA's compliance monitoring activities vary widely. EPA could issue a letter requesting information about compliance or could conduct a full scale investigation, including on-site inspections.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 134 hours hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 47.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 134 hours.

Estimated total annual costs: $1,358,000. This includes an estimated burden cost of $666,000 and an estimated cost of $693,000 for capital investment or maintenance and operational costs.

Are there changes in the estimates from the last approval?

There is a decrease of 14 hours per facility in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects a reduction in the number of facilities affected due to limited investment in uranium mining and a moratorium on DOE uranium lease tracts for Subpart B; closure of a conventional uranium mill in Subpart W; with no change in the number of Subpart R and K facilities. Increased costs are due to inflation and estimates of radium-226 sampling for phosphogypsum stacks that remove material.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: January 17, 2012.

Alan D. Perrin,

Acting Director, Radiation Protection Division.

[FR Doc. 2012–1364 Filed 1–23–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9621–9]

National Environmental Justice Advisory Council; Notification of Public Teleconference Meeting and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notification of public teleconference meeting and public comment.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will host a public teleconference meeting on Friday, January 27, 2012, from 1 p.m. to 3 p.m. Eastern Time. The primary topics of discussion will be: (1) Following up on action items from the October 2011 NEJAC public meeting, (2) providing an update on NEJAC membership solicitation, and (3) saying farewell to retiring NEJAC members. This meeting is open to the public. There will be a public comment period from 2:30 p.m. to 3 p.m. Eastern Time. Members of the public are encouraged to provide comments relevant to the topics of the meeting.

For additional information about registering to attend the meeting or to provide public comment, please see the ''Registration'' and **SUPPLEMENTARY INFORMATION** sections below. Due to a limited number of telephone lines, attendance will be on a first-come, first served basis. There is no fee to attend, but pre-registration is required. Registration for the teleconference meeting closes at 11 a.m. Eastern Time on Monday, January 23, 2012. The deadline to sign-up for public comment, or to submit written public comments, is also Monday, January 23, 2012.

DATES: The NEJAC teleconference meeting on Friday, January 27, 2012, will begin promptly at 1 p.m. Eastern Time.

Registration: To register by email, send an email to *NEJACTeleconJan2012@AlwaysPursuingExcellence.com* with ''Register for the NEJAC January 2012 Teleconference'' in the subject line. Please provide your name, organization, city and state, email address, and telephone number for follow-up. To register by Phone or Fax, send a fax (please print) or leave a voice message with your name, organization, city and state, email address, and telephone number at (877) 773–1489. Please specify which meeting you are registering to attend (e.g., NEJAC–January 2012 Teleconference). Please also state whether you would like to be put on the list to provide public comment, and whether you are submitting written comments before the Monday, January 23, 2012, deadline. Non-English speaking attendees wishing to arrange for a foreign language interpreter may also make appropriate arrangements using the email address or telephone/fax number.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning the teleconference meeting should be directed to Mr. Aaron Bell, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW., (MC2201A), Washington, DC 20460; by telephone at (202) 564–1044; via email at *Bell.Aaron@epa.gov;* or by fax at (202) 564–1624. Additional information about the NEJAC and upcoming meetings is available on the following Web site: *http://www.epa.gov/environmentaljustice/nejac.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, ''advice about broad, cross-cutting issues related to environmental justice, including environment-related strategic, scientific, technological, regulatory, and economic issues related to environmental justice.''

A. *Public Comment:* Members of the public who wish to attend the Friday, January 27, 2012, public teleconference or provide public comment must pre-register by 11 a.m. Eastern Time on Monday, January 23, 2012. Individuals or groups making remarks during the public comment period will be limited to five minutes. To accommodate the large number of people who want to address the NEJAC, only one representative of a particular community, organization, or group will be allowed to speak. Written comments also can be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of Speaker; Name of Organization/Community; City and State; and email address; brief description of the concern, and what you want the NEJAC to advise EPA to do. Written comments received by 11 a.m. Eastern Time on Monday, January 23, 2012, will be included in the materials distributed to the members of the NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to EPA's support contractor, APEX Direct, Inc., via email or fax as listed in the **FOR FURTHER INFORMATION CONTACT** section above.

B. *Information about Services for Individuals with Disabilities:* For information about access or services for individuals with disabilities, please contact Ms. Estela Rosas, EPA Contractor, APEX Direct, Inc., at (877) 773–1489 or via email at *NEJACTelecon Jan2012@AlwaysPursuingExcellence.com.* To request special accommodations for a disability, please contact Ms. Rosas at least seven working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, email, or phone/fax number listed in the ''Registration'' section above.

Dated: January 16, 2012.

Victoria Robinson,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2012–1363 Filed 1–23–12; 8:45 am]

BILLING CODE 6065–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9622–4]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of advisory committee teleconference.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a public teleconference of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. NACEPT members represent academia, industry, non-governmental organizations, and local, state, and tribal governments. The purpose of this teleconference is for NACEPT to discuss and approve draft advice letters addressing two topics: (1) The need for technologies that can help address environmental problems experienced by environmental justice communities and other vulnerable populations, and (2) leadership development and organizational transformation at EPA. A copy of the agenda for the meeting will be posted at *http://www.epa.gov/ofacmo/nacept/cal-nacept.htm.*

DATES: NACEPT will hold a public teleconference on Tuesday, January 31, 2012, from 3 p.m. to 6 p.m. Eastern Standard Time. Due to logistical complications, EPA is announcing the meeting with less than 15 days public notice.

ADDRESSES: The meeting will be held in the U.S. EPA East Building, 1201 Constitution Ave. NW., Room 1132, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Eugene Green, Acting Designated Federal Officer, *green.eugene@epa.gov,* (202) 564–2432, U.S. EPA, Office of Federal Advisory Committee Management and Outreach (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to NACEPT should be sent to Eugene Green at *green.eugene@epa.gov* by Wednesday, January 25, 2012. The meeting is open to the public, with limited seating on a first-come, first-served basis. Members of the public wishing to participate in the teleconference should contact Eugene Green at *green.eugene@epa.gov* or (202) 564–2432 by January 25, 2012.

Meeting Access: Concerns regarding accessibility and/or accommodations for individuals with disabilities, should be directed to Eugene Green at *green.eugene@epa.gov* or (202) 564–2432. To ensure adequate time for processing, please make requests for accommodations at least 10 days prior to the meeting.

Dated: January 18, 2012.

Eugene Green,

Acting Designated Federal Officer.

[FR Doc. 2012–1527 Filed 1–20–12; 4:15 pm]

BILLING CODE 6560–50–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 February 7, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Samuel B. Gault, Saint Peter, Minnesota, and Lisa R. Gault, Chaska, Minnesota, each to acquire 25 percent or more of the shares of Saint Peter Agency, Inc., Saint Peter, Minnesota, and thereby indirectly acquire control of The Nicollet County Bank of Saint Peter, Saint Peter, Minnesota.

Board of Governors of the Federal Reserve System, January 19, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–1314 Filed 1–23–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 17, 2012.

A. Federal Reserve Bank of Philadelphia (William Lang, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Beneficial Savings Bank MHC, Philadelphia, Pennsylvania; to acquire SE Financial Corp., Philadelphia, Pennsylvania and thereby acquire St. Edmond's Savings Bank, Philadelphia, Pennsylvania.

Board of Governors of the Federal Reserve System, January 19, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–1315 Filed 1–23–12; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0248; Docket 2011–0001; Sequence 13]

General Services Administration Acquisition Regulation; Information Collection; GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause; and 552.216–73, Ordering Information Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding solicitation provisions and contract clauses, placement of orders clause, and ordering information clause.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: March 26, 2012.

FOR FURTHER INFORMATION CONTACT: Deborah Eble, Procurement Analyst, General Services Acquisition Policy Division, GSA, (215) 446–5823 or via email at *Deborah.eble@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses, 552.216–72 Placement of Orders Clause, and 552.216–73, Ordering Information Clause, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause'' on your attached document.

- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration (MVCB), 1275 First Street, NE., Washington, DC 20417. Attn: Hada Flowers/IC 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause.

Instructions: Please submit comments only and cite Information Collection 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of the Federal Acquisition Service's (FAS's) Stock, Special Order, and Schedules Programs. These mission responsibilities generate requirements that are realized through the solicitation and award of various types of FAS contracts. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives. As such, GSAR 516.506, Solicitation provision and clauses, specifically directs contracting officers to insert 552.216–72, Placement of Orders, when the contract authorizes FAS and other activities to issue delivery or task orders and 552.216–73, Ordering Information, directs the Offeror to elect to receive orders placed by FAS by either facsimile transmission or computer-to-computer Electronic Data Interchange (EDI).

B. Annual Reporting Burden

Respondents: 7,143.
Responses per Respondent: 1.
Annual Responses: 7,143.
Hours Per Response: .25.
Total Burden Hours: 1785.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0248, GSAR 516–506, Solicitation Provisions and Contract Clauses; 552.216–72, Placement of Orders Clause, and 552.216–73, Ordering Information Clause, in all correspondence.

Dated: January 17, 2012.

Joseph A. Neurauter,

Director, Office of Acquisition Policy & Senior Procurement Executive.

[FR Doc. 2012–1311 Filed 1–23–12; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–372(S)]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this 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.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Annual Report on Home and Community Based Services Waivers and Supporting Regulations in 42 CFR 440.180 and 441.300–310; *Use:* CMS is asking the States to report financial and statistical information concerning the numbers of Medicaid beneficiaries receiving waiver services, the type of services provided and the costs of those services. The information is usually taken from State Medicaid agency data processing systems. This data is summarized and may be submitted to CMS through the 372 web-based form. The report is used by CMS to compare actual data in the approved waiver estimates and, in conjunction with the waiver compliance review reports, the information provided is compared to that in the Medicaid Statistical Information System (CMS–R–284, OCN 0938–0345) report and Federal financial participation claimed on a State's Quarterly Expenditure Report (CMS–64, OCN 0938–0067), to determine whether to continue the State's home and community-based services waiver. States' estimates of cost and utilization for renewal purposes are based upon the data compiled in the CMS Form 372(S) reports; *Form Number:* CMS–372(S) (OCN 0938–0272); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 49; *Total Annual Responses:* 305; *Total Annual Hours:* 13,115. (For policy questions regarding this collection contact Ralph Lollar at (410) 786–0777. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *March 26, 2012:*

1. *Electronically.* You may submit 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) 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 CMS–372(S) (OCN 0938–0272), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 18, 2012.

Martique Jones,

Director, Regulations Development Group, Division B Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–1355 Filed 1–23–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1696]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this 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 function; (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.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Appointment of Representative; *Use:* This information collection requests re-approval of an information collection associated with regulations that permit individuals or entities to appoint representatives to exercise their rights to appeal an initial determination. The Appointment of Representative form will be completed by beneficiaries, providers and suppliers who wish to appoint representatives to assist them with obtaining initial determinations and filing appeals. The appointment of representative form must be signed by the party making the appointment and

the individual agreeing to accept the appointment. *Form Number:* CMS–1696 (OCN: 0938–0950); *Frequency:* Occasionally; *Affected Public:* Individuals or households and Business or other for-profits; *Number of Respondents:* 265,481; *Total Annual Responses:* 265,481; *Total Annual Hours:* 66,370. (For policy questions regarding this collection contact Katherine Hosna at (410) 786–4993. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on February 23, 2012.

OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–6974, *Email: OIRA_submission@omb.eop.gov.*

Dated: January 18, 2012.

Martique Jones,

Director, Regulations Development Group, Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–1361 Filed 1–23–12; 8:45 am]

BILLING CODE 4120–01–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: Vascular and Hematology Integrated Review Group, Vascular Cell and Molecular Biology Study Section.

Date: February 13–14, 2012.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Discovery for the Nervous System: Quorum.

Date: February 16–17, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurogenesis and Cell Fate Study Section.

Date: February 16–17, 2012.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Argonaut Hotel, 495 Jefferson Street, San Francisco, CA 94109.

Contact Person: Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR10–169: Academic Industrial Partnerships.

Date: February 16, 2012.

Time: 1:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Malgorzata Klosek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences, Integrated Review Group, Integrative Nutrition and Metabolic Processes Study Section.

Date: February 17, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Sooja K Kim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, (301) 435–1780, *kims@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PA:10–070: Academic Research Enhancement Award (Parent R15).

Date: February 17, 2012.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott Tysons Corner, 1960—A Chain Bridge Road, McLean, VA 22102.

Contact Person: Martha M Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 435–3575, *faradaym@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA Panel: Molecular Probes.

Date: February 17, 2012.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street Alexandria, VA 22314.

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Risk Prevention and Health Behavior.

Date: February 17, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott Tysons Corner, 1960–A Chain Bridge Road McLean, VA 22102.

Contact Person: Martha M Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 435–3575, *faradaym@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: CMIP and MEDI.

Date: February 17, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854 Bethesda, MD 20892, (301) 237–9870, *xuguofen@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: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1381 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel Scholars Training for the Advancement of Research.

Date: February 17, 2012.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Mario Rinaudo, MD, Scientific Review Officer, Office of Review, National Inst of Nursing Research, National Institutes of Health, 6701 Democracy Blvd. (DEM 1), Suite 710, Bethesda, MD 20892, (301) 594–5973, *mrinaudo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1385 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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 Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Resource-Related Research Project for GWAS genes.

Date: February 13, 2012.

Time: 2 p.m. to 4 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: Melissa E Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Rm. 7202, Bethesda, MD 20892, (301) 435–0297, *nagelinmh2@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, K01, K02, K08 Career Development Award.

Date: February 16–17, 2012.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280, *mintzerk@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Program Project: Fibroproliferative Lung Disease.

Date: February 17, 2012.

Time: 12 p.m. to 3:30 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: William J Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, (301) 435–0725, *johnsonwj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1368 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of 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 open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: February 29–March 2, 2012.

Open: February 29, 2012, 5 p.m. to 5:30 p.m.

Agenda: To review procedures and discuss policy.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: February 29, 2012, 5:30 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 1, 2012, 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: March 2, 2012, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1373 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: February 15–16, 2012.

Time: February 15, 2012, 8:30 a.m. to 2 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: February 15, 2012, 2:15 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Open: February 16, 2012, 8:30 a.m. to 12:30 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Gwen W Collman, Ph.D., Director, Division of Extramural Research & Training, Nat. Inst. of Environmental Health Sciences, National Institutes of Health, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541–4980, *collman@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation-Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1374 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, R13 (2012/05).

Date: February 15, 2012.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ruth Grossman, DDS, Scientific Review Officer, National Institutes of Health, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, (301) 496–8775, *grossmanrs@mail.nih.gov.*

Dated: January 18, 2012.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1371 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse, Notice of Closed 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; P50 Centers of Excellence.
Date: February 22–23, 2012.
Time: 9 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4245, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–4530, *elazarwe@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; P30 Centers of Excellence.
Date: February 23–24, 2012.
Time: 2 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4245, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–4530, *elazarwe@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA B/START Small Grant Review.
Date: March 7, 2012.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).
Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, (301) 402–6626, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA I/START Small Grant Review.
Date: March 14, 2012.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).
Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, (301) 402–6626, *gm145a@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1375 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Recovery Warrior: Behavioral Activation Video Game for Substance Abuse (4415).
Date: February 2, 2012.
Time: 9 a.m. to 5:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Scott A. Chen, Ph.D., Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4234, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 443–9511, *chensc@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1367 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Initial Review Group.
Date: February 16–17, 2012.
Time: 8 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Weiqun Li, MD, Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste. 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: January 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–1388 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Development of T Cell Receptors and Chimeric Antigen Receptors Into Therapeutics for Adoptive Transfer in Humans To Treat Cancer

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license, subject to existing non-exclusive licenses and current non-exclusive license applications under consideration, to practice the inventions embodied in U.S. Provisional Patent Application No. 61/405,668 and PCT Patent Application No. PCT/US2011/057272 and foreign equivalents thereof entitled ''Anti-MAGE–A3 T cell receptors and related materials and methods of use'' (HHS Ref. No. E–236–2010/0); U.S. Provisional Patent Application No. 61/384,931 and PCT Patent Application No. PCT/US2011/051537 and foreign equivalents thereof entitled ''Anti-SSX–2 T cell receptors and related materials and methods of use'' (HHS Ref. No. E–269–2010/0); U.S. Provisional Patent Application No. 61/473,409 entitled ''Anti-epidermal growth factor receptor variant III chimeric antigen receptors and use of same for the treatment of cancer'' (HHS Ref. No. E–148–2011/0); and U.S. Provisional Patent Application No. 61/535,086 entitled ''T cell receptors recognizing HLA–A1- or HLA–Cw7-restricted MAGE–A'' (E–266–2011/0) to Kite Pharma, Inc., which is located in Los Angeles, California. The patent rights in these inventions have been assigned to the United States of America.

Other than license applications submitted as objections to this Notice of Intent to Grant an Exclusive License, no further license applications will be considered for the exclusive field of use set forth below if Kite Pharma, Inc. is granted an exclusive license pursuant to this Notice of Intent to Grant an Exclusive License. The prospective exclusive license territory may be worldwide and the field of use may be limited to the treatment of cancers, which may include brain cancer, breast cancer, colorectal cancer, esophageal cancer, gastric cancer, head and neck cancer, liver cancer, lung cancer, melanoma, multiple myeloma, ovarian cancer, prostate cancer, sarcoma, and urothelial cancer, as claimed in the Licensed Patent Rights.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before February 23, 2012 will be considered, in addition to the current non-exclusive applications under consideration, for the prospective license territory and field of use to be granted under the contemplated exclusive patent license.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Samuel E. Bish, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5282; Facsimile: (301) 402–0220; Email: *bishse@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: The technologies describe T cells engineered to express MAGE–A3, MAGE–A12, or SSX–2 T cell receptors (TCRs) or EGFRvIII chimeric antigen (CARs) and methods of using these engineered T cells to treat and/or prevent cancer. These technologies include the TCR and CAR amino acid sequences, the nucleic acid sequences that encode these compositions, vectors to express the TCRs and CARs, host cells and populations of host cells, such as T cells, that express the compositions, antibodies to the TCRs and CARs, pharmaceutical compositions, and associated methods of detecting, preventing, and treating diseases, such as cancer, with these TCRs and CARs. TCRs and CARs are proteins that recognize antigens, such as cancer antigens, and activate the cells expressing these compositions to destroy the antigen-expressing cell. TCRs consist of two domains, one variable domain that recognizes the antigen and one constant region that helps the TCR anchor to the membrane and transmit recognition signals by interacting with other proteins. CARs are hybrid proteins consisting of a portion of an antibody that recognizes an antigen fused to protein domains that signal to activate the CAR-expressing cell. Therapies utilizing these technologies involve isolating a cancer patient's own T cells to be engineered with the TCR and/or CAR that recognize the tumor antigen(s) expressed on that specific patient's cancer cell. Afterwards, the engineered T cells from the patient are adoptively transferred back into the patient to mediate tumor regression. Personalized adoptive cell transfer therapies developed from these technologies could yield innovative therapeutics for any cancers that express the antigens recognized by these TCRs and CARs.

The prospective exclusive license, subject to current non-exclusive license applications under consideration and any further license applications received as objections to this Notice of Intent to Grant an Exclusive License, will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Any additional applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 18, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–1383 Filed 1–23–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0029; OMB No. 1660–0095]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Flood Insurance Claims Appeals Process

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management

and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before February 23, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Flood Insurance Claims Appeals Process.

Type of Collection: Revision of a currently approved information collection.

OMB Number: 1660–0095.

Abstract: The process requires policyholders to submit a written appeal to FEMA (Mitigation Directorate/Risk Insurance Division), in the form of a signed letter explaining the nature of their claim appeal, names and titles of persons contacted, dates of contact, contact information, and details of the contact relevant to their claim appeal. FEMA will review the documentation submitted by the policyholder, conduct any necessary additional investigation, and advise, both the policyholder and the appropriate flood insurance carrier, of its decision regarding the appeal.

Affected Public: Individuals and Households.

Number of Respondents: 1,055.

Estimated Time per Respondent: State, 5 hours; Local, 5 hours; and Tribal 5 hours.

Estimated Total Annual Burden Hours: 2,110 hours.

Frequency of Response: One Time.

John G. Jenkins, Jr.,

Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–1312 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2011–0031; OMB No. 1660–0038]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Write Your Own (WYO) Company Participation Criteria; New Applicant

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before February 23, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Write Your Own (WYO) Company Participation Criteria; New Applicant.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0038.

Form Titles and Numbers: None.

Abstract: New insurance companies that seek to participate in the WYO program, as well as former WYO companies seeking to return, must meet standards for WYO Financial Control Plan (approved under OMB Control #1660–0020). Private Insurance Companies and/or public entity risk-sharing organizations wishing to enter or reenter the WYO program must demonstrate the ability to meet the financial requirements. The information allows FEMA to determine the applicant's capability of meeting program goals including marketing of flood insurance, training agents and staff in the program rules, and its capabilities for claims handling and disaster response.

Affected Public: Business of other for-profit.

Estimated Number of Respondents: 5.

Frequency of Response: Once.

Estimated Average Hour Burden per Respondent: Application Process, 7 hours.

Estimated Total Annual Burden Hours: 35 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $2,223.55. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is $1,204.

John G. Jenkins, Jr.,

Acting Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–1313 Filed 1–23–12; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

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

SUMMARY: The National Advisory Council will meet on February 16, 2012, in San Francisco, CA. The meeting will be open to the public.

DATES: The National Advisory Council will meet Thursday, February 16, 2012, from 8:30 a.m. PST to 5 p.m. PST. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at The Hyatt Regency San Francisco, 5 Embarcadero Center in San Francisco, CA.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Alexandra Woodruff of the Office of the National Advisory Council as soon as possible. See contact information under ''**FOR FURTHER INFORMATION CONTACT**'' section below.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Written comments or requests to make oral presentations must be submitted in writing no later than February 6, 2012 and must be identified by Docket ID FEMA–2007–0008 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (703) 483–2999.
- *Mail:* FEMA, 500 C Street SW., Room 840, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID FEMA–2007–0008 for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Advisory Council, go to *http://www.regulations.gov*.

A public comment period will be held during the meeting on February 16, 2012 from 1:30 p.m. PST to 2 p.m. PST, and speakers are requested to register in advance, be present and seated by 1:20 p.m. PST, and limit their comments to 3 minutes. With 3 minutes per speaker, the public comment period is limited to no more than 10 speakers. Please note that the public comment period may start and end before the time indicated, if the committee has finished its business. Contact Alexandra Woodruff, Office of the National Advisory Council, to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Office of the National Advisory Council, Federal Emergency Management Agency (Room 832), 500 C Street SW., Washington, DC 20472–3100, telephone (202) 646–3746, fax (202) 646–3930, and email *FEMA-NAC@dhs.gov*. The National Advisory Council Web site is located at: *http://www.fema.gov/about/nac/*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The National Advisory Council (NAC) advises the Administrator of the Federal Emergency Management Agency (FEMA) on all aspects of emergency management. The NAC incorporates State, local, and Tribal governments, and private sector partners' input in the development and revision of FEMA policies and strategies. FEMA's Office of the NAC serves as the focal point for all NAC coordination.

Agenda

The NAC will meet for the purpose of reviewing the progress and/or potential recommendations of its four subcommittees: Preparedness and Protection, Response and Recovery, Public Engagement and Mission Support, and Federal Insurance and Mitigation.

The NAC will discuss the Presidential Policy Directive 8 (PPD–8) on National Preparedness, the Campaign to Build and Sustain Preparedness, the National Mitigation Framework, the National Response Framework, the National Preparedness Goal, the Emergency Management Institute (EMI), Emergency Management Performance Grant (EMPG) program, National Disaster Recovery Framework, and the personal disaster assistance and individual assistance programs. A FEMA Program Office will brief the Council on Emerging Topics in Emergency Management during lunch, scheduled for 12:20 p.m. PST to 1:20 p.m. PST.

PPD–8, signed on March 30, 2011, directs the development of a national preparedness goal that identifies the core capabilities necessary for preparedness and a national preparedness system to guide activities that will enable the Nation to achieve the goal. PPD–8 replaces Homeland Security Presidential Directive 8 (HSPD–8) and Annex 1. More information on PPD–8, the Frameworks, and the National Preparedness Goal, may be found at *http://www.fema.gov/prepared/ppd8.shtm*.

EMI serves as the national focal point for the development and delivery of emergency management training to enhance the capabilities of State, local, and Tribal government officials; volunteer organizations; FEMA's disaster workforce; other Federal agencies; and the public and private sectors to minimize the impact of disasters and emergencies on the American public.

EMPG provides funding to assist State and local governments to sustain and enhance all-hazards emergency management capabilities. More information on EMPG may be found at *http://www.fema.gov/emergency/empg/empg.shtm*.

Dated: January 18, 2012.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–1317 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–914, Extension of a Currently Approved Information Collection; Comment Request.

ACTION: 30-Day Notice of Information Collection Under Review: Form I–914 and Supplements A and B, Application for T Nonimmigrant Status; Application for Immediate Family Member of T–1 Recipient; and Declaration of Law Enforcement Officer for Victim of Trafficking in Persons; OMB Control No. 1615–0099.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. An information collection notice was previously published in the **Federal Register** on October 28, 2011, at 76 FR 66944, allowing for a 60-day public comment period. USCIS did not receive any comments on the 60-day notice.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated

response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 20 Massachusetts Avenue, Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *uscisfrcomment@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at (202) 395–5806 or via email at *oira_submission@omb.eop.gov*.

When submitting comments by email please make sure to add OMB Control Number 1615–0099 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for T Nonimmigrant Status; Supplement A: Application for Immediate Family Member of T–1 Recipient; and Supplement B: Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–914. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* Form I–914 permits victims of severe forms of trafficking and their immediate family members to demonstrate that they qualify for temporary nonimmigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), and to receive temporary immigration benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–914, 500 responses at 2.25 hours per response; Supplement A, 500 responses at 1 hour per response; Supplement B, 200 responses at .50 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,725 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/*.

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, telephone number (202) 272–8377.

Dated: January 18, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–1277 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–129F, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–129F, Petition for Alien Fiance(e).

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. An information collection notice was previously published in the **Federal Register** on October 28, 2011, at 76 FR 66944, allowing for a 60-day public comment period. USCIS did not receive any comments on the 60-day notice.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 20 Massachusetts Avenue, Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *uscisfrcomment@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at (202) 395–5806 or via email at *oira_submission@omb.eop.gov*.

When submitting comments by email please make sure to add OMB Control Number 1615–0001 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Petition for Alien Fiance(e).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–129F. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* Form I–129F must be filed with U.S. Citizenship and Immigration Services (USCIS) by a citizen of the United States in order to petition for an alien spouse, finance(e), or child.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 54,000 responses at 1 hour and 30 minutes (1.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 81,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, telephone number (202) 272–8377.

Dated: January 19, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–1354 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–539, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–539, Application to Extend/Change Nonimmigrant Status.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. An information collection notice was previously published in the **Federal Register** on October 28, 2011, at 76 FR 66946, allowing for a 60-day public comment period. USCIS did not receive any comments on the 60-day notice.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 20 Massachusetts Avenue, Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *uscisfrcomment@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at (202) 395–5806 or via email at *oira_submission@omb.eop.gov.*

When submitting comments by email please make sure to add OMB Control Number 1615–0003 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–539. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* This form will be used to apply for an extension of stay or for a change to another nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 195,000 responses at 45 minutes (.75 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 146,250 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, telephone number (202) 272–8377.

Dated: January 19, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–1349 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: No Agency Form Number, File Number OMB 25, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: OMB–25, Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters; OMB Control No. 1615–0064.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. An information collection notice was previously published in the **Federal Register** on October 28, 2011, at 76 FR 66945, allowing for a 60-day public comment period. USCIS did not receive any comments on the 60-day notice.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 23, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management

and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, 20 Massachusetts Avenue, Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to (202) 272–0997 or via email at *uscisfrcomment@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at (202) 395–5806 or via email at *oira_submission@omb.eop.gov.*

When submitting comments by email please make sure to add OMB Control Number 1615–0064 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number; File No. OMB–25, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or household.* This form is used by the USCIS to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 200 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020, telephone number (202) 272–8377.

Dated: January 18, 2012.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–1278 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Transfer of Cargo to a Container Station

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Transfer of Cargo to a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before March 26, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at (202) 325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Transfer of Cargo to a Container Station.

OMB Number: 1651–0096.

Form Number: None.

Abstract: Before the filing of an entry of merchandise for the purpose of breaking bulk and redelivery of the cargo, containerized cargo may be moved from the place of unlading or may be received directly at the container station from a bonded carrier after transportation in-bond. This also applies to loose cargo as part of containerized cargo. In accordance with 19 CFR 19.42, the container station operator may make a request for the transfer of a container to the station by submitting to CBP an abstract of the manifest for the transferred containers including the bill of lading number, marks, numbers, description of the contents and consignee.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 14,327.

Estimated Number of Annual Responses per Respondent: 25.

Estimated Total Annual Responses: 358,175.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 41,548.

Dated: January 19, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–1334 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights (Part 133 of the CBP Regulations). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before March 26, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 5th Floor, Washington, DC. 20229–1177, at (202) 325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Regulations Relating to Recordation and Enforcement of Trademark and Copyrights (Part 133 of the CBP Regulations).

OMB Number: 1651–0123.

Form Number: None.

Abstract: In accordance with 19 CFR part 133, trademark and trade name owners and those claiming copyright protection may submit information to CBP to enable CBP officers to identify violating articles at the borders. Parties seeking to have merchandise excluded from entry must provide proof to CBP of the validity of the rights they seek to protect. The information collected by CBP is used to identify infringing goods at the borders and determine if such goods infringe on intellectual property rights for which federal law provides import protection. Respondents may submit their information to CBP electronically at *https://apps.cbp.gov/e-recordations/,* or they may submit their information on paper in accordance with 19 CFR 133.2 and 133.3 for trademarks, or 19 CFR 133.32 and 133.33 for copyrights.

Current Actions: This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 4,000.

Dated: January 19, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–1306 Filed 1–23–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

21st Century Conservation Service Corps Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the Department of the Interior, announce a public meeting of the 21st Century Conservation Service Corps Advisory Committee (Committee) to discuss the outcomes and objectives of the Committee.

DATES: *Meeting:* Thursday, February 9, 2012, from 9 a.m. to 5 p.m., and on Friday, February 10, 2012, from 9 a.m. to 3 p.m. (Eastern Time). *Meeting Participation:* Notify Lisa Young (see **FOR FURTHER INFORMATION CONTACT**) by close of business on February 6, 2012, if requesting to make an oral presentation (limited to 2 minutes per speaker). The meeting will accommodate no more than a total of 45 minutes for all public speakers.

ADDRESSES: The meeting will be held at the U.S. Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004 (Across from the National Press Building).

FOR FURTHER INFORMATION CONTACT: Lisa Young, Designated Federal Officer (DFO), 1849 C Street NW., MS 3559, Washington, DC 20240; telephone (202) 208–7586; fax (202) 208–5873; or email *Lisa_Young@ios.doi.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the 21st Century Conservation Service Corps Advisory Committee will hold a meeting.

Background

Chartered in November 2011, the committee is a discretionary advisory committee established under the authority of the Secretary of the Interior. The purpose of the Committee is to provide the Secretary of Interior with recommendations on: (1) Developing a framework for the 21CSC, including program components, structure, and implementation, as well as accountability and performance evaluation criteria to measure success; (2) the development of certification criteria for 21CSC providers and individual certification of 21CSC members; (3) strategies to overcome existing barriers to successful 21CSC program implementation; (4) identifying partnership opportunities with corporations, private businesses or entities, foundations, and non-profit

groups, as well as state, local, and tribal governments, to expand support for conservation corps programs, career training and youth employment opportunities; (5) and developing pathways for 21 CSC participants for future conservation engagement and natural resource careers. Background information on the Committee is available at *www.doi.gov/21csc*.

Meeting Agenda

The Committee will convene to consider: (1) The proposed by-laws, roles and responsibilities of members and the decision making process of the Committee; (2) The Committee timeline, objectives and outcomes, focusing on the Committee duties outlined in the charter; (3) Other Committee business. The public will be able to make comment on Friday, February 10, 2012 from 2:15 p.m. to 3 p.m. The final agenda will be posted on *www.doi.gov/21csc* prior to the meeting.

Public Input

Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. Speakers who wish to expand upon their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting.

Individuals or groups requesting to make comment at the public Committee meeting will be limited to 2 minutes per speaker, with no more than a total of 45 minutes for all speakers. Interested parties should contact Lisa Young, DFO, in writing (preferably via email), by February 6, 2012. (See **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting.

In order to attend this meeting, you must register by close of business February 6. The meeting location is open to the public, and current, government issued, photo ID is required to enter. Space is limited, so all interested in attending should pre-register. Please submit your name, time of arrival, email address and phone number to Lisa Young via email at *Lisa_Young@ios.doi.gov* or by phone at (202) 208–7586.

Dated: January 19, 2012.

Lisa Young,

Designated Federal Officer.

[FR Doc. 2012–1343 Filed 1–23–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–WSR–2012–N015; FVWF941009000007B–XXX–FF09W11000/ FVWF51100900000–XXX–FF09W11000]

Proposed Information Collection; Wildlife and Sport Fish Grants and Cooperative Agreements

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 August 31, 2012. 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 March 26, 2012.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *INFOCOL@fws.gov* (email). Please include ''1018–0109'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *INFOCOL@fws.gov* (email) or (703) 358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract.

The Wildlife and Sport Fish Restoration Program (WSFR), U.S. Fish and Wildlife Service, administers the following financial assistance programs in whole or in part. We award most financial assistance as grants, but cooperative agreements are possible if the Federal Government will be substantially involved in carrying out the project. You can find a description of most programs in the Catalog of Domestic Federal Assistance (CDFA).

CDFA	Program	Authority	Implementing regulations
15.616	Clean Vessel Act	33 U.S.C. 1322, 16 U.S.C. 777c	50 CFR 85.
15.614	Coastal Wetlands Planning, Protection, and Restoration Act.	16 U.S.C. 3951 et seq	50 CFR 84.
15.615	Cooperative Endangered Species Conservation Fund.	16 U.S.C. 1531 et seq., with special reference to section 1535.	50 CFR 81.
15.626	Enhanced Hunter Education and Safety	16 U.S.C. 669 et seq. with special reference to 669h–1.	50 CFR 80.
15.664	Fish and Wildlife Coordination and Assistance Programs.	16 U.S.C. 661, 16 U.S.C. 742a, 16 U.S.C. 2901–2911.	None.
15.667	Highlands Conservation	Highlands Conservation Act (November 30, 2004), Public Law 108–421.	None.
15.633	Landowner Incentive Program	Annual Appropriations Acts for the Department of the Interior, Environment, and Related Agencies for fiscal years 2003–07. 16 U.S.C. 460*l*–4—460*l*–11.	None.
15.628	Multistate Conservation Grants	16 U.S.C. 669–669c, 669h–2, 16 U.S.C. 777–777c, 777m.	None.
15.653	National Outreach and Communications	23 U.S.C. 101, 16 U.S.C. 777g(d)	None.
15.650	Research Grants (Generic)	16 U.S.C. 661, 16 U.S.C. 742f(a)(4)	None.
15.649	Service Training and Technical Assistance (Generic Training).	16 U.S.C. 661, 16 U.S.C. 742f(a)(4)	None.
15.605	Sport Fish Restoration	16 U.S.C. 777 et seq. except 777e–1 and g–1.	50 CFR 80.

CDFA	Program	Authority	Implementing regulations
15.622	Sportfishing and Boating Safety Act (Boating Infrastructure Grants).	16 U.S.C. 777c, g, and g–1	50 CFR 86.
15.634	State Wildlife Grants	Annual Appropriations Acts for the Department of the Interior, Environment, and Related Agencies for fiscal years 2001–12, 16 U.S.C. 460*l*–4—460*l*–11, fiscal years 2002 through 2007.	None.
15.638 archived	Tribal Landowner Incentive Program	Same as the Landowner Incentive Program at CDFA number 15.633.	None.
15.639	Tribal Wildlife Grants	Same as the State Wildlife Grants Program at CDFA number 15.634.	None.
15.625 archived	Wildlife Conservation and Restoration Program.	16 U.S.C. 669 et seq. with special reference to sections 669–669c.	None.
15.611	Wildlife Restoration	16 U.S.C. 669 et seq	50 CFR 80.

To apply for financial assistance funds, you must submit an application that describes in substantial detail project locations, benefits, funding, and other characteristics. Materials to assist applicants in formulating project proposals are available on Grants.gov. We use the application to determine:

- Eligibility of the grant.
- Scale of resource values or relative worth of the project.
- Effect of the project on environmental and cultural resources.
- How well the proposed project will meet the purposes of the program's establishing legislation.

Persons or entities receiving grants must submit periodic performance reports that contain information necessary for us to track costs and accomplishments.

II. Data

OMB Control Number: 1018–0109.

Title: Wildlife and Sport Fish Grants and Cooperative Agreements.

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the District of Columbia; the territories of Guam, U.S. Virgin Islands, and American Samoa; federally-recognized tribal governments; institutions of higher education; and nongovernmental organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: We require applications annually for new grants. We require amendments on occasion when key elements of a project change. We require quarterly and final performance reports in the National Outreach and Communication Program and annual and final performance reports in the other programs. We may require more frequent reports under the conditions stated at 43 CFR 12.52 and 43 CFR 12.914.

Activity	Number of respondents	Number of responses	Completion time per response (hours)	Total annual burden hours
Initial Application (project narrative)	200	2,500	40	100,000
Revision of Award Terms (Amendment)	150	1,500	2	3,000
Performance Reports	200	3,500	6	21,000
Totals	550	7,500		124,000

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: January 18, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–1320 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2012–N017; FXMB12310900APM4]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Mourning Dove Call Count Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and

cost. This information collection is scheduled to expire on January 31, 2012. 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before February 23, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments 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 *INFOCOL@fws.gov* (email). Please include ''1018–0010'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (email) or (703) 358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0010.

Title: Mourning Dove Call Count Survey.

Service Form Number(s): 3–159.

Type of Request: Extension of currently approved collection.

Description of Respondents: State, local, and tribal employees.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Estimated Annual Number of Responses: 936.

Estimated Total Annual Burden Hours: 3,417 hours. We believe 90 percent of the respondents will enter data electronically, with an average reporting burden of 3 hours and 40 minutes per respondent. For all others, we estimate the reporting burden to be 3.5 hours per respondent.

Abstract: The Migratory Bird Treaty Act (16 U.S.C. 703–712) and Fish and Wildlife Act of 1956 (16 U.S.C. 742a–754j–2) designate the Department of the Interior as the primary agency responsible for:

- Wise management of migratory bird populations frequenting the United States, and
- Setting hunting regulations that allow for the well-being of migratory bird populations.

These responsibilities dictate that we gather accurate data on various characteristics of migratory bird populations.

The Mourning Dove Call Count Survey is an essential part of the migratory bird management program. The survey is a cooperative effort between the Service and State wildlife agencies and local and tribal biologists. Each spring, State, Service, local, and tribal biologists conduct the survey to provide the necessary data to determine the population status of the mourning dove. If this survey were not conducted, we would not be able to properly determine the population status of mourning doves prior to setting regulations. The Service and the States use the survey results to:

- Develop annual regulations for hunting mourning doves,
- Plan and evaluate dove management programs, and
- Provide specific information necessary for dove research.

Comments: On June 29, 2011, we published in the **Federal Register** (76 FR 3802) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on August 29, 2011. We did not receive any comments.

We again 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. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: January 18, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–1323 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2012–N016; FXMB12310900APM4]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; North American Woodcock Singing Ground Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on January 31, 2012. 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before February 23, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments 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 *INFOCOL@fws.gov* (email). Please include ''1018–0019'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (email) or (703) 358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0019.

Title: North American Woodcock Singing Ground Survey.

Service Form Number(s): 3–156.

Type of Request: Extension of currently approved collection.

Description of Respondents: State, Provincial, local, and tribal employees.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Estimated Annual Number of Responses: 724.

Estimated Total Annual Burden Hours: 1,288 hours. We believe 613 persons (85 percent of the respondents) will enter data electronically, with an average reporting burden of 1.8 hours per respondent. For all other respondents, we estimate the reporting burden to be 1.67 hours per respondent.

Abstract: The Migratory Bird Treaty Act (16 U.S.C. 703–712) and Fish and Wildlife Act of 1956 (16 U.S.C. 742a–754j–2) designate the Department of the Interior as the primary agency responsible for:

- Wise management of migratory bird populations frequenting the United States, and
- Setting hunting regulations that allow for the well-being of migratory bird populations.

These responsibilities dictate that we gather accurate data on various characteristics of migratory bird populations.

The North American Woodcock Singing Ground Survey is an essential part of the migratory bird management program. State, Federal, Provincial, local, and tribal conservation agencies conduct the survey annually to provide the data necessary to determine the population status of the woodcock. In addition, the information is vital in assessing the relative changes in the geographic distribution of the woodcock. We use the information primarily to develop recommendations for hunting regulations. Without information on the population's status, we might promulgate hunting regulations that (1) are not sufficiently restrictive, which could cause harm to the woodcock population, or (2) are too restrictive, which would unduly restrict recreational opportunities afforded by woodcock hunting. The Service, State conservation agencies, university associates, and other interested parties use the data for various research and management projects.

Comments: On June 29, 2011, we published in the **Federal Register** (76 FR 38203) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on August 29, 2011. We received one comment. The commenter expressed opposition to hunting and the Government, but did not address the collection requirements. We did not make any changes to our information collection requirements.

We again 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. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: January 18, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–1319 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–R–2012–N014; FF09R81000–FXRS126309000009X–123]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on January 31, 2012. 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before February 23, 2012.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments 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 *INFOCOL@fws.gov* (email). Please include ''1018–0140'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (email) or (703) 358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0140.

Title: Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25, 26, 27, 30, 31, and 32.

Service Form Number(s): FWS Forms 3–2354, 3–2355, 3–2356, 3–2357, 3–2358, 3–2359, 3–2360, 3–2361, and 3–2362.

Type of Request: Extension 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 (for applications, usually once per year at the beginning of the hunting season; for activity reports, once at the conclusion of the hunting/fishing experience).

Nonhour Cost Burden: We estimate the annual nonhour cost burden to be $60,000 for hunting application fees at some refuges.

Activity	Number of respondents	Number of responses	Completion time per response (min.)	Total annual burden hours
FWS Form 3–2354	180,000	180,000	30	90,000
FWS Form 3–2355	93,000	93,000	30	46,500

Activity	Number of respondents	Number of responses	Completion time per response (min.)	Total annual burden hours
FWS Form 3–2356	2,600	2,600	30	1,300
FWS Form 3–2357	5,200	5,200	30	2,600
FWS Form 3–2358	2,600	2,600	30	1,300
FWS Form 3–2359	88,000	88,000	15	22,000
FWS Form 3–2360	412,000	412,000	15	103,000
FWS Form 3–2361	31,000	31,000	15	7,750
FWS Form 3–2362	26,000	26,000	15	6,500
Totals	840,400	840,400		280,950

Abstract: The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Administration Act), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) govern the administration and uses of national wildlife refuges and wetland management districts. The Administration Act consolidated all the different refuge areas into a single Refuge System. It also authorizes us to permit public uses, including hunting and fishing, on lands of the Refuge System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. The Recreation Act allows the use of refuges for public recreation when the use is not inconsistent or does not interfere with the primary purpose(s) of the refuge.

There are 408 national wildlife refuges where we administer hunting and/or fishing programs. We only collect user information at about 20 percent of these refuges. Information that we plan to collect will help us:

- Administer and monitor hunting and fishing programs on refuges.
- Distribute hunting and fishing permits in a fair and equitable manner to eligible participants.

We use nine application and report forms associated with hunting and fishing on refuges. We may not allow all opportunities on all refuges; therefore, we developed different forms to simplify the process and avoid confusion for applicants. The currently approved forms are available online at *http://www.fws.gov/forms/*. Not all refuges will use each form and some refuges may collect the identical information in a nonform format.

We use the following application forms when we assign areas, dates, and/or types of hunts via a drawing because of limited resources, high demand, or when a permit is needed to hunt. We issue application forms for specific periods, usually seasonally or annually.

- FWS Form 3–2354 (Quota Deer Hunt Application).
- FWS Form 3–2355 (Waterfowl Lottery Application).
- FWS Form 3–2356 (Big/Upland Game Hunt Application).
- FWS Form 3–2357 (Migratory Bird Hunt Application).
- FWS Form 3–2358 (Fishing/Shrimping/Crabbing Application).

We collect information on:

- Applicant (name, address, phone number) so that we can notify applicants of their selection.
- User preferences (dates, areas, method) so that we can distribute users equitably.
- Whether or not the applicant is applying for a special opportunity for disabled or youth hunters.
- Age of youth hunter(s) so that we can establish eligibility.

We ask users to report on their success after their experience so that we can evaluate hunting/fishing quality and resource impacts. We use the following activity reports, which we distribute during appropriate seasons, as determined by State or Federal regulations.

- FWS Form 3–2359 (Big Game Harvest Report).
- FWS Form 3–2360 (Fishing Report).
- FWS Form 3–2361 (Migratory Bird Hunt Report).
- FWS Form 3–2362 (Upland/Small Game/Furbearer Report).

We collect information on:

- Names of users so we can differentiate between responses.
- City and State of residence so that we can better understand if users are local or traveling.
- Dates, time, and number in party so we can identify use trends and allocate staff and resources.
- Details of success by species so that we can evaluate quality of experience and resource impacts.

Comments: On July 20, 2011, we published in the **Federal Register** (76 FR 43337) a notice of our intent to request that OMB renew approval for this information collection. We solicited comments for 60 days, ending on September 19, 2011. We did not receive any comments.

We again 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. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: January 18, 2012.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2012–1322 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2012–N022; FXIA16710900000P5–123–FF09A30000]

Endangered Species Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications

to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before February 23, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Jeremy Searle, Cornell University, Ithaca, NY; PRT–56964A.

The applicant requests a permit to import DNA samples created from specimens of anoa (*Bubalus depressicornis*), removed from the wild and captive bred in zoos for the purpose of scientific research.

Applicant: Tom Chiang, East Orange, NJ; PRT–101634.

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (Astrochelys radiata), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: ADL Seven Hunting Ranch, Crystal City, TX; PRT–63141A.

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess male barasingha (*Rucervus duvaucelii*), Arabian oryx (*Oryx leucoryx*), scimitar-horned oryx (*Oryx dammah*), Addax (*Addax nasomaculatus*), and dama gazelle (*Nanger dama*) from captive herds for the purpose of enhancement of the survival of the species. This notification covers activities conducted by the applicant over a 5-year period.

Applicant: Rhodes Bobbitt, Los Angeles, TX; PRT–58990A.

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (Oryx dammah), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Eudora Farms LLC, Salley, SC; PRT–63288A.

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the ring-tailed lemur (*Lemur catta*), Arabian oryx (*Oryx leucoryx*), Galapagos tortoise (*Chelonoidis nigra*), and radiated tortoise (*Astrochelys radiata*), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Kansas City Zoo, Kansas City, MO; PRT–681588.

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, genus, and species to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families:

Bovidae
Camelidae
Canidae
Equidae
Felidae (does not include jaguar, margay, or ocelot)
Hominidae
Hylobatidae
Lemuridae
Macropodidae
Rhinocerotidae
Gruidae
Psittacidae [does not include thick-billed parrot (*Rhynchopsitta pachyrhyncha*)]
Sturnidae (does not include *Aplonis pelzeln*i)
Crocodylidae [does not include American crocodile (*Crocodylus acutus*)]

Applicant: Hill Country Aviaries, LLC, Dripping Springs TX, PRT–826561.

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for Vinaceous Amazon (Amazona vinacea), Red-browed Amazon (*Amazona rhodocorytha*), Golden parakeet (Guarouba guarouba), and Blue-throated parakeet (*Pyrrhura cruentata*), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Metro Richmond Zoo, Moseley, VA; PRT–57466A.

The applicant requests a permit to import 6 female captive-born cheetahs (*Acinonyx jubatus jubatus*) from De Wildt Cheetah Breeding Centre, De Wildt, South Africa for the purpose of enhancement of the species through propagation.

Applicant: William Mcilwee, El Cajon, CA; PRT–59289A.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–1305 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2012– N021; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
	Endangered Species		
093431	Felix Staninoha	75 FR 12255, March 15, 2010	April 28, 2010.
09145A	Zoological Society of San Diego	75 FR 27814, May 18, 2010	June 24, 2010.
13802A	Zoological Society of San Diego	75 FR 34766, June 18, 2010	July 28, 2010.
15360A	Earth Promise, Inc., dba Fossil Rim Wildlife Center.	75 FR 41235, July 15, 2010	November 9, 2010.
19934A	Knoxville Zoological Gardens	75 FR 52971, August 30, 2010	December 1, 2010.
25258A	Denver Zoological Gardens	75 FR 69701, November 15, 2010	February 10, 2011.
28015A	Earl Bruno	75 FR 78731, December 16, 2010	February 11, 2011.
27787A	Virginia Aquarium & Marine Science Center	76 FR 2408, January 13, 2011	February 15, 2011.
008519	Zoo Atlanta	75 FR 82409, December 30, 2010	March 1, 2011.
26030A	Drexel University, Dept. of Biology	75 FR 69701, November 15, 2010	February 25, 2011.
31183A	Zoological Society of Escondido, CA	76 FR 2408, January 13, 2011	March 10, 2011.
22077A	Texas A&M University, Schubot Exotic Bird Health Center.	75 FR 69701, November 15, 2010	March 29, 2011.
32684A	Zoological Society of San Diego	76 FR 12990, March 9, 2011	May 19, 2011.
37443A	Metro Richmond Zoo	76 FR 18239, April 1, 2011	May 23, 2011.
013008	777 Ranch Inc.	76 FR 7580, February 10, 2011	July 11, 2011.
39083A	Endangered Species Propagation, Survival & Research Center.	76 FR 35464, June 17, 2011	July 28, 2011.
115344	Forrest Simpson	76 FR 35464, June 17, 2011	July 28, 2011.
37786A	Minnesota Zoo	76 FR 18239, April 1, 2011	August 11, 2011.
42831A	Saint Louis Zoo	76 FR 36934, June 23, 2011	August 18, 2011.
48053A	GTWT, LLC, dba Bang 57 Ranch	76 FR 48880, August 9, 2011	September 28, 2011.
49112A	Morani River Ranch	76 FR 51051, August 17, 2011	September 28, 2011.
50258A	Thomas McCarthy	76 FR 52965, August 24, 2011	October 18, 2011.
671993	Albuquerque Biological Park	76 FR 61733, October 5, 2011	December 2, 2011.
185788	Alexandria Zoological Park	76 FR 61733, October 5, 2011	December 2, 2011.
200682	Erie Zoo	76 FR 61733, October 5, 2011	December 2, 2011.
679052	Lincoln Park Zoo	76 FR 61733, October 5, 2011	December 2, 2011.
766088	Rolling Hills Wildlife Adventure	76 FR 61733, October 5, 2011	December 2, 2011.
837068	Yerkes Regional Primate Research Center	76 FR 61733, October 5, 2011	December 2, 2011.
055381	Paula Hansen	76 FR 66954, October 28, 2011	December 5, 2011.
101033	Charles Munoz	76 FR 66954, October 28, 2011	December 5, 2011.
56735A	Alan Ong	76 FR 66954, October 28, 2011	December 5, 2011.
56309A	Charles Salisbury	76 FR 66954, October 28, 2011	December 14, 2011.
56870A	Carson Springs Wildlife Foundation	76 FR 66954 October 28, 2011	December 22, 2011.
189407	David Nesbit	76 FR 66954 October 28, 2011	December 2, 2011.
57930A	Newport Aquarium LLC	76 FR 68205, November 3, 2011	December 15, 2011.
699515	Honolulu Zoo	76 FR 68205, November 3, 2011	December 6, 2011.
180804	Laguna Vista Ranch	76 FR 68205, November 3, 2011	December 6, 2011.

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
57071A	Kevin Hudson	76 FR 71069, November 16, 2011	December 27, 2011.
56468A	Joseph Harrison	76 FR 71069, November 16, 2011	December 27, 2011.
59287A	Lloyd Douglas	76 FR 77006, December 9, 2011	January 12, 2012.
59495A	Jill Holstead	76 FR 77006, December 9, 2011	January 12, 2012.
Marine Mammals			
225854	Tom Smith, Brigham Young University	76 FR 36934, June 23, 2011	January 13, 2012.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–1303 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LL WO31000.L13100000.PB0000.24 1E]

Renewal and Revision of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from individuals, small businesses, and large corporations who wish to assign record title or transfer operating rights in a lease for oil and gas or geothermal resources. The Office of Management and Budget (OMB) has assigned control number 1004–0034 to this information collection.

DATES: Submit comments on the proposed information collection by March 26, 2012.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at (202) 245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0034'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Division of Fluid Minerals, at (202) 912–7148. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339, to leave a message for Ms. Gamble.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

The following information is provided for the information collection:

- *Title:* Oil, Gas, and Geothermal Resources: Transfers and Assignments (43 CFR Subparts 3106, 3135, and 3216).

Forms:

- Form 3000–3, Assignment of Record Title Interest in a Lease for Oil and Gas or Geothermal Resources; and
- Form 3000–3a, Transfer of Operating Rights (Sublease) in a Lease for Oil and Gas or Geothermal Resources.

OMB Control Number: 1004–0034.

Abstract: The information collected in Form 3000–3 enables the BLM to process applications to transfer interests in oil and gas or geothermal leases by assignment of record title. The information collected in Form 300–3a enables the BLM to process applications to transfer operating rights in (i.e., sublease) oil and gas or geothermal leases. The information in both forms enables the BLM to identify the interest that is proposed to be assigned or transferred; determine whether the proposed assignee or transferee is qualified to obtain the interest sought; and ensure that the proposed assignee or transferee does not exceed statutory acreage limitations.

Frequency of Collection: On occasion. Responses are required to obtain or retain a benefit.

Estimated Number and Description of Respondents: Approximately 4,000 individuals, small businesses, and large corporations apply to assign record title or transfer operating rights (sublease) in a lease for oil and gas or geothermal resources. The estimated number of responses exceeds the estimated number of respondents because some respondents file multiple transfers or assignments annually, while others may file just one.

Estimated Reporting and Recordkeeping ''Hour'' Burden: For oil and gas: 5,427 hours; for geothermal resources: 39½ hours. The combined total is 5,466½ hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: For oil and gas: $271,350; for

geothermal: $3,950. The combined total is $275,300.

The following table details the individual components and respective hour burdens of this information collection request:

A. Type of response	B. Number of responses	C. Time per response (minutes)	D. Total hours (Column B × Column C)
Assignment of Record Title Interest/Oil and Gas Leases:			
43 CFR 3106.4–1 Form 3000–3	6,428	30	3,214
Assignment of Record Title Interest/Geothermal Resources:			
43 CFR 3216.14 Form 3000–3	70	30	35
Transfer of Operating Rights/Oil and Gas Leases:			
43 CFR 3106.4–1 Form 3000–3a	4,426	30	2,213
Transfer of Operating Rights/Geothermal Resources:			
43 CFR 3216.14 Form 3000–3a	9	30	4.5
Totals	10,933		5,466.5

Before including your address, telephone number, email address, or other personal identifying information in your comments, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2012–1297 Filed 1–23–12; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Notice of Availability of a Draft Environmental Assessment and Finding of No Significant Impact for Environmental Assessment: Non-Native Plant Control and Re-Establishment of Riparian Habitats Along the Rio Grande on U.S. International Boundary and Water Commission (USIBWC) and Bureau of Land Management (BLM) Lands in Seldon Canyon, Doña Ana County, NM

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of the Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the United States Section, Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, (46 FR 44083); the United States Section hereby gives notice that the Draft Environmental Assessment and Finding of No Significant Impact for Non-native Plant Control and Re-establishment of Riparian Habitats Along the Rio Grande on U.S. International Boundary and Water Commission and Bureau of Land Management Lands are available. An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within 30-days from the date of this Notice.

FOR FURTHER INFORMATION CONTACT: Gilbert Anaya, Division Chief, Environmental Management Division; United States Section, International Boundary and Water Commission; 4171 N. Mesa, C–100; El Paso, Texas 79902. Telephone: (915) 832–4702, email: *Gilbert.Anaya@ibwc.gov.*

Background: This proposed project would be part of a regional initiative to restore the form and function of the Rio Grande floodplain that has been undertaken by other Federal, State, and non government organizations. The overarching goals of the project are to improve the ecosystem integrity within the project area by shifting conditions to match those that historically existed. This project will focus on restoring 31.35 acres divided between two tracts of federal lands (25.85 ac USIBWC and 5.5 ac BLM) from salt cedar to native riparian habitats by utilizing validated mechanical and chemical control methods to remove and control salt cedar.

Availability: Electronic copies of the Draft EA and FONSI are available from the USIBWC Home Page: *http://www.ibwc.gov/Organization/Environmental/EIS_EA_Public_Comment.html.*

Dated: January 17, 2012.

Steven Fitten,

General Counsel.

[FR Doc. 2012–1359 Filed 1–23–12; 8:45 am]

BILLING CODE 7010–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–410 (Third Review)]

Light-Walled Rectangular Pipe and Tube From Taiwan

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on light-walled rectangular pipe and tube from Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2011 (76 FR 38691) and determined on October 4, 2011 that it would conduct an expedited review (76 FR 64105, October 17, 2011).

The Commission transmitted its determination in this review to the Secretary of Commerce on January 17, 2012. The views of the Commission are contained in USITC Publication 4301 (January 2012), *Light-Walled Rectangular Pipe and Tube from Taiwan (Inv. No. 731–TA–410 (Third Review)).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: January 18, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–1301 Filed 1–23–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–12–002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 26, 2012 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agendas for future meetings: none.

2. Minutes.

3. Ratification List.

4. Vote in Inv. Nos. 701–TA–302 and 731–TA–454 (Third Review)(Fresh and Chilled Atlantic Salmon from Norway). The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before February 8, 2012.

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 18, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–1461 Filed 1–20–12; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Telecommunications Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Telecommunications Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before February 23, 2012.

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/PRAMain,* 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 the Department of Labor, Occupational Safety and Health Administration (OSHA), 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.*

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.*

SUPPLEMENTARY INFORMATION: Regulations 29 CFR 1910.268(c) establishes the information collection requirements of the Telecommunications Standard. It makes it mandatory for employers to generate and maintain training certification records for all workers covered by the standard.

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 if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0225. The current OMB approval is scheduled to expire on January 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on October 25, 2011 (76 FR 66087).

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 reference OMB Control Number 1218–0225. 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: Occupational Safety and Health Administration (OSHA).

Title of Collection: Telecommunications Standard.

OMB Control Number: 1218–0225.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 659.

Total Estimated Number of Responses: 35,884.

Total Estimated Annual Burden Hours: 1,077.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 18, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–1304 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,501M]

Sony Electronics, Inc., Including On-Site Leased Workers From Selectremedy Park Ridge, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on April 27, 2010, applicable to workers of Sony Electronics, Inc., SEL Headquarters, including on-site leased workers of SelectRemedy, StaffMark, and Payrolling.com, San Diego, California (TA–W–71,501); Sony Electronics, Inc., including on-site leased workers of SelectRemedy, StaffMark, and PayRolling.com, San Jose, California (TA–W–71,501A); Sony Electronics, Inc., including on-site leased workers of WillStaff, Danco Industrial Contractors, Advantage, Cyclone Automation, and Rjesus Fabrication, Dothan, Alabama (TA–W–71,501B); and Sony Electronics, Inc., including on-site leased workers of SelectRemedy, Itasca, Illinois (TA–W–71,501C).

The workers are engaged in activities related to production of electronics and various support operations, including marketing, professional, corporate and customer support, import/export compliance, procurement, and warranty services.

The notice was published in the **Federal Register** on July 1, 2010 (75 FR 38143–38144). The notice as amended on August 13, 2011 to include other locations. The amended notice was published in the **Federal Register** on November 12, 2010 (75 FR 69471–69472)

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The company reports that workers leased from SelectRemedy were employed on-site at the Park Ridge, New Jersey location of Sony Electronics, Inc. The Department has determined that these workers were sufficiently under the control of Sony Electronics, Inc. to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from SelectRemedy working on-site at the Park Ridge, New Jersey location of Sony Electronics.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in production of electronics and various support operations, including marketing, professional, corporate and customer support, import/export compliance, procurement, and warranty services, to Mexico, China, India, and Japan.

The amended notice applicable to TA–W–71,501 is hereby issued as follows:

All workers of Sony Electronics, Inc., SEL Headquarters, including on-site leased workers of SelectRemedy, StaffMark, and Payrolling.com, San Diego, California (TA–W–71,501); Sony Electronics, Inc., including on-site leased workers of SelectRemedy, StaffMark, and Payrolling.com, San Jose, California (TA–W–71,501A); Sony Electronics, Inc., including on-site leased workers of WillStaff, Danco Industrial Contractors, Advantage, Cyclone Automation, and RJESUS Fabrication, Dothan, Alabama (TA–W–71,501B); and Sony Electronics, Inc., including on-site leased workers of SelectRemedy, Itasca, Illinois (TA–W–71,501C), Carson, California, including on-site leased workers of Select Staffing (TA–W–71,501D); Culver City, California (TA–W–71,501E); Lake Forest, California (TA–W–71,501F); Los Angeles, California (TA–W–71,501G); Ft. Myers, Florida (TA–W–71,501H); Miami, Florida (TA–W–71,501I); Honolulu, Hawaii (TA–W–71,501J); Novi, Michigan (TA–W–71,501K); Kansas City, Missouri, including on-site leased workers of Kelly Services (TA–W–71,501L); including on-site leased workers of SelectRemedy, Park Ridge, New Jersey (TA–W–71,501M); Teaneck, New Jersey, including on-site leased workers of Select Staffing (TA–W–71,501N); Irving, Texas (TA–W–71,501O); and Richmond, Virginia (TA–W–71,501P) ho became totally or partially separated from employment on or after June 22, 2008, through April 27 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 9th day of January 2012.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2012–1330 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,426]

FCI USA, LLC Corporate Administrative Division Including On-Site Leased Workers From JFC Including Teleworkers Located Throughout the United States Reporting to Etters, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on April 6, 2010, applicable to workers of FCI USA, LLC, Corporate Administrative Division, including on-site leased workers from JFC, Etters, Pennsylvania. The workers supply internal corporate administrative services. The notice was published in the **Federal Register** on May 5, 2010 (75 FR 24750).

At the request of the Texas Workforce Commission, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations have occurred involving employees of the subject firm who telework from off-site locations throughout the United States who report to the Etters, Pennsylvania location of FCI USA, LLC, Corporate Administrative Division. These employees provided sales and engineering activities related to the supply of internal corporate administrative services for the subject firm.

Based on these findings, the Department is amending this certification to include employees of the subject firm who telework and report to the Etters, Pennsylvania facility.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in corporate administrative services to China, India and Malaysia.

The amended notice applicable to TA–W–73,426 is hereby issued as follows:

All workers of FCI USA, LLC, Corporate Administrative Division, including on-site leased workers from JFC, including teleworkers located throughout the United States reporting to Etters, Pennsylvania, who became totally or partially separated from employment on or after February 1, 2009, through April 6, 2012, and all workers in the

group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 9th day of January 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1332 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,354]

Hugo Boss Cleveland, Inc., Including Workers Whose Unemployment Insurance (UI) Wages Are Paid Through Tjfc Distribution Brooklyn, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on April 8, 2010, applicable to workers of Hugo Boss Cleveland, Inc., Brooklyn, Ohio. The notice was published in the **Federal Register** on May 5, 2010 (75 FR 24750).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of men's suits.

Information shows that in Hugo Boss purchased TJFC Distribution in 1998. Some workers separated from employment at the Brooklyn, Ohio location of Hugo Boss Cleveland, Inc. had their wages reported under a separate unemployment insurance (UI) tax account under the name TJFC Distribution.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of men's suits.

The amended notice applicable to TA–W–73,354 is hereby issued as follows:

All workers of Hugo Boss Cleveland, Inc., including workers whose unemployment insurance (UI) wages are paid through TJFC Distribution, Brooklyn, Ohio, who became totally or partially separated from employment on or after January 14, 2009 through April 8, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 10th day of January 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1331 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,064]

VTECH Communications, Inc., Human Factors Department, Beaverton, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on December 14, 2011, applicable to workers of VTech Communications, Inc., including on-site leased workers from Express and Kelly IT, Beaverton, Oregon. The workers are engaged in activities related to the production of phones. Specifically, the workers were designing the user interface and quality assurance for the phones. The notice was published in the **Federal Register** on December 29, 2011 (76 FR 81989).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information from the company shows that the correct name of the subject firm should read VTech Communications, Inc., Human Factors Department, Beaverton, Oregon. New information also shows that the Human Factors Department does not include on-site leased workers. Therefore, the on-site leased workers from Express and Kelly IT are removed form this certification.

Accordingly, the Department is amending this certification to correct the name of the subject firm to read VTech Communications, Inc., Human Factors Department, Beaverton, Oregon. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in production to a foreign country.

The amended notice applicable to TA–W–81,064 is hereby issued as follows:

All workers from VTech Communications, Inc., Human Factors Department, Beaverton, Oregon, who became totally or partially separated from employment on or after February 13, 2010, through December 14, 2013, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.

Signed at Washington, DC, this 11th day of January 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1329 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,473]

Reading Powder Coatings, Inc., Including On-Site Leased Workers From Berks and Beyond Employment Services and Gage Personnel Reading, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 19, 2011, applicable to workers of Reading Powder Coatings, Inc., Reading, Pennsylvania. The workers are engaged in activities related to the production of powder coatings. The notice was published in the **Federal Register** on November 3, 2011 (76 FR 68220).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that workers leased from Berks and Beyond Employment Services and Gage Personnel were employed on-site at the Reading, Pennsylvania location of Reading Powder Coatings, Inc. The Department has determined that these workers were sufficiently under the control of Reading Powder Coatings, Inc. to be considered leased workers.

The intent of the Department's certification is to include all workers of

the subject firm adversely affected by a shift in the production of powder coatings to Mexico.

Based on these findings, the Department is amending this certification to include workers leased from Berks and Beyond Employment Services and Gage Personnel working on-site at the Reading, Pennsylvania location of the subject firm.

The amended notice applicable to TA–W–80,473 is hereby issued as follows:

All workers of Reading Powder Coatings, Inc., including on-site leased workers from Berks and Beyond Employment Services and Gage Personnel, Reading, Pennsylvania, who became totally or partially separated from employment on or after September 26, 2010, through October 19, 2013, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 9th day of January 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1333 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of January 2, 2012 through January 6, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the

International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register;** and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,415	International Extrusion Corporation, Subsidiary of International Architectural Products, Diversified Sourcing.	Waxahachie, TX	September 6, 2010.
80,452	Tri-County Truss, Subsidiary of Lyman Lumber & Affiliated Companies	Burlington, WA	September 15, 2010.
80,490	Novartis Pharmaceuticals Corporation, Primary Care Business Unit, Inventiv, Ashfield, Pro Unlimited.	East Hanover, NJ	October 3, 2010.
81,006	Georgia-Pacific, Building Products Division, Crossett Plywood Mill	Crossett, AR	February 13, 2010.
81,104	Fortis Plastics, LLC, Subsidiary of Plastics Acquisition, Inc., Production Staffing	Poplar Bluff, MO	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,026	Cone Denim LLC, White Oak Plant, Division of International Textile Group, Inc	Greensboro, NC	October 31, 2010.
81,046	International Textile Group, Wages Reported Through Burlington Industries	Greensboro, NC	January 7, 2011.
81,046A	International Textile Group, Cone Denim Burlington Worldwide Div, Wages through Burlington.	New York, NY	January 7, 2011.
81,072	Accenture LLP, Working on-site at AT&T, Customer Financial, Collabera, Omnipoint, Mastech.	Morristown, NJ	February 13, 2010.
81,084	Spectrum Sensors and Controls, Spectrum Control, Inc., API Technologies Div	St. Marys, PA	February 13, 2010.
81,109	Resolute Forest Products, Subsidiary of AbitibiBowater	Greenville, SC	February 13, 2010.
81,139	McClatchy Newspapers, Inc. DBA The Sacramento Bee, AD Production Department.	Sacramento, CA	November 11, 2010.
81,144	Regal Beloit Corporation, Richmond Gear Div., Kudzu Staffing, Phillips Staffing	Liberty, SC	February 13, 2010.
81,147	Schneider Electric North America, Accounts Payable Department, Volt Workforce Solutions.	Lexington, KY	February 13, 2010.
81,150	Novozymes, Inc., Novozymes US, Finance Department	Davis, CA	February 13, 2010.
81,153	Schneider Electric USA, Inc., a subsidiary of Schneider Electric Industries, System Consistency Division, Finance Department.	North Andover, MA	February 13, 2010.
81,194	Security Metal Products Corp.	Clinton, OK	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,519	Verso Paper Corp., Bucksport Mill Division	Bucksport, ME	October 13, 2010.
81,185	CBean Transport	Fort Smith, AR	February 13, 2010.
81,185A	CBean Transport	Amity, AR	February 13, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
80,383	SG Printing, Inc	Waymart, PA	
81,017	Integrity Building Systems Inc	Milton, PA	

TA–W No.	Subject firm	Location	Impact date
81,019	Wells Fargo Bank, National Association, The Overdraft Deposit Collections and Recovery Group.	Chester, PA	
81,109A	Resolute Forest Products, Subsidiary of AbitibiBowater, Corp. US Div., Payroll, Internal Audit and IT.	Greenville, SC	

I hereby certify that the aforementioned determinations were issued during the period of *January 2, 2012 through January 6, 2012.* These determinations are available on the Department's Web site at tradeact/taa/taa search form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 13, 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1327 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Guam Military Base Realignment Contractor Recruitment Standards

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) is issuing this notice to announce the recruitment standards that construction contractors are required to follow when recruiting United States (U.S.) workers for Guam military base realignment projects funded through the National Defense Authorization Act (NDAA) for Fiscal Year 2010.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210. Telephone (202) 693–2784 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–(877) 889–5627 (TTY/TDD). *Fax:* (202) 693–3015. Email: *dais.anthony@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 2834(a) of the NDAA for Fiscal Year 2010 (Pub. L. 111–84, enacted October 28, 2009) amended Section 2824(c) of the Military Construction Authorization Act (Pub. L. 110–417, Division B) by adding a new subsection (6). This provision prohibits contractors engaged in construction projects related to the realignment of U.S. military forces from Okinawa to Guam from hiring non-U.S. workers unless the Governor of Guam (Governor), in consultation with the Secretary of Labor (Secretary), certifies that: (1) There is an insufficient number of U.S. workers that are able, willing, and qualified to perform the work; and (2) that the employment of non-U.S. workers will not have an adverse effect on either the wages or the working conditions of U.S. construction workers in Guam.

In order to allow the Governor to make this certification, the NDAA requires contractors to recruit workers in the U.S., including in Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Virgin Islands, and Puerto Rico, according to the terms of a recruitment plan developed and approved by the Secretary. That recruitment plan has been reproduced in full in Section I below (''Contractor Recruitment Standards'').

The Department has developed the Contractor Recruitment Standards in full consultation with, and with the approval of, the Guam Department of Labor (GDOL). Although the Department has developed the recruitment standards, it has assigned oversight of the Contractor Recruitment Standards and the NDAA-required consultation with the Governor to GDOL through a Memorandum of Understanding between the Department and GDOL, effective November 22, 2011 (the MOU can be found on the RegInfo.gov Web site listed at the end of this **Federal Register** Notice).

Under the NDAA, no Guam base realignment construction project work may be performed by a person holding an H–2B visa under the Immigration and Nationality Act until the contractor complies with the Department's Contractor Recruitment Standards, and the Governor of Guam issues the certification noted above. The Department is now publishing an interim version of the recruitment standards to avoid delaying the start of projects that are essential to fulfill U.S. international obligations, meet the needs of the people of Guam and the U.S. Department of Defense, and to ameliorate extremely high unemployment rates among U.S. workers with construction skills and experience. More background is provided in *U.S. Department of Labor Report to Congress Required by the National Defense Authorization Act for Fiscal Year 2010* (July 29, 2011), submitted to the Senate Committee on Health, Education, Labor, and Pensions, and the Armed Services Committee; and the House of Representatives Education and the Workforce Committee, and the Armed Services Committee (this report can be found at the RegInfo.gov Web site listed at the end of this **Federal Register** Notice).

Upon publication of this notice, the Contractor Recruitment Standards in Section I below will take effect immediately. To comply with the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320.13, the Department obtained approval from the President's Office of Management and Budget (OMB) for information collection pursuant to the Contractor Recruitment Standards, effective October 19, 2011 and scheduled to expire April 30, 2012. The Department is requesting a three-year extension of this information collection request (ICR). A copy of the ICR can be obtained by following the instructions at the end of this **Federal Register** Notice.

I. Guam Military Base Realignment Contractor Recruitment Standards

Guam military base realignment contractors must take the following actions to recruit U.S. workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must

a. Submit a job posting with GDOL at *http://dol.guam.gov/index.php?option=com_jobline&Itemid=0&task=add,* or by submitting a completed Job Order (Form GES 514) in person at the Guam Employment Service office. The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days;

b. Submit a job posting with the state workforce agency's Internet job bank in American Samoa at *www.usworks.com/americansamoa/,* the Commonwealth of the Northern Mariana Islands at *https://marianaslabor.net/employer.asp,* and in the following states:

i. Alaska (*www.jobs.state.ak.us*);

ii. California (*www.caljobs.ca.gov*);

iii. Hawaii (*www.hirenethawaii.com*);

iv. Oregon (*www.emp.state.or.us/jobs*); and

v. Washington (*https://fortress.wa.gov/esd/worksource/Employment.aspx*).

The job posting must be posted for at least 21 consecutive days. If for any reason the Internet job bank in American Samoa is not available, the contractor must place an advertisement on two Sundays in a newspaper that: (1) Is of general circulation in the territory; (2) has a reasonable distribution and is appropriate to the occupation; and (3) is likely to be seen by workers interested in applying for construction employment.

c. Submit a job posting with an Internet-based job bank that

i. is national in scope, including the entire U.S., Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico;

ii. allows job postings for all occupations; and

iii. is free of charge for job seekers and their intermediaries in One-Stop Career Centers and the employment service delivery system nationwide.

d. Where the occupation or industry is customarily unionized, contact the local union in Guam in writing to seek U.S. workers who are qualified and who will be available for the job opportunity.

The postings are separate and distinct requirements—*i.e.,* a posting under Section 1(b) cannot be used to satisfy the posting requirement under Section 1(c).

2. Each job posting in (1)(a) through (d) must include, at a minimum, the following:

a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity or to send applications and/or résumés directly to the employer;

b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;

c. If applicable, a statement that daily transportation to and from the worksite(s) will be provided by the employer;

d. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;

e. If applicable, a statement that on-the-job training will be provided to the worker;

f. If applicable, a statement that overtime will be available to the worker and the wage offer for working any overtime hours;

g. The wage offer, and the benefits, if any, offered;

h. A statement that the position is temporary; and

i. The total number of job openings the employer intends to fill.

3. During the 28-day recruitment period, which begins on the earliest date of posting, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.

4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via email to GDOL at *ndaa.recruitment@dol.guam.gov* documenting its efforts to recruit U.S. workers from the U.S. and all U.S. territories:

a. A description of all the recruitment approaches used to recruit realignment workers. The description must include identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the date of each posting, and the job order or requisition number. If newspaper advertisements were used, the description must also include the dates that these ads appeared in the newspaper;

b. A copy of each job posting;

c. A detailed description of how each response to the job postings was handled, including

i. the number of job applications received;

ii. the name of each applicant;

iii. the position applied for;

iv. the final employment determination for each applicant or job candidate; and

v. for each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

II. Departmental Recruitment Support Activities

Separate from the Contractor Recruitment Standards, ETA will facilitate a nationwide outreach and recruitment effort to maximize hiring of U.S. construction workers, including outreach to its workforce investment system. ETA will do the following:

- Develop and issue a Training and Employment Notice (TEN), and hold an Internet-based training session (''Webinar'') to inform contractors, state workforce agencies, state and local workforce investment boards, and One-Stop Career Centers of the anticipated construction employment opportunities on Guam and how these opportunities will be posted [interested individuals can automatically receive notice of the TEN by going to *http://wdr.doleta.gov/directives* and clicking on the last bullet, stating ''To be added to the ETA Advisory electronic distribution list—click here'' and interested individuals can automatically receive notice of the Webinar by registering for ETA's Workforce3One by going to *https://www.workforce3one.org/register.aspx,* then going to the fourth category (Newsletters and Updates) and checking the box for ''Webinars/Live Events,'' and should also check both boxes under ''Reemployment Works'' in the preceding category (labeled ''Join Communities'')];
- Develop telephone scripts for a Toll-Free Help Line directing job seekers to the GDOL job bank;
- Ensure that Departmental offices — including the Office of Unemployment Insurance, the Office of Apprenticeship, the Office of Job Corps, the Veterans' Employment and Training Service, and the YouthBuild program—are informed of the construction employment opportunities; and
- Brief pertinent intergovernmental and labor organizations (including the National Governors Association, National Conference of State Legislatures, and building trades unions), so that they can assist in spreading information about the U.S. worker outreach effort.

III. Public Burden Statement

These Contractor Recruitment Standards have been approved under the PRA. Persons are not required to respond to this collection of information unless it displays a valid OMB control number (1205–0484). Public reporting burden for this collection of information is estimated at three hours per job order, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Further information on this ICR can be accessed using control number 1205–0484 at the RegInfo.gov Web site at *www.reginfo.gov/public/do/PRAMain.*

To do this, use the following instructions.

1. Go to the ''Select Agency'' box and click on the drop-down arrow, and then select ''Department of Labor.'' Then click on the ''Submit'' button to the right of the box.

2. Each entry lists the OMB Control Number at the top of the entry. Scroll down the screen until 1205–0484 appears (the entries are in numerical order).

3. Once you reach 1205–0484, click on the number immediately *below* that, the ICR Reference Number (*not* the Control Number itself).

4. To see the Information Collection notices themselves, click on ''View Information Collection (IC) List'' near the top of the page on the left. To see the Report to Congress, the MOU, the ICR Supporting Statement and other relevant documents, click on ''View Supporting Statement and Other Documents'' near the top of the page on the right.

Signed: at Washington, DC, this 17th day of January, 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–1295 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 12th day of January 2012

Michael Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[17 TAA petitions instituted between 1/1/12 and 1/6/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81206	Cookson Precious Metals (Company)	Attleboro, MA	01/03/12	01/03/12
81207	American Axle & Manufacturing (Company)	Detroit, MI	01/03/12	01/02/12
81208	American Axle & Manufacturing, Inc. (AAM) (Company)	Cheektowaga, NY	01/03/12	12/30/11
81209	TriNet HR Corp-Aplegen Inc. (Workers)	Goleta, CA	01/03/12	12/31/11
81210	Verso Paper (State/One-Stop)	Sartell, MN	01/04/12	12/27/11
81211	Memc, Inc. (Workers)	Portland, OR	01/04/12	01/03/12
81212	Sunshine 368 Inc. (Workers)	Corona, NY	01/04/12	12/25/11
81213	American Express (Workers)	Salt Lake City, UT	01/04/12	01/03/12
81214	Peninsula Plywood Group LLC. (State/One-Stop)	Port Angeles, WA	01/04/12	01/03/12
81215	Apex Tool Group (Company)	Sumter, SC	01/05/12	01/04/12
81216	Parkersburg Bedding LLC (Union)	Parkersburg, WV	01/05/12	01/05/12
81217	Solitaire (State/One-Stop)	Duncan, OK	01/06/12	01/05/12
81218	Ballantyne Strong, Inc. (Company)	Omaha, NE	01/06/12	01/05/12
81219	Deloitte/Deloitte Recap (State/One-Stop)	San Francisco, CA	01/06/12	01/05/12
81220	Aetna Global Benefits (Workers)	Tampa, FL	01/06/12	01/05/12
81221	J and M Manufacturing (Workers)	El Paso, TX	01/06/12	01/05/12
81222	CPS Color Equipment, Inc. (Workers)	Concord, NC	01/06/12	01/05/12

[FR Doc. 2012–1328 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

2002 Reopened—Previously Denied Determinations; Notice of Revised Denied Determinations On Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of revised determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W–) number regarding negative determinations issued during the period of February 13, 2011 through October 21, 2011. Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reconsidered. The reconsideration investigation revealed that the following workers groups have met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following revised determinations on reconsideration have been issued.

TA–W–80,215; Dex One, Cary, NC: June 2, 2010.

TA–W–80,215A; Dex One, Morrisville, NC: February 19, 2013.

TA–W–80,215B; Dex One, Phoenix, AZ: July 8, 2012.

TA–W–80,215C; Dex One, Santa Monica, CA: June 2, 2010.

TA–W–80,215D; Dex One, Englewood, CO: February 19, 2013.

TA–W–80,215E; Dex One, Lone Tree, CO: June 2, 2010.

TA–W–80,215F; Dex One, Chicago, IL: June 2, 2010.

TA–W–80,215G; Dex One, Overland Park, KS: June 2, 2010.

TA–W–80,215H; Dex One, Dunmore, PA: February 19, 2013.

TA–W–80,215I; Dex One, Bellevue, WA: July 8, 2012.

I hereby certify that the aforementioned revised determinations on reconsideration were issued on *January 9, 2012.* These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 10, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1325 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

2002 Reopened—Previously Denied Determinations; Notice of Negative Determinations on Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of negative determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W–) number regarding negative determinations issued during the period of February 13, 2011 through October 21, 2011. Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reopened. The reconsideration investigation revealed that the following workers groups have not met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following negative determinations on reconsideration have been issued.

TA–W–80,114; CEVA Logistics, East Liberty, OH.

TA–W–80,114A; CEVA Logistics, Van Wert, OH.

I hereby certify that the aforementioned negative determinations on reconsideration were issued on January 9, 2012. These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 10, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–1326 Filed 1–23–12; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2012–1]

Copyright Office Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Inquiry; Fees.

SUMMARY: The U.S. Copyright Office is in the process of reviewing its fees for services and will publish a proposed revised fee schedule in the spring. As part of the process of formulating that fee schedule, the Office seeks the views of interested parties on two particular issues: (1) With respect to the basic registration fee, should special consideration be provided to individual author-claimants registering a single work, and (2) are there any special services and corresponding fees the Office should expand, improve or add to its offerings at this time, including, for example, additional expedited services and fee options.

DATES: Comments must be received no later than February 23, 2012.

ADDRESSES: The Copyright Office strongly prefers that comments be submitted electronically. A comment page containing a comment form is posted on the Office Web site at *http://www.copyright.gov/docs/newfeeservices.* The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, submitters must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post all comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–8380 for special instructions.

FOR FURTHER INFORMATION CONTACT: Christopher S. Reed, Senior Advisor for Policy and Special Projects, Office of the Register of Copyrights, or David O. Carson, General Counsel, at (202) 707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act (the ''Act'') provides that the Register of Copyrights may adjust certain fees based upon a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. 17 U.S.C. 708(b). Since the Act was amended to provide for such adjustments, the Office has undertaken fee studies approximately every three years and made adjustments accordingly. The Office last adjusted fees in 2009. It is currently analyzing costs and corresponding fees and intends to propose a new fee schedule for public comment in the spring of this year.

At this time, the Office seeks public comment on two issues. First, with respect to the basic registration fee, should special consideration be provided to individual author-claimants registering a single work that is not a work made for hire? Second, are there any special services and corresponding fees the Office should expand, improve or add to its offerings at this time, including, for example, additional expedited services and fee options for copyright owners and their representatives?

II. Discussion

A. Applications by Individual Author-Claimants

The Copyright Office is committed to maintaining an affordable copyright registration system. No author or copyright owner should be deterred from registering a copyright because the cost of registration is too high. On the other hand, much of the Office's budget comes from the collection of fees for costs of services rendered, and Congress has mandated that the Office periodically study and adjust fees as necessary. But some copyright registration applications are less expensive to process than others. Logically, an application by a single author, who also happens to be the sole copyright claimant, to register a single work should take less time and cost less to examine than an application involving multiple authors or works. At a time when the Copyright Office, like other agencies of the federal government, has a responsibility to provide greater fiscal stewardship (and is being called upon to be more self-sustaining), fees in general are likely to increase, raising possible policy issues. Individual authors may find higher fees an impediment to submitting applications, yet many of the works that come from authors are critical to the nation's economy and the Library of Congress' mint record and collection of American creativity. The copyright law itself is designed to promote and protect authorship and this includes facilitating registration for the establishment of a public record of copyright claims and to enable the copyright owner to seek all the remedies available in the Copyright Act. Similarly, users of copyrighted works rely on the Copyright Office registration records to identify copyright owners when they require licenses. If individual authors do not register and are therefore not part of the public database, they more than any other group of copyright owners may be difficult to find.

The Copyright Office therefore seeks comment from authors, copyright owners and the public in general as to whether, in its proposed new fee schedule, the Office should set a lower fee for an application to register a single work when the application is submitted by a person who is the sole author and the sole copyright owner of the work, the work is not a work made for hire, and the work does not contain material that was previously published or registered. The fee would be lower than the registration fee for other applications in recognition of the lower cost in processing such simple applications as well as the need to encourage individual authors to register their copyrights. More complex registrations, such as those involving groups, collections, multiple titles, etc., require greater attention of Copyright Office staff (e.g., to ensure that the public database contains sufficient index terms and information) and therefore incur greater costs.

There is some precedent for special treatment for simple basic applications by individual authors. Since 1995, Short Forms PA, TX and VA have been available to register a copyright claim by a living author who is the sole author of his or her work and is the sole owner of copyright in the work. Additional requirements for use of the short form are that the work must be completely new in the sense that it does not contain material that has been previously published or registered or that is in the public domain, and that the work must not be a work made for hire—i.e., a work prepared by an employee within the scope of his or her employment; or a work specially ordered or commissioned for certain uses, if the parties expressly state in a written agreement signed by them that the work shall be considered a work made for hire. See Instructions for Short Form PA, *http://www.copyright.gov/forms/formpas.pdf,* Instructions for Short Form TX, *http://www.copyright.gov/forms/formtxs.pdf,* and Instructions for Short Form VA, *http://www.copyright.gov/forms/formvas.pdf*. The short form applications are one-sided, one-page applications which are simple to complete and simple to process.

To be clear, the Office is not necessarily proposing a lower fee for short form paper applications. It may well make sense, in the interests of cost savings and efficiency, to restrict any lower-fee option to qualifying applications that are submitted online. Moreover, in some cases the short forms may be used to register collections of works by the same author-claimant, a situation that requires more examination and that may well not warrant a lower fee. And while there is currently no online equivalent of the short form applications, an online application by a single author/claimant of a single work will be much simpler to complete and to examine than a more complicated application. Thus, the apparent reduced cost of processing such applications would appear to justify a reduced fee vis-à-vis other kinds of registrations.

The Office welcomes comments on not only whether, but also under what circumstances, a lower fee for individual authors may be justified and prudent. Among other issues, the Office is interested in hearing whether such an accommodation, if it adopted, should be offered only to qualifying applications that are submitted online, or whether it should also be offered to paper applications submitted using one of the short forms. Although the Office has outlined some particular scenarios above, it welcomes comments on other fact patterns, if not for immediate consideration this spring, for its ongoing analysis.

B. Other Special Services

The Office seeks public comment on whether it should offer additional special services on a fee-for-service basis. For example, the Office has heard informal suggestions that some applicants wish to seek expedited registration and would be willing to pay a premium for such accommodation. The Office already offers expedited processing in the form of ''Special Handling'' for a higher fee (currently $760 per claim, in addition to the

regular filing fee), but such a service is available only in cases where a compelling need for the service exists due to pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate of registration. *See* 37 CFR 201.15. In Special Handling cases, ''every attempt is made to process the claim or recordation within five working days,'' see Circular 10, ''Special Handling,'' *http://www.copyright.gov/circs/circ10.pdf,* although Special Handling applications are often processed in a shorter period of time.

Some applicants appear to be willing to pay a higher fee in order to receive expedited processing in cases that do not qualify for Special Handling. Assuming that those requests could be accommodated without impact on the processing of ordinary applications for registration, the Office seeks comments as to whether offering such a service would be desirable. Presumably, the fee would be higher than the fee for Special Handling, since the policy justifications for Special Handling would be absent and the service would be offered as a premium service for those who are willing to pay more for expedited service. It should be noted that expedited services would not be available until all elements of the claim were fully received (application, deposit, fees); there could not be any unusual or complex issues with the claim, or issues requiring correspondence with the applicant, and paper claims would most likely take longer to process than those filed electronically, even under expedited circumstances.

The Office also welcomes proposals for other special services that should be offered on a fee-for-service basis. The Office will consider all suggestions as it develops and seeks comments on its proposed fee schedule in the months to come.

Dated: January 13, 2012.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2012–1340 Filed 1–23–12; 8:45 am]

BILLING CODE 1410–30–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0011]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 29, 2011, to January 11, 2012. The last biweekly notice was published on January 10, 2012 (77 FR 1514).

ADDRESSES: Please include Docket ID NRC–2012–0011 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site *http://www.regulations.gov*. 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.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods.

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2012–0011. Address questions about NRC dockets to Carol Gallagher (301) 492–3668; email *Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at (301) 492–3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov*.
- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2012–0011.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20874. The NRC regulations are accessible electronically from the NRC Library on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E–Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://*

www.nrc.gov/site-help/e-submittals.html. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–(866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20874. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: November 22, 2011.

Description of amendment request: The proposed changes would remove duplicate Technical Specification (TS) requirements and unit-specific references that are no longer needed. In addition, the proposed administrative changes would correct typographical errors and provide clarification to ensure understanding of the required actions of some of the TSs. The changes would include corrective actions from the Unit 2 event described in Licensee Event Report (LER) 50–529/2011–001. The proposed changes are administrative or editorial in nature, and would not result in any change to operating requirements. These administrative changes are proposed for TS 3.3.1, ''Reactor Protective System (RPS) Instrumentation—Operating''; TS 3.3.2, ''Reactor Protective System (RPS) Instrumentation—Shutdown''; TS 3.3.5, ''Engineered Safety Features Actuation System (ESFAS) Instrumentation''; TS 3.5.5, ''Refueling Water Tank (RWT)''; TS 3.3.9, ''Control Room Essential Filtration Actuation Signal (CREFAS)''; TS 3.7.11, ''Control Room Essential Filtration System (CREFS)''; TS 5.4, ''Procedures''; and TS 5.5.16, ''Containment Leakage Rate Testing Program.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves administrative and editorial changes. The proposed amendment does not impact any accident initiators, analyzed events, or assumed mitigation of accident or transient events. The proposed changes do not involve the addition or removal of any equipment or any design changes to the facility. The proposed changes do not affect any plant operations, design function, or analysis that verifies the capability of structures, systems, and components (SSCs) to perform a design function. The proposed changes do not change any of the accidents previously evaluated in the UFSAR [Updated Final Safety Analysis Report]. The proposed changes do not affect SSCs, operating procedures, and administrative controls that have the function of preventing or mitigating any of these accidents.

Therefore, the proposed changes do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment involves administrative and editorial changes. No actual plant equipment or accident analyses will be affected by the proposed changes. The proposed changes will not change the design function or operation of any SSCs. The proposed changes will not result in any new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing basis. The proposed amendment does not impact any accident initiators, analyzed events, or assumed mitigation of accident or transient events.

Therefore, the proposed changes do not create the possibility of an accident of a new or different kind than previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment involves administrative and editorial changes. The proposed changes do not involve any physical changes to the plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by the changes. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, Arizona 85072–2034.

NRC Branch Chief: Michael T. Markley.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: September 9, 2011, as supplemented by letter dated November 21, 2011.

Description of amendment request: The amendment would (1) Revise the criticality requirements of Technical Specification (TS) 4.3.1, ''Criticality,'' (2) revise the criticality safety analysis (CSA) for the spent fuel and new fuel storage racks, and (3) delete the spent fuel pool (SFP) loading criteria operating license (OL) condition in paragraph 2.C.(46) of Facility Operating License No. NPF–29. Specifically, the proposed changes to TS 3.4.1 add the following requirements for two parameters for both the spent fuel storage racks specified in TS 4.3.1.1 and the new fuel storage racks specified in TS 4.3.1.2:

- Fuel assembly maximum k-infinity (1.26) in the normal reactor core configuration at cold conditions, and
- Maximum nominal U-235 enrichment (4.9 weight percent).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves a revision to the GGNS CSA. The revised CSA does not involve a physical change to any plant systems nor does it involve a change to any of the accident mitigation features previously evaluated. The proposed CSA demonstrates adequate margin to criticality for spent fuel storage rack cells.

The proposed changes to the requirements specified in TS 4.3.1.1 for spent fuel storage racks and TS 4.3.1.2 for new fuel storage racks are consistent with the revised CSA and impose additional requirements currently not included in the Technical Specifications.

There is no dose consequence associated with an abnormal condition since the CSA acceptance criteria preclude criticality and do not involve a radiological release.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves: (1) a revision to the CSA; (2) the addition of new requirements in the TSs, which are consistent with the CSA; and (3) the deletion of an OL condition, that is superseded upon approval of the proposed CSA. Neither the SFP CSA nor the proposed changes to the TS affect the method of spent or new fuel movement or storage. No physical changes are required to any plant systems in support of the revised CSA or the proposed TS changes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: [No.]

10 CFR 50.68, Criticality Accident Requirements, requires the spent and fresh fuel storage racks to maintain the effective neutron multiplication factor, Keff, less than or equal to 0.95 when fully flooded with unborated water, which includes an allowance for uncertainties. Therefore, for criticality, the required safety margin is 5%, including a conservative margin to account for engineering and manufacturing uncertainties. The revised CSA and proposed TS changes continue to satisfy this requirement.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Luminant Generation Company LLC, Docket Nos. 50–445 and 50–446, Comanche Peak Nuclear Power Plant, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 13, 2011.

Brief description of amendment: The amendment would revise Technical Specification (TS) 3.7.2, ''Main Steam Isolation Valves (MSIVs),'' and TS 3.7.3, ''Feedwater Isolation Valves (FIVs) and

Feedwater Control Valves (FCVs) and Associated Bypass Valves,'' by removing the specific isolation time for the main steam and main feedwater isolation valves from the associated TS Surveillance Requirements (SRs) 3.7.2.1 and 3.7.3.1. These requirements will be relocated to a licensee-controlled document. The changes are consistent with the Nuclear Regulatory Commission (NRC)-approved Industry/Technical Specification Task Force (TSTF) Change Traveler TSTF–491, Revision 2, ''Removal of Main Steam and Main Feedwater Valve Isolation Times from Technical Specifications.'' The availability of this TS improvement was published in the **Federal Register** on December 29, 2006 (71 FR 78472), as part of the consolidated line item improvement process (CLIIP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee incorporated by reference the no significant hazards consideration (NSHC) analysis endorsed by the NRC staff in the notice of availability of the TS improvement (71 FR 78472; December 29, 2006) and which was published in the **Federal Register** on October 5, 2006 (71 FR 58884). The October 5, 2006, NSHC analysis is reproduced below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows relocating main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. The proposed change is described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF–491 related to relocating the main steam and main feedwater valves isolation times to the Licensee Controlled Document that is referenced in the Bases and replacing the isolation time with the phase, ''within limits.''

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes relocate the main steam and main feedwater isolation valve times to the Licensee Controlled Document that is referenced in the Bases. The requirements to perform the testing of these isolation valves are retained in the TS. Future changes to the Bases or licensee-controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, ''Changes, test and experiments,'' to ensure that such changes do not result in more than minimal increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupation/public radiation exposures.

Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed changes relocate the main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TS with the phase ''within limits.'' The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal plant operation. The requirements in the TS continue to require testing of the main steam and main feedwater isolation valves to ensure the proper functioning of these isolation valves.

Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed changes relocate the main steam and main feedwater valve isolation times to the Licensee Controlled Document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TS with the phase ''within limits.'' Instituting the proposed changes will continue to ensure the testing of main steam and main feedwater isolation valves. Changes to the Bases or license controlled document are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that main steam and feedwater isolation valve testing is conducted such that there is no significant reduction in the margin of safety.

The margin of safety provided by the isolation valves is unaffected by the proposed changes since there continue to be TS requirements to ensure the testing of main steam and main feedwater isolation valves. The proposed changes maintain sufficient controls to preserve the current margins of safety.

The NRC staff has reviewed the above analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1800 M Street NW., Washington, DC 20036.

NRC Branch Chief: Michael T. Markley.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20874. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR Reference staff at 1-(800) 397–4209, (301) 415–4737 or by email to *pdr.resource@nrc.gov*.

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Calvert County, Maryland

Date of application for amendments: August 31, 2011.

Brief description of amendments: The amendments revise Technical Specification (TS) 3.4.1, ''RCS [reactor coolant system] Pressure, Temperature, and Flow Departure from Nucleate Boiling (DNB) Limits,'' the bases for TS 3.4.1 and TS 5.6.5, ''Core Operating Limits Report,'' by replacing the DNB numeric limits with references to the CORL. The changes are consistent with TS Task Force change traveler TSTF–487–A, Revision 1, ''Relocate DNB Parameters to the COLR.'' The amendments also remove outdated notes in TS 3.4.1 that were associated with the Unit 2 steam generator replacement in 2003.

Date of issuance: January 11, 2012.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment Nos.: 301 and 278.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the License and Technical Specifications.

*Date of initial notice in **Federal Register**:* October 14, 2011 (76 FR 64390).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 11, 2012.

No significant hazards consideration comments received: No.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit 2, Darlington County, South Carolina

Date of application for amendment: October 20, 2010.

Brief description of amendment: The amendment revises the H. B. Robinson, Unit 2, Technical Specification (TS) 4.2.1, ''Fuel Assemblies,'' to permit the use of AREVA's M5 advanced alloy for fuel rod cladding and fuel assembly structural components in future operating cycles. Currently, as stated in TS 4.2.1, the H. B. Robinson fuel cladding is zircaloy-4. Therefore, an amendment request is needed in order to use M5 fuel cladding. The proposed amendment also revises the H. B. Robinson Unit 2 TS 5.6.5.b, ''Core Operating Limits Report (COLR),'' to permit referencing of analytical methodologies for M5 material and the deletion of existing analytical methodologies that are no longer planned to be used by the licensee.

Date of issuance: December 29, 2011.

Effective date: 60 days from date of issuance.

Amendment No. 227.

Renewed Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register**:* April 19, 2011 (76 FR 21921).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated December 29, 2011.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 29, 2010, as supplemented by letters dated February 21, May 27, and October 13, 2011.

Brief description of amendments: The amendments revised the Technical Specifications by relocating the specific surveillance frequencies to a licensee-controlled program using risk-informed justification (Technical Specification Task Force—425).

Date of issuance: January 3, 2012.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: Unit 1–266 and Unit 2–210.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the licenses and the technical specifications.

*Date of initial notice in **Federal Register**:* December 14, 2010 (75 FR 77916).

The supplements dated February 21, May 27, and October 13, 2011, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 2012.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant (WBN), Unit 1, Rhea County, Tennessee

Date of application for amendment: October 5, 2011.

Brief description of amendment: The amendment revised the facility operating license to remove License Condition 2.G. This license condition described reporting requirements of other requirements in Section 2.C of the facility operating license. The change is consistent with the Nuclear Regulatory Commission approved change notice published in the **Federal Register** on November 4, 2005 (70 FR 67202), announcing the availability of this improvement through the consolidated line item improvement process.

Date of issuance: January 6, 2012.

Effective date: As of the date of issuance and shall be implemented no later than 32 days from date of issuance.

Amendment No.: 90.

Facility Operating License No. NPF–90: Amendment revised the License.

*Date of initial notice in **Federal Register**:* November 1, 2011 (76 FR 67490).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 2012.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 10, 2010, as supplemented by letters dated June 16, October 27, and December 13, 2011.

Brief description of amendment: The amendment added new Surveillance Requirement (SR) 3.3.8.6 to Technical Specification (TS) 3.3.8, ''Emergency Exhaust System (EES) Actuation Instrumentation.'' The new SR requires the performance of response time testing on the portion of the EES required to isolate the normal fuel building ventilation exhaust flow path and initiate the fuel building ventilation isolation signal mode of operation. The amendment also revised TS Table 3.3.8–1, ''EES Actuation Instrumentation,'' to indicate that new SR 3.3.8.6 applies to automatic actuation Function 2, Automatic Actuation Logic and Actuation Relays (BOP ESFAS), and Function 3, Fuel Building Exhaust Radiation—Gaseous. In addition, the specified frequency of new SR 3.3.8.6 was relocated and controlled in accordance with the licensee's Surveillance Frequency Control Program.

Date of issuance: December 30, 2011.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 204.

Facility Operating License No. NPF–30: The amendment revised the Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* March 8, 2011 (76 FR 12766); revised and republished on November 29, 2011 (76 FR 73733). The supplemental letter dated June 16, 2011, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration (NSHC) determination.

The supplemental letter dated October 27, 2011, added a new request for approval to relocate the surveillance frequency of new SR 3.3.8.6 to the licensee's Surveillance Frequency Control Program. The proposed NSHC determination for this additional change was not evaluated in the initial notice (76 FR 12766; March 8, 2011); therefore, on November 29, 2011, the NRC staff revised and republished the notice of proposed NSHC incorporating the new change (76 FR 73733). The republished notice also provided an opportunity to request a hearing by January 30, 2012, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The supplemental letter dated December 13, 2011, provided additional information that clarified the application, as supplemented, did not expand the scope of the application, as supplemented, and did not change the staff's revised proposed NSHC determination, as published in the **Federal Register** on November 29, 2011 (76 FR 73733).

The Commission's related evaluation of the amendment and final NSHC determination are contained in a Safety Evaluation dated December 30, 2011.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 12th day of January 2012.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–1215 Filed 1–23–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of January 23, 30, February 6, 13, 20, 27, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of January 23, 2012

There are no meetings scheduled for the week of January 23, 2012.

Week of January 30, 2012—Tentative

There are no meetings scheduled for the week of January 30, 2012.

Week of February 6, 2012—Tentative

Thursday, February 9, 2012

9 a.m. Briefing on Status of Outreach and Educational Efforts with External Stakeholders Related to the Safety Culture Policy Statement (Public Meeting). (Contact: Diane Sieracki, (301) 415–3297.)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of February 13, 2012—Tentative

There are no meetings scheduled for the week of February 13, 2012.

Week of February 20, 2012—Tentative

Wednesday, February 22, 2012

9 a.m. Briefing on Fort Calhoun (Public Meeting). (Contact: Jeff Clark, (817) 860–8147.)

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of February 27, 2012—Tentative

Tuesday, February 28, 2012

9:30 a.m. Briefing on the Threat Environment Assessment (Closed—Ex. 1).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at (301) 415–6200, TDD: (301) 415–2100, or by email at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555, (301) 415–1969, or send an email to *darlene.wright@nrc.gov.*

Dated: January 19, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–1526 Filed 1–20–12; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0481]

Protection Against Turbine Missiles

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a revision to Regulatory Guide 1.115, ''Protection Against Turbine Missiles.'' This guide describes methods acceptable to the NRC staff for protecting safety-related structures, systems, and components against missiles resulting from turbine failure by the appropriate orientation and placement of the turbine-generator set, the management of the probability of turbine missile generation, and the use of missile barriers.

ADDRESSES: You can access publicly available documents related to this regulatory guide using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.* The regulatory guide is available electronically under ADAMS Accession Number ML101650675. The regulatory analysis may be found in ADAMS under Accession Number ML101670039.
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2009–0481.

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

FOR FURTHER INFORMATION CONTACT: R.A. Jervey, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 251–7404 or email: *Richard.Jervey@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC is issuing a revision to an existing guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 1.115, ''Protection Against Turbine Missiles,'' was issued with a temporary identification as Draft Regulatory Guide, DG–1217. DG–1217 was published in the **Federal Register** on November 2, 2009 (74 FR 56672) for a 60 day public comment period. DG–1217 was reissued for public comment on May 6, 2011 (76 FR 26320). The public comment period closed on June 3, 2011. The staff's responses to the public comments received are located in the NRC's Agencywide Documents Access and Management System (ADAMS) under the following Accession Numbers ML112090989 and ML101660585.

Dated at Rockville, Maryland, this 13th day of January 2011.

For the Nuclear Regulatory Commission.

Edward O'Donnell,

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

[FR Doc. 2012–1335 Filed 1–23–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285, License No. DPR–40; Docket No. 50–298, License No. DPR–46; NRC–2012–0014]

Request for Action Against Omaha Public Power District and Nebraska Public Power District

Notice is hereby given that by petitions dated June 26 and July 3, 2011, respectively, Thomas Saporito (the petitioner) has requested that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take escalated enforcement actions against Omaha Public Power District, the licensee for Fort Calhoun Station, Unit 1 (FCS), and Nebraska Public Power District, the licensee for Cooper Nuclear Station (Cooper). The petitions dated June 26 and July 3, 2011, are publicly available in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Nos. ML11182B029 and ML11192A285, respectively.

The petitioner has requested that the NRC take action to suspend or revoke the NRC licenses granted for the operation of nuclear power reactors and issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee in this matter—in the amount of $500,000 for Fort Calhoun Station and $1,000,000 for Cooper. Additionally, the petitioner requested that the NRC issue confirmatory orders to prohibit restart at FCS and to bring Cooper to a ''cold shutdown'' mode of operation until such time as: (1) The floodwaters subside to an appreciable lower level or sea level; (2) the licensee upgrades its flood protection plan; (3) the licensee repairs and enhances its current flood protection berms; and (4) the licensee upgrades its station blackout procedures to meet a challenging extended loss of offsite power due to floodwaters and other natural disasters or terrorist attacks.

As the basis for these requests, the petitioner stated that: (1) The licensees' installed flood protection measures and systems and barriers at FCS and Cooper are not sufficient to adequately protect the nuclear reactor from a full-meltdown scenario like that currently unfolding in Japan; and (2) the licensees' station blackout procedures are not sufficient to meet a challenging extended loss of offsite power due to flood waters and other natural disasters or terrorist attacks.

The requests are being treated pursuant to Title 10 of the Code of Federal Regulations Section 2.206 of the Commission's regulations. The requests have been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on these petitions within a reasonable time. The petitioner requested an opportunity to address the Petition Review Board (PRB). The PRB held a recorded teleconference with the petitioner on August 29, 2011, during which the petitioner supplemented and clarified the petitions. The results of those discussions were considered in the PRB's determination regarding the petitioner's requests. As a result, the PRB acknowledged the petitioner's concerns regarding flood protection, including station blackout procedures, at FCS and Cooper. By letter dated January 13, 2012 (ADAMS Accession No. ML120030022), the Director of the NRC's Office of Nuclear Reactor Regulation denied the petitioner's requests for immediate action. Additionally, the PRB noted that: (1) Natural disasters such as earthquakes and flooding, and (2) station blackout regulations are undergoing NRC review as part of the lessons learned from the Fukushima event. The PRB intends to use the results of the Fukushima review to inform its final decision on whether to implement the requested actions.

Copies of the petitions dated June 26 and July 3, 2011, are available for inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR Reference staff by telephone at 1–(800) 397–4209 or (301) 415–4737, or by email to *PDR.Resource@nrc.gov.*

Dated at Rockville, Maryland, this 13th day of January 2012.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–1370 Filed 1–23–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66168; File No. SR–FINRA–2011–058]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Disapprove Proposed Rule Change To Amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities)

January 17, 2012.

I. Introduction

On October 6, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 6433 (''Rule''), which governs minimum quotation size requirements for OTC Equity Securities.[3] The proposed rule change is designed to simplify the Rule's price and size tiers; facilitate the display of customer limit orders under new FINRA Rule 6460 (Display of Customer Limit Orders) (''FINRA limit order display rule'');[4] and expand the scope of the Rule. The proposed rule change was published for comment in the **Federal Register** on October 20, 2011.[5] On November 17, 2011, FINRA consented to extending the time period for the Commission to either approve or disapprove the proposed rule change or to institute proceedings to determine whether to disapprove the proposed rule change, to January 18, 2012. The Commission received seven comment letters on the proposal from four separate commenters,[6] as well as two responses

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''OTC Equity Security'' means ''any equity security that is not an NMS stock as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term 'OTC Equity Security' shall not include any Restricted Equity Security.'' *See* FINRA Rule 6420(e).

[4] *See* Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (Order Approving NMS–Principled Rules for OTC Equity Securities) (''NMS–Principled Rules Approval Order''). FINRA Rule 6460 became operative on May 9, 2011.

[5] *See* Securities Exchange Act Release No. 65568 (October 14, 2011), 76 FR 65307 (''Notice'').

[6] *See* Letter from Suzanne H. Shatto, dated October 20, 2011 (''Shatto Letter''); Letter from Naphtali M. Hamlet, dated October 21, 2011 (''Hamlet Letter); Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc. to Elizabeth M. Murphy, Secretary, Commission, dated November 10, 2011 (''OTC Markets Letter I''); Letter from

Continued

to the comment letters from FINRA.[7] This order institutes proceedings under Section 19(b)(2)(B) of the Act[8] to determine whether to disapprove the proposed rule change.

II. Description of the Proposal

FINRA proposed changes to the minimum quotation sizes in FINRA Rule 6433, among other things, to simplify the Rule's price and size tiers; facilitate the display of customer limit orders under new FINRA Rule 6460;[9] and expand the Rule's scope. In its filing, FINRA noted, among other things, that currently FINRA Rule 6433 requires every member functioning as an OTC Market Maker[10] in an OTC Equity Security that enters firm quotations into any inter-dealer quotation system that permits quotation updates on a real-time basis to honor those quotations for certain minimum sizes (''minimum quotation sizes'').[11]

In its filing, FINRA explained that OTC Market Makers currently are not required to display a customer limit order unless doing so would comply with the minimum quotation sizes applicable to the display of quotations on an inter-dealer quotation system.[12] FINRA noted that, although a customer limit order may improve price or size by more than a *de minimus* amount, if the order is for an amount less than the minimum quotation size set forth in the Rule, the member is not required to display the order. FINRA believed that the proposed rule change would benefit investors by facilitating the display of customer limit orders under FINRA Rule 6460, which generally requires that OTC Market Makers fully display better-priced customer limit orders (or same-priced customer limit orders that are at the best bid or offer and that increase the OTC Market Maker's size by more than a *de minimus* amount).[13]

Specifically, FINRA proposed that the minimum quotation size required for display of a quotation in an OTC Equity Security would fall into one of six tiers rather than the current nine tiers. Under the current rule, the tiers are as follows:

- $2500.01 per share and above, the minimum quotation size is 1 share;
- $1000.01 through $2500 per share, the minimum quotation size is 5 shares;
- $501.01 through $1000 per share, the minimum quotation size is 10 shares;
- $200.01 through $500 per share, the minimum quotation size is 25 shares;
- $100.01 through 200 per share, the minimum quotation size is 100 shares;
- $10.01 through $100 per share, the minimum quotation size is 200 shares;
- $1.01 through $10.00 per share, the minimum quotation size is 500 shares;
- $0.51 through $1.00 per share, the minimum quotation size is 2,500 shares;
- $0.0001 through $0.50 per share, the minimum quotation size is 5,000 shares.

Under the new proposal, the tiers are as follows:

- $175.00 per share and above, the minimum quotation size would be 1 share;
- $1.00 through $174.99 per share, the minimum quotation size would be 100 shares;
- $0.51 through $0.9999 per share, the minimum quotation size would be 200 shares;
- $0.26 through $0.5099 per share, the minimum quotation size would be 500 shares;
- $0.02 through $0.2599 per share, the minimum quotation size would be 1,000 shares;
- $0.0001 through $0.0199 per share, the minimum quotation size would be 10,000 shares.

Based on its study of the Order Audit Trail System (''OATS'') data for OTC Equity Securities, as described in the Notice, FINRA believed that the proposed modification to the current tiers would result in the display of a larger number of customer limit orders, potentially increasing from 50% to 90% the number of customer limit orders eligible for display in some tiers.[14] FINRA stated that, for securities priced at or above $0.02 per share, the reduction in minimum quotation size requirements would cause a greater percentage of customer limit orders to be displayed, and that the proposal would continue to require that displayed quotations represent a minimum aggregate dollar value commitment to the market.[15]

FINRA believed that the proposed revisions are appropriate because they would simplify the price and size tier structure of FINRA Rule 6433 and would facilitate the display of customer limit orders consistent with FINRA Rule 6460, while still recognizing the utility of requiring that quotes in lower-priced securities represent a minimum dollar-value commitment to the market. FINRA also believed that the proposed revisions would benefit investors by increasing the percentage of customer limit orders that would be eligible for display under Rule 6460, thereby improving transparency and enhancing execution of customer limit orders.

Further, FINRA proposed to expand the scope of the Rule to apply to all quotations or orders displayed in an inter-dealer quotation system, including quotations displayed by alternative trading systems (''ATSs'') or those representing customer trading interest. FINRA noted that ATSs have become increasingly active in the over-the-counter (''OTC'') markets and believed that the expansion of the scope of the Rule would ensure that minimum quotation sizes were observed consistently by all members displaying quotations on an inter-dealer quotation system. Finally, FINRA noted that the proposed rule would incorporate the requirements of FINRA Rule 6434 (Minimum Pricing Increments for OTC Equity Securities), which, among other things, prohibits members from displaying a bid or offer in an OTC Equity Security in an increment smaller than $0.01 if the bid or offer is priced $1.00 or greater per share, or in an increment smaller than $0.0001 if the bid or offer is priced below $1.00.[16]

Michael T. Corrao, Managing Director, Knight Capital Group, Inc. to Elizabeth M. Murphy, Secretary, Commission, dated November 16, 2011 (''Knight Letter I''); Letter from R. Cromwell Coulson, President & CEO, OTC Markets to Craig Lewis, Commission, and Kathleen Hanley, Commission, dated November 18, 2011 (''OTC Markets Letter II''); Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc. to Elizabeth M. Murphy, Secretary, Commission, dated December 30, 2011 (''OTC Markets Letter III''); Letter from Michael T. Corrao, Managing Director, Knight Capital Group, Inc. to Elizabeth M. Murphy, Secretary, Commission, dated January 13, 2012 (''Knight Letter II'').

[7] *See* E-mail from Marc Menchel, FINRA to John Ramsay, David S. Shillman, and Nancy J. Sanow, Commission, dated November 30, 2011 (''FINRA Response I''); and Letter from Stephanie M. Dumont, Senior Vice President and Director of Capital Markets Policy, FINRA to Elizabeth M. Murphy, Secretary, Commission, dated December 23, 2011 (''FINRA Response II'').

[8] 15 U.S.C. 78s(b)(2)(B).

[9] *See* NMS–Principled Rules Approval Order, *supra* note 4.

[10] OTC Market Maker'' means ''a member of FINRA that holds itself out as a market maker by entering proprietary quotations or indications of interest for a particular OTC Equity Security in any inter-dealer quotation system, including any system that the SEC has qualified pursuant to Section 17B of the Act. A member is an OTC Market Maker only in those OTC Equity Securities in which it displays market making interest via an inter-dealer quotation system.'' *See* FINRA Rule 6420(f).

[11] *See* Notice, *supra* note 5.

[12] *See Regulatory Notice* 10–42 (September 2010).

[13] FINRA Rule 6460 was adopted as part of an effort to extend certain protections in place for NMS stocks to quoting and trading of OTC Equity Securities. *See* NMS–Principled Rules Approval Order, *supra* note 4. In approving FINRA Rule 6460, the Commission noted that ''FINRA's limit order display proposal marks a positive step in efforts to improve the transparency of OTC Equity Securities and the handling of customer limit orders in this market sector.'' *Id.*

[14] *See* Notice, *supra* note 5.

[15] *Id.* For securities priced under $0.02 per share, FINRA recognized that more substantive dollar-value commitments to the market would be required.

[16] *See* FINRA Rule 6460(b)(8).

FINRA remarked that other existing requirements and obligations are not being altered by its proposal. Each member would continue to be required to honor its quotations to the full quantity displayed in accordance with FINRA Rule 5220 (Offers at Stated Prices), which generally provides that no member shall make an offer to buy or sell any security at a stated price unless such member is prepared to purchase or sell the security at such price and under such conditions as are stated at the time of such offer to buy or sell.[17] Likewise, member obligations pursuant to FINRA Rule 5210 (Publication of Transactions and Quotations) continue to apply. Among other things, FINRA Rule 5210 generally prohibits members from publishing, circulating, or causing to be published or circulated, any quotation which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security.[18]

III. Comment Letters

The Commission received seven comment letters on the proposal from four commenters.[19] In addition, FINRA submitted two responses to the comment letters.[20] Commenters generally were supportive of the goal of making additional limit orders eligible for display under FINRA Rule 6460. However, two commenters, in five separate letters, objected to the portion of the proposed rule that would revise the minimum quotation size requirements.[21] Specifically, these commenters expressed concern that FINRA's proposal lacks sufficient economic analysis to demonstrate that the proposed revisions to the minimum quotation size requirements would improve liquidity or lower transaction costs for investors. On the other hand, one commenter suggested that FINRA consider reducing the tier sizes for minimum quote sizes even further than proposed in order to provide greater transparency to all market participants.[22] One commenter supported the Rule to the extent that it would help prevent manipulative practices, but otherwise addressed topics unrelated to the proposal.[23]

One commenter expressed the view that the proposal could have the unintended consequence of negatively impacting the market by removing meaningful minimum required dollar value levels of displayed liquidity by market makers.[24] According to the commenter, because the proposed levels are significantly lower than currently required levels, the proposal potentially could cause a severe degradation in trading efficiency, particularly in less liquid securities, and thereby fail to meet the proposal's desired goal.[25] The commenter provided a table to detail the change to the minimum dollar value required to be displayed by market makers under the proposal.[26] The commenter believed that its table illustrated a significant decrease in dollar value of liquidity that market makers would be required to offer at each tier level.

In addition, the commenter believed that, under the proposal, market makers would be required to quote insignificant dollar values, thereby creating additional operational and trading risks, without providing real value to the market.[27] The commenter further expressed concern that any increase in costs to market making liquidity providers could result in the departure of market makers and thereby could cause an erosion of liquidity.[28] The commenter recommended further economic analysis to study the expected impact of the proposed tier sizes on market liquidity (including trading, clearing, related costs, locked markets, access fees, trading efficiency and market participant behavior), and requested that the Commission conduct an analysis of the data.[29] The commenter suggested that, if the Commission were inclined to move forward after such analysis, a limited pilot would allow for the assessment of the proposal's impact on market quality while minimizing the effects of any unintended consequences.[30]

In another communication, the commenter reiterated its belief that the proposal would have serious negative consequences to the OTC marketplace and investors, including a significant reduction in liquidity, inferior pricing and increased vulnerability to gaming and frontrunning.[31] The commenter expressed concern about the consequences likely to result when concepts and rules from the NMS market were applied to the OTC market despite different trading characteristics between NMS securities and OTC equity securities.[32] The commenter again requested that the Commission evaluate the costs and benefits associated with the proposal.[33] The commenter pointed to the prior analysis by the National Association of Securities Dealers, Inc., FINRA's predecessor, in connection with tier size reductions in Nasdaq securities and suggested that FINRA consider a similar approach for the current proposal.[34]

The commenter expressed the view that non-NMS securities are significantly less liquid than NMS securities and that the proposed rule change would have an adverse impact on both dealers and investors.[35] The commenter believed that the only possible benefits resulting from the proposal would accrue to firms that provide little or no liquidity, as those firms would pick-off dealer liquidity at the expense of investors.[36] The commenter further noted that market makers like Knight generally do not charge competitors or broker-dealer clients commissions or mark-up/mark-downs.[37] The commenter indicated that market makers would continue to pay costs to access liquidity under the proposal and that there was a likelihood that market participants would gravitate to posting quotations at the minimum tier size as they currently do today.[38] Finally, the commenter reiterated its concern that costs could increase for self-clearing firms under the proposal and that costs would be more burdensome in the case of non-DTCC eligible securities (physicals) because those costs were driven by the number of settlements as opposed to number of trades.[39]

Another commenter expressed the view that the reduction of minimum quote size requirements ''has not been shown by FINRA to benefit investors and has a significant risk that it will

[17] *See also* Rule 5220.01 (Firmness of Quotations).

[18] *See also* Rule 5210.01 (Manipulative and Deceptive Quotations).

[19] *See supra* note 6.

[20] *See supra* note 7.

[21] *See* OTC Markets Letter I, Knight Letter I, OTC Markets Letter II, OTC Markets Letter III, and Knight Letter II.

[22] *See* Shatto Letter.

[23] *See* Hamlet Letter.

[24] *See* Knight Letter I.

[25] *See* Knight Letter I at p. 1.

[26] *See* Knight Letter I at p. 2.

[27] *See id.*

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See* Knight Letter II at p.1. The commenter noted its agreement with the views expressed in OTC Markets Letter III. *Id.* The commenter also included a modified version of the table that was in its prior letter. *See* Knight Letter II at p.3.

[32] *See id.*

[33] *See* Knight Letter II at p. 2.

[34] *See id.* (citing Securities Exchange Act Release No. 40211 (July 15, 1998), 63 FR 39322 (July 22, 1998) (Order Approving a Proposed Rule Change to Permanently Expand the NASD's Rule Permitting Market Makers to Display Their Actual Quotation Size)).

[35] *See* Knight Letter II at pp.2–3.

[36] *See* Knight Letter II at p. 3.

[37] *See id.*

[38] *See id.*

[39] *See* Knight Letter II at pp.3–4.

degrade market quality.'' [40] The commenter further suggested that Regulation NMS-type rules are not appropriate in the context of smaller issuers.[41] The commenter believed that the immediate effect of the proposal would be less displayed liquidity, even if the actual liquidity were larger, because quotations typically are submitted at the minimum size.[42] The commenter believed that this potential effect would lead to more volatility and would increase realized spreads because orders ultimately would be filled away from the inside quote, thereby raising the cost of trading.[43]

The commenter believed that the analysis provided by FINRA was not compelling, and cited to public commentators that generally have suggested other Regulation NMS-principled rules have harmed the market for smaller companies' securities.[44] The commenter asserted that FINRA's statistical analysis concerning the additional percentage of customer orders that would be displayed under the proposed rule change was flawed, including because it ignored FINRA's quote aggregation rules.[45] According to the commenter, at a minimum, FINRA's analysis required further study.[46] The commenter recommended that the Commission's staff review the actual effect of the proposed rule change on the display of limit orders.[47]

In another communication, the commenter again expressed concern that FINRA's analysis was flawed.[48] The commenter suggested that the proposal represented a large change in market structure and could negatively impact capital formation for small businesses. The commenter again requested that the Commission's staff conduct its own economic analysis concerning the proposed rule change.

The commenter reiterated its views in its third letter.[49] The commenter again stated its belief that Regulation NMS-type rules were not appropriate for the OTC market.[50] The commenter again suggested that FINRA's analysis did not reflect existing customer order aggregation requirements; [51] did not provide information regarding dollar and share volume relative to tier sizes; [52] and did not analyze the proposal's potential impact on market orders or proprietary quotes.[53]

The commenter remarked that FINRA's letters responding to the comment letters failed to address Section 3(f) of the Act,[54] which requires that whenever, pursuant to the Act, the Commission is engaged in rulemaking, or in the review of a rule of a self-regulatory organization (''SRO''), and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[55] The commenter believed that changing tier sizes or quote increments potentially could have a variety of dynamic effects on the OTC market.[56] The commenter stated that it reviewed data relating to all trades in OTC equity securities that occurred on October 27, 2011, concerning share volume, dollar volume and number of trades in relation to the existing and proposed tier sizes.[57] Based on its review, the commenter believed that the proposed rule would not significantly increase liquidity but would impose a direct cost on investors, particularly investors placing marketable orders.[58] The commenter believed that the proposed rule change would lead most market makers to reduce their quote sizes and display less liquidity.[59] The commenter further believed that an extensive decrease in displayed proprietary liquidity would ''overwhelmingly offset the benefit of the increased number of customer limit orders displayed.'' [60]

FINRA provided two responses addressing issues raised by the commenters.[61] In both of its responses, FINRA noted that the purpose of allowing smaller displayed quotes was to allow for the greater use of limit orders by investors.[62] In FINRA Response II, FINRA reiterated that the proposed rule change was associated with the FINRA limit order display rule, which recently had extended a fundamental investor protection to OTC equity securities.[63] FINRA explained that the existing minimum quotation sizes reduced the benefit of its limit order display rule because the higher existing levels ''act to restrict transparency of a large number of customer limit orders.'' [64] Addressing commenters' concerns about reduced liquidity, FINRA noted that the lower minimum quote size would allow for the display of a greater number of limit orders. FINRA believed that the larger number of quotes would increase competition, and increased competition would improve liquidity.[65] FINRA noted that, although the role of the market maker had been reduced in NMS securities, liquidity in NMS securities appeared intact.[66]

FINRA noted that, to the extent commenters had concerns that processing smaller quotes would not be economical, the proposed rule change would not mandate the use of smaller quote sizes.[67] In FINRA Response I, FINRA questioned the notion of the proposal resulting in additional costs to process additional orders and added that, to the extent that the proposed rule might result in additional transactions, the costs of clearing such additional transactions would be negligible.[68] FINRA further remarked that, with respect to other concerns about transaction costs, FINRA's mark-up rule, which governs execution costs, is still applicable and is not being modified by the instant proposal.[69]

In FINRA Response II, FINRA disagreed with one commenter's suggestion that the percentage of customer limit orders currently displayed under the FINRA limit order display rule already was in line with FINRA's estimate of the number of customer limit orders that would be displayed under the proposal.[70] FINRA

[40] *See* OTC Markets Letter I at p.1.

[41] *See id.*

[42] *See* OTC Markets Letter I at p.3.

[43] *See id.*

[44] *See* OTC Markets Letter I at p. 2.

[45] *See id.*

[46] *See id.*

[47] *See* OTC Markets Letter I at p. 3.

[48] *See* OTC Markets Letter II.

[49] *See* OTC Markets Letter III.

[50] *See* OTC Markets Letter III at p.5.

[51] *See* OTC Markets Letter III at p.7.

[52] *See* OTC Markets Letter III at p.8.

[53] *See* OTC Markets Letter III at pp.2–3.

[54] 15 U.S.C. 78c(f).

[55] *See* OTC Markets Letter III at pp.2–3.

[56] *See* OTC Markets Letter III at p.4.

[57] *See* OTC Markets Letter III at p.5. The commenter selected October 27, 2011 for its review, because that day had the highest trading volume of any day that month and, according to the commenter, presumably also had the highest amount of investor liquidity for that month.

[58] *See* OTC Markets Letter III at p.6.

[59] *See id.*

[60] *See* OTC Markets Letter III at p. 7.

[61] *See supra* note 7.

[62] *See* FINRA Response I at p. 1.

[63] *See* FINRA Response II at p. 1.

[64] *Id.*

[65] *See* FINRA Response I at p.1 and FINRA Response II at p. 5, n.17. Two commenters stated that market makers might react to the proposed rule change by reducing their quote sizes. *See* Knight Letter I at p.1–2 and OTC Markets Letter I at p.3.

[66] *See* FINRA Response I at p. 1.

[67] *See* FINRA Response I at p.1 and FINRA Response II at p.5, n.17. One commenter believed there would be costs associated with the operational complexity of clearing increased volumes of smaller trades in non-DTC eligible securities. *See* Knight Letter I at p. 2.

[68] *See* FINRA Response I at p. 1. One commenter believed that the proposed rule change would increase transaction costs for investors. *See* OTC Markets Letter I at p. 3.

[69] *See* FINRA Response I at p. 1.

[70] *See* FINRA Response II at p. 3. One commenter believed that the FINRA analysis failed to take into

believed that, contrary to the commenter's assertion, broker-dealers were unlikely to be in a position to aggregate multiple investor OTC equity orders to reach the existing display thresholds, because OTC equity securities trade infrequently and at widely varying volume each day.[71] FINRA also noted that, in any event, price transparency should not depend upon the expectation that other OTC orders might be placed at the same price and around the same time.[72] Finally, FINRA noted that a more recent sample of relevant data further supported its position that the proposed rule change would increase the display of customer limit orders from 50% under the existing minimum quotation size requirements to 90% under the proposal.[73]

In FINRA Response II, FINRA stated its view that the chart contained in Knight Letter I was not useful because that the chart did not accurately align tier and price points and therefore did not allow for an appropriate comparison of the current and proposed rules.[74] FINRA provided a comparison of similar price points and ranges to demonstrate that the proposed rule change would increase the dollar values for two proposed lower price point tiers and decrease dollar values for three proposed higher price point tiers, while the dollar values of one proposed price point tier would remain unchanged.[75] FINRA believed that its proposed structure was better for investors, more consistent with the national market system, and represented more meaningful minimum displayed liquidity at the lowest tiers.[76] FINRA disagreed with the suggestion in Knight Letter I that its proposal would degrade market quality or have far reaching effects on liquidity and efficiency in the OTC markets, noting again that the commenters provided no supporting data linking these alleged harms with the proposed rule change.[77] FINRA reiterated that the likely impact of the proposed rule change would be greater displayed customer limit orders, as customer orders may be smaller than market maker orders, and that this increased display would result in increased price transparency.[78] FINRA noted that the Rule only prescribes the minimum sizes required for display, and that market makers may choose to display a quotation at the proposed minimum or in excess of the proposed minimum, as they do today.[79]

In FINRA Response II, FINRA further noted that several comments were not germane to the consideration of the merits of its proposal. For example, FINRA did not believe that there was a nexus between the proposed rule and the extension of certain other national market protections to OTC markets, as stated in the OTC Markets comments,[80] or between the proposed rule and the problems of locked or crossed markets, access fees or other issues, as suggested by Knight Letter I.[81]

Finally, FINRA Responses I and II also addressed the comment process more broadly. In FINRA Response I, FINRA stated that Knight Letter I and OTC Markets Letter I made ''unsupported, at points unrelated and somewhat vague comments that on their face raise questions and ask the Commission to do the commenter's homework.'' [82] FINRA remarked that the ''commenters should bear some burden beyond naked assertions that a rule would have a deleterious effect when those assertions are neither supported by reasoned argument and/or devoid of factual data.'' [83] FINRA stated that no SRO is required to undertake an economic analysis of its rule proposals.[84] FINRA stated that the standards for approving proposed rule changes are set forth in the Act and should not be modified arbitrarily.[85] FINRA believed that a comment lacking a sufficient basis to demonstrate a connection between the proposal and market quality should not factor into the Commission's approval process.[86] FINRA indicated its view that it would be inappropriate for the Commission to give undue weight to unsupported assertions in evaluating the proposed rule change.[87]

IV. Proceedings To Determine Whether To Disapprove SR–FINRA–2011–058 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [88] to determine whether the proposed rule change should be disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues that are raised by the proposal and are discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. In particular, Section 15A(b)(6) of the Act [89] requires that the rules of the association be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, Section 15A(b)(11) requires that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.[90]

FINRA's proposal would adjust the minimum quotation size requirements in FINRA Rule 6433 to simplify the Rule's tier structure; facilitate the display of customer limit orders; and expand the scope of the Rule to cover quotations by ATSs or quotations representing customer trading interest that are displayed in an inter-dealer quotation system. FINRA believes that its proposal would benefit investors of OTC equity securities because the proposed revisions to the Rule's tier structure would result in the display of a greater number of customer limit orders for these securities than currently occurs under the Rule. In FINRA's view,

account aggregation requirements. *See* OTC Markets Letter I at p. 2.

[71] *See* FINRA Response II at p. 3.

[72] *See id.*

[73] *See id.*

[74] *See* FINRA Response II at pp. 3–4.

[75] *See* FINRA Response II at p. 4.

[76] *See id.*

[77] *See* FINRA Response II at pp. 4–5.

[78] *See* FINRA Response II at pp. 5–6.

[79] See FINRA Response II at p. 6; *see also* FINRA Response I at p. 1.

[80] *See* FINRA Response II at p. 6. One commenter believed ''NMS-type rules are harmful when applied to smaller companies.'' *See* OTC Markets Letter I at pp. 1–2.

[81] *See* FINRA Response II at p. 6. As noted above, one commenter requested that the Commission examine the impact on trading, clearing (*e.g.*, the operational complexity of clearing increased volumes of smaller trades in non-DTC eligible securities), related costs, locked markets, access fees, trading efficiency and market participant behavior under the proposed reduced tier sizes. *See* text accompanying note 29 *supra.*

[82] *See* FINRA Response I at p. 2.

[83] *Id.*

[84] *See* FINRA Response II at p. 7.

[85] *See id.*

[86] *See* FINRA Response II at pp. 7–8.

[87] *See* FINRA Response II at p. 7.

[88] 15 U.S.C. 78s(b)(2)(B).

[89] 15 U.S.C. 78o–3(b)(6).

[90] 15 U.S.C. 78o–3(b)(11).

the benefits to investors are reduced if the Rule's minimum quotation sizes are too high and thus act to restrict transparency for customer limit orders for OTC equity securities. FINRA based its conclusion that a larger number of customer limit orders would be displayed under its proposal on its analysis of a recent sample of OATS data.

Two commenters favored the proposal. On the other hand, the commenters that are an OTC market maker and an inter-dealer quotation system, respectively, disputed the need to revise the Rule's current tier structure. One of these commenters argued that FINRA has not adequately demonstrated that revisions to the minimum quotation size requirements for OTC equity securities would benefit investors and instead countered that the proposal would degrade the quality of the market for these securities. The other commenter that objected to the proposal believed that the proposal could impact market liquidity and increase costs to market makers, which could result in market makers' departure from the OTC market. Both of these commenters urged that the Commission undertake an economic analysis of the anticipated effects of the proposal as part of its consideration and suggested that, if the Commission decided to move forward on the proposal, it should consider placing the proposed changes to the Rule's tier structure on a pilot program.

The Commission believes that questions are raised as to whether FINRA's proposal is consistent with the requirements of Section 15A(b)(6) of the Act, including whether the proposed adjustments to the minimum quote size requirements would prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and with the requirements of Section 15A(b)(11) of the Act, including whether the proposed rule change would produce fair and informative quotations, prevent fictitious or misleading quotations, and promote orderly procedures for collecting, distributing, and publishing quotations. While investors who place customer limit orders that are smaller in size than the Rule's current minimum quotation size requirements would benefit from the proposed revisions, market quality for OTC equity securities potentially could be affected if the proposed tier sizes are not calibrated appropriately. The Commission believes that the issues raised by the proposed rule change can benefit from additional consideration and evaluation.

VI. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any others they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Sections 15A(b)(6) and 15A(b)(11) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[91]

Interested persons are invited to submit written data, views and arguments regarding whether the proposed rule change should be disapproved by February 14, 2012. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 28, 2012.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2011–058 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–058. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2011–058 and should be submitted on or before February 14, 2012. Rebuttal comments should be submitted by February 28, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[92]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[91] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[92] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66175; File No. SR–NASDAQ–2012–004]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of the Emerging Markets Corporate Bond Fund of the WisdomTree Trust

January 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 4, 2012, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes change [sic] to list and trade the shares of the WisdomTree Emerging Markets Corporate Bond Fund (''Fund'') of the WisdomTree Trust (''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.'' The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com*, at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed exchange traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Fund is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[4]

Description of the Shares and the Fund

WisdomTree Asset Management, Inc. (''WisdomTree Asset Management'') is the investment adviser (''Adviser'') to the Fund.[5] Western Asset Management Company serves as sub-adviser for the Fund (''Sub-Adviser'').[6] The Bank of New York Mellon is the administrator, custodian and transfer agent for the Trust. ALPS Distributors, Inc. (''Distributor'') serves as the distributor for the Trust.[7]

Paragraph (g) of Rule 5735 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[8] In addition, paragraph (g) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i), however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. WisdomTree Asset Management is not affiliated with any broker-dealer. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Sub-Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, they will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008) 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). Although the Fund would be the first actively-managed fund listed on the Exchange, the Commission has previously approved the listing and trading of a number of actively managed WisdomTree Investments funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving listing and trading of twelve actively-managed funds of the WisdomTree Trust); 58564 (September 17, 2008), 73 FR 55194 (September 24, 2008) (SR–NYSEArca–2008–86) (order approving listing and trading of WisdomTree Dreyfus Emerging Currency Fund); 62604 (July 30, 2010), 75 FR 47323 (August 5, 2010) (SR–NYSEArca–2010–49) (order approving listing and trading of WisdomTree Emerging Markets Local Debt Fund); 62623 (August 2, 2010), 75 FR 47652 (August 6, 2010) (SR–NYSEArca–2010–51) (order approving listing and trading of WisdomTree Dreyfus Commodity Currency Fund); 63598 (December 22, 2010), 75 FR 82106 (December 29, 2010) (SR–NYSEArca–2010–98) (order approving listing and trading of WisdomTree Managed Futures Strategy Fund); 63919 (February 16, 2011), 76 FR 10073 (February 23, 2011) (SR–NYSEArca–2010–116) (order approving listing and trading of WisdomTree Asia Local Debt Fund); 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSEArca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] *See* Post-Effective Amendment No. 56 to Registration Statement on Form N–1A for the Trust, dated July 1, 2011 (File Nos. 333–132380 and 811–21864). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[5] WisdomTree Investments, Inc. (''WisdomTree Investments'') is the parent company of WisdomTree Asset Management.

[6] The Sub-Adviser is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Adviser has ongoing oversight responsibility.

[7] The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). *See* Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812–13458). In compliance with NASDAQ Rule 5735(b)(5), which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

material non-public information regarding such portfolio.

WisdomTree Emerging Markets Corporate Bond Fund

According to the Registration Statement, the Fund seeks to provide a high level of total return consisting of both income and capital appreciation. To achieve its objective, the Fund will invest in debt securities of corporations that are domiciled or economically tied to emerging market countries.[9] This definition could be expanded or exceptions made depending on the evolution of market and economic conditions.

The Fund intends to qualify each year as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[10] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Subchapter M diversification tests generally require that (1) the Fund invest no more than 25% of its total assets in securities (other than securities of the U.S. government or other RICs) of any one issuer or two or more issuers that are controlled by the Fund and that are engaged in the same, similar or related trades or businesses, and (2) at least 50% of the Fund's total assets consist of cash and cash items, U.S. government securities, securities of other RICs and other securities, with investments in such other securities limited in respect of any one issuer to an amount not greater than 5% of the value of the Fund's total assets and 10% of the outstanding voting securities of such issuer.

In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities and non-U.S. government securities) will represent more than 30% of the weight of the Fund's portfolio and the five highest weighted portfolio securities of the Fund (other than U.S. government securities and/or non-U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund's portfolio. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities or non-U.S. government securities as U.S. or non-U.S. government securities, as applicable.

Corporate and Quasi-Sovereign Debt

The Fund intends to achieve its investment objectives through direct and indirect investments in Corporate and Quasi-Sovereign Debt. For these purposes, Corporate and Quasi-Sovereign Debt includes fixed-income securities of emerging market countries, such as bonds, notes or other debt obligations including loan participation notes (''LPNs''),[11] as well as other instruments, such as derivative instruments collateralized by Money Market Securities as described below. Quasi-Sovereign Debt, specifically, refers to fixed income securities or debt obligations that are issued by companies or agencies that may receive financial support or backing from the local government (collectively, ''Quasi-Sovereign Institutions''). Under normal circumstances,[12] the Fund will invest at least 80% of its net assets in Corporate and Quasi-Sovereign Debt that are fixed income securities.

Under normal circumstances, the Fund will invest at least 80% of its assets in fixed income securities. Fixed income securities include debt instruments, such as bonds, notes and other obligations, denominated in U.S. dollars or local currencies. Fixed income securities include Money Market Securities as defined below. Fixed income securities do not include derivatives.

The Fund intends to provide exposure across several geographic regions and countries. The Fund intends to invest in Corporate and Quasi-Sovereign Debt from the following regions: Asia, Latin America, Eastern Europe, Africa and the Middle East. Within these regions, the Fund is likely to invest in countries such as: Argentina, Brazil, Chile, China, Colombia, Hong Kong, India, Indonesia, Israel, Jamaica, Kazakhstan, Malaysia, Mexico, Peru, Philippines, Poland, Qatar, Russia, Singapore, Saudi Arabia, South Africa, South Korea, Taiwan, Thailand, Trinidad & Tobago, Turkey, Ukraine and the United Arab Emirates. This list may change, based on market developments. The Fund's credit exposures are consistently monitored from a risk perspective, and may be modified, reduced, or eliminated. The Fund's exposure to any single issuer generally will be limited to 10% of the Fund's assets. The percentage of the Fund's assets in a specific region, country or issuer will change from time to time. The Fund's exposure to any one country generally will be limited to 30% of the Fund's assets though this percentage may change from time to time in response to economic events and changes to the credit ratings of the Corporate and Quasi-Sovereign Debt of such countries.

The universe of emerging market Corporate and Quasi-Sovereign Debt currently includes securities that are rated ''investment grade'' as well as ''non-investment grade.'' The Fund intends to provide a broad exposure to emerging market Corporate and Quasi-Sovereign Debt and therefore will invest in both investment grade and non-investment grade securities. The Fund expects to have 65% or more of its assets invested in investment grade securities, though this percentage may change from time to time in response to economic events and changes to the credit ratings of such issuers. Within the non-investment grade category some issuers and instruments are considered to be of lower credit quality and at higher risk of default. In order to limit its exposure to these more speculative credits, the Fund will not invest more

[9] According to the Adviser, while there is no universally accepted definition of what constitutes an ''emerging market,'' in general, emerging market countries are characterized by developing commercial and financial infrastructure with significant potential for economic growth and increased capital market participation by foreign investors. The Adviser and Sub-Adviser look at a variety of commonly-used factors when determining whether a country is an ''emerging'' market. In general, the Adviser and Sub-Adviser consider a country to be an emerging market if:

(1) It is either (a) classified by the World Bank in the lower middle or upper middle income designation for one of the past 5 years (*i.e.,* per capita gross national product of less than U.S. $9,385), (b) has not been a member of OECD for the past five years or (c) classified by the World Bank as high income and a member in OECD in each of the last five years, but with a currency that has been primarily traded on a non-delivered basis by offshore investors (*e.g.,* Korea and Taiwan); and

(2) the country's debt market is considered relatively accessible by foreign investors in terms of capital flow and settlement considerations.

[10] 26 U.S.C. 851.

[11] The Fund may invest in LPNs with a minimum outstanding principal amount of $200 million that the Adviser or Sub-Adviser deems to be liquid. The Adviser represents that LPNs denominated in U.S. dollars are the predominant form of corporate debt financing in certain emerging markets, particularly in Russia, where they constitute approximately 70% of the corporate debt market (approximately $40 billion outstanding). In aggregate, LPNs represented over 11% of the JP Morgan Emerging Markets Corporate Bond Index as of November 30, 2011. LPNs are highly liquid instruments that are typically eligible for settlement at Eurcoclear, Clearstream, or in the U.S., through DTC. Moreover, intra-day quotations in LPNs are generally available from major broker-dealers and data vendors, such as Bloomberg.

[12] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

than 15% of its assets in securities rated B or below by Moody's, or equivalently rated by S&P or Fitch. The Fund does not intend to invest in unrated securities. However, it may do so to a limited extent, such as where a rated security becomes unrated, if such security is determined by the Adviser and Sub-Adviser to be of comparable quality. In determining whether a security is of ''comparable quality,'' the Adviser and Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities.

The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid.[13] The Fund will only buy performing debt securities and not distressed debt. Generally a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in corporate bonds with less than $200 million par amount outstanding if (1) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), (2) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund, and (3) such investment is deemed consistent with the Fund's goal of providing broad exposure to a broad range of emerging markets countries and issuers.

The Fund may invest in Corporate and Quasi-Sovereign Debt with effective or final maturities of any length. According to the Registration Statement, the Fund will seek to keep the average effective duration of its portfolio between 2 and 10 years under normal market conditions. Effective duration is an indication of an investment's interest rate risk or how sensitive an investment or a fund is to changes in interest rates. Generally, a fund or instrument with a longer effective duration is more sensitive to interest rate fluctuations, and, therefore, more volatile, than a fund with a shorter effective duration. The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to invest in Corporate and Quasi-Sovereign Debt of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or their respective agencies and instrumentalities or government-sponsored enterprises).[14]

Money Market Securities

The Fund intends to invest in Money Market Securities in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses, and to satisfy margin requirements, to provide collateral or to otherwise back investments in derivative instruments. Under normal circumstances,[15] the Fund may invest up to 25% of its net assets in Money Market Securities, although it may exceed this amount where the Adviser or Sub-Adviser deems such investment to be necessary or advisable, due to market conditions. For these purposes ''Money Market Securities'' include: short-term, high quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high quality securities issued or guaranteed by non-U.S. governments, agencies and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; and deposit and other obligations of U.S. and non-U.S. banks and financial institutions. All Money Market Securities acquired by the Fund will be rated investment grade, except that the Fund may invest in unrated Money Market Securities that are deemed by the Adviser or Sub-Adviser to be of comparable quality to money market securities rated investment grade.

Derivative Instruments and Other Investments

The Fund may use derivative instruments as part of its investment strategies. Examples of derivative instruments include forward currency contracts,[16] interest rate swaps,[17] total return swaps,[18] credit linked notes,[19] and combinations of investments that provide similar exposure to local currency debt, such as investment in U.S. dollar denominated bonds combined with forward currency positions or swaps. If forward currency and swaps positions are not being implemented in combination with U.S. dollar denominated bonds, the Fund's use of forward contracts and swaps will be combined with investments in short-term, high quality U.S. money market instruments and will be designed to provide exposure similar to investments in local currency deposits.

The Fund expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. For example, the Fund may engage in swap transactions that provide exposure to corporate debt or interest rates. The Fund also may buy or sell listed currency futures contracts.[20]

[13] The Adviser represents that the size and liquidity of the global market for corporate bonds of emerging market issuers generally has been increasing in recent years. The aggregate dollar amount of emerging market corporate bonds traded in the first two quarters of 2011 ($490 billion) represented a 36.4% increase compared to the first two quarters of 2010 ($359 billion). This growth is consistent with the 71% increase in volume for calendar year 2010 ($879.45 billion) over 2009. The $514 billion traded in 2009 represented a substantial increase over the amount traded in 2008 ($380 billion). Turnover in emerging market corporate debt in the first two quarters of 2011 was approximately 14.2% of the overall volume of emerging market debt of $3.443 trillion. In 2010, emerging market corporate bonds accounted for 16% of the total $6.765 trillion of emerging market debt trading. This represents a meaningful increase relative to calendar year 2009 where turnover in emerging market corporate debt accounted for 12% of the overall volume of emerging market debt ($4.445 trillion). These figures compared to only a 9% share in 2008. (Source: Emerging Markets Traders Association Press Release(s), December 8, 2010, August 12, 2010, May 20, 2010, March 8, 2010, March 22, 2011, June 17, 2011 and August 22, 2011).

[14] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (Oct. 30, 1975), 40 FR 54241 (November 21, 1975).

[15] *See* footnote 12, *supra.*

[16] A forward currency contract is an agreement to buy or sell a specific currency on a future date at a price set at the time of the contract.

[17] An interest rate swap involves the exchange of a floating interest rate payment for a fixed interest rate payment.

[18] A total return swap is an agreement between two parties in which one party agrees to make payments of the total return of a reference asset in return for payments equal to a rate of interest on another reference asset.

[19] A credit linked note is a type of structured note whose value is linked to an underling reference asset or entity. Credit linked notes typically provide periodic payments of interest as well as payment of principal upon maturity.

[20] The exchange-listed futures contracts in which the Fund may invest may be listed on exchanges in the U.S., London, Hong Kong or Singapore. Each of the United Kingdom's primary financial markets regulator, the Financial Services Authority, Hong Kong's primary financial markets regulator, the Securities and Futures Commission, and Singapore's primary financial markets regulator, the Monetary Authority of Singapore, are signatories to

Continued

With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures and forward contracts, swap contracts, the purchase of securities on a when-issued or delayed delivery basis, or reverse repurchase agreements, the Fund, in accordance with applicable federal securities laws, rules, and interpretations thereof, will ''set aside'' liquid assets, or engage in other measures to ''cover'' open positions with respect to such transactions.[21]

The Fund may engage in foreign currency transactions, and may invest directly in foreign currencies in the form of bank and financial institution deposits, and certificates of deposit denominated in a specified non-U.S. currency. The Fund may enter into forward currency contracts in order to ''lock in'' the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.[22]

The Fund may invest in the securities of other investment companies (including money market funds and ETFs). The Fund may hold up to an aggregate amount of 15% of its net assets in (1) illiquid securities; (2) Rule 144A securities; and (3) loan interests (such as loan participations and assignments, but not including LPNs). The Commission staff has interpreted the term ''illiquid'' in this context to mean a security that cannot be sold or disposed of within seven days in the ordinary course of business at approximately the amount at which a fund has valued such security.[23]

The Fund will not invest in any non-U.S. equity securities.

The Shares

The Fund will issue and redeem Shares on a continuous basis at net asset value (''NAV''[24] only in large blocks of Shares (''Creation Units'') in transactions with Authorized Participants. Creation Units generally will consist of 100,000 Shares, though this may change from time to time. Creation Units are not expected to consist of less than 50,000 Shares. The Fund will issue and redeem Creation Units in exchange for a portfolio of Corporate and Quasi-Sovereign Debt and other instruments closely approximating the holdings of the Fund or a designated basket of non-U.S. currency and/or an amount of U.S. cash. Once created, Shares of the Fund trade on the secondary market in amounts less than a Creation Unit.

Creations and redemptions must be made by an Authorized Participant or through a firm that is either a member of the National Securities Clearing Corporation or a Depository Trust Company participant, and in each case, must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Unit aggregations.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement.

Availability of Information

The Fund's Web site (*www.wisdomtree.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (''Bid/Ask Price''),[25] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Regular Market Session[26] on the Exchange, the Trust will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[27] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of fixed income securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 5735 as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[28] will be

the International Organization of Securities Commissions (''IOSCO'') Multilateral Memorandum of Understanding (''MMOU''), which is a multi-party information sharing arrangement among financial regulators. Both the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU.

[21] *See* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

[22] The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, December 2010 (''BIS Survey''). The Fund may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

[23] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14617 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[24] The NAV of the Fund's Shares generally is calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4 p.m. Eastern time (''NAV Calculation Time''). NAV per Share is calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, see the Registration Statement.

[25] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of such Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[26] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 7 a.m. to 9:30 a.m.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m.).

[27] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[28] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and ETFs. GIDS provides investment professionals with the daily and historical information needed to track or trade NASDAQ OMX indexes, listed ETFs or third-party partner indexes and ETFs.

based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. In addition, during hours when the markets for local debt in the Fund's portfolio are closed, the Intraday Indicative Value will be updated at least every 15 seconds during the Regular Market Session to reflect currency exchange fluctuations.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Intra-day, executable price quotations on emerging market Corporate and Quasi-Sovereign Debt, as well as derivative instruments are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors.

Information regarding market price and volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on GIDs, which contains information for widely followed indexes and ETFs.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[29] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121; for example, the Shares of the Fund will be halted if the ''circuit breaker'' parameters in Nasdaq Rule 4120(a)(11) are reached. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 7 a.m. until 8 p.m. ET. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

Nasdaq believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on Nasdaq during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through Nasdaq will be subject to FINRA's surveillance procedures for derivative products, including Managed Fund Shares.[30] The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG.[31] The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Fund's Registration Statement.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act[32] in general and Section 6(b)(5) of the Act[33] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the

[29] *See* 17 CFR 240.10A–3.

[30] FINRA surveils trading on Nasdaq pursuant to a regulatory services agreement. Nasdaq is responsible for FINRA's performance under this regulatory services agreement.

[31] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[32] 15 U.S.C. 78f.

[33] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on Nasdaq during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. According to the Registration Statement, the Fund expects that it will have at least 80% of its assets invested in Corporate and Quasi-Sovereign Debt that are fixed income securities. Under normal circumstances, the Fund will invest at least 80% of its assets in fixed income securities. The Fund's exposure to any single issuer generally will be limited to 10% of the Fund's assets. The Fund's exposure to any single country generally will be limited to 30% of the Fund's assets. The Fund expects to have 65% or more of its assets invested in investment grade securities, though this percentage may change from time to time in response to economic events and changes to the credit ratings of such issuers. The Fund will not invest more than 15% of its assets in securities rated B or below by Moody's, or equivalently rated by S&P or Fitch. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid and, generally, a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. The Fund intends to invest in Corporate and Quasi-Sovereign Debt of at least 13 non-affiliated issuers. The Fund expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. Such investments will be consistent with the Fund's investment objective. Such investments also will not be used to enhance leverage. Under normal circumstances, the Fund also may invest up to 25% of its net assets in Money Market Securities, although it may exceed this amount where the Adviser or Sub-Adviser deems such investment to be necessary or advisable, due to market conditions. Also, The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities and Rule 144A securities and loan interests (such as loan participations and assignments, but not including LPNs). The Fund will not invest in any non-U.S. equity securities.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the Intraday Indicative Value, available on the GIDs will be disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the GIDs, which contains information for the most widely followed indexes and ETFs. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in Nasdaq Rule 4120(a)(11) have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

(ii) as to which the Exchange consents, the Commission shall:

(A) by order approve or disapprove such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2012–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2012–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2012–004 and should be submitted on or before February 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1285 Filed 1–23–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66177; File No. SR–CHX–2012–02]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Add to and Amend Its Rules Regarding the Obligations of Institutional Brokers Registered With the Exchange

January 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 6, 2012, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Interpretation and Policy .02 to Article 17, Rule 1 regarding the registration of Institutional Brokers, amend Article 17, Rule 3 regarding the obligations of Institutional Brokers, add Article 17, Rule 6 regarding information barrier procedures between Institutional Broker and non-Institutional Broker units of the same broker-dealer and make various typographical and clarifying changes throughout its rules. The text of this proposed rule change is available on the Exchange's Web site at (www.chx.com) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing various rule amendments and additions to permit broker-dealers registered as Institutional Brokers with the CHX to operate a non-Institutional Broker unit within the same Participant Firm. The Exchange proposes to amend Interpretation and Policy .02 to Article 17, Rule 1 (Registration and Appointment of Institutional Brokers) to clarify that an Institutional Broker Representative (''IBR'') shall be considered those individual persons who accept orders, enter bids and offers and execute transactions on behalf of an Institutional Broker and are registered with the Exchange as an IBR. Subject to compliance with proposed new Rule 6 of Article 17, the amended Interpretation and Policy provides that the responsibilities and duties of Institutional Brokers as provided for in Article 17, Rule 3 (Obligations), Article 21, Rule 6 (Submission of Clearing Information for Transactions Executed Off-Exchange) and Article 9, Rule 14 (Reporting Riskless Principal Transactions) would be limited to the activities of individuals designated as an IBR of firms registered as Institutional Brokers, and clerks assigned thereto. The amended interpretation would specify that only registered IBRs may act on behalf of Institutional Brokers in making clearing submissions pursuant to Article 21, Rule 6, submitting Benchmark orders to the Exchange pursuant to Article 20, Rule 4.b.(2), or entering Riskless Principal trading reports pursuant to Article 9, Rule 14. The Exchange seeks to amend Article 17, Rule 3(e) to clarify the recordkeeping obligations owed by Institutional Brokers. The Exchange proposes to add Article 17, Rule 6 creating requirements for information barrier procedures between Institutional

[34] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Broker and non-Institutional Broker units of the same broker-dealer. Finally, the Exchange seeks to make typographical and ministerial changes throughout its rules regarding various references to Institutional Brokers.

Institutional Brokers are an elective sub-category of Exchange Participants requiring registration with the Exchange. Registration as an Institutional Broker is limited to Participant Firms, and is not available to individual persons.[3] Currently, each individual person authorized to enter bids and offers and execute transactions on behalf of an Institutional Broker is considered an IBR and must be registered with the Exchange as provided in Article 6. Institutional Brokers were formerly regarded as operating on the facilities of the Exchange. This view was a carryover from the Exchange's former floor-based, auction trading model pursuant to which such firms were registered as floor brokers.[4] Moreover, the Exchange formerly offered a trade reporting functionality to Institutional Brokers which permitted them to execute trades outside the Matching System and still be considered as executed on the Exchange. With the elimination of that functionality in December 2010, there was no longer any compelling rationale to regard Institutional Brokers as operating on the Exchange.[5] Subsequently, the Exchange adopted an Interpretation and Policy providing that Institutional Brokers were no longer considered to be operating on the Exchange.[6]

Given this change in the status of Institutional Brokers, the Exchange believes that some existing and potential Institutional Brokers may wish to engage in other business activities beyond that handled by IBRs, such as over-the-counter (''OTC'') market making. The intent of this proposal is to afford such firms the ability to engage in non-Institutional Broker activities, while ensuring that their activities as an Institutional Broker are appropriately governed by CHX rules.[7]

The Exchange proposes to modify the provisions of Interpretation and Policy .02 to Article 17, Rule 1 to define an IBR as an individual person affiliated with an Institutional Broker who is authorized to accept orders, enter bids and offers and execute transactions on behalf of an Institutional Broker and who has registered with the Exchange as an IBR as provided in Article 6.[8] The Exchange also proposes to add a definition of IBR to Article 1, Rule 1 (Definitions) for the sake of clarity. The Exchange further proposes to add language to the definition of ''Participant'' in Article 1, Rule 1(s) to facilitate and account for the limitation of the obligations of Institutional Brokers to the activities of the newly-defined IBRs. Only registered IBRs are permitted to use Exchange systems provided for Institutional Brokers for handling orders and reporting transactions.[9] The Exchange proposes to add text in Article 17, Rule 2 designed to clarify that only Participants Firms are eligible to register as Institutional Brokers.

Through this proposal, the Exchange proposes to amend its rules to clarify that certain enumerated obligations of Institutional Brokers should be restricted to the activities of IBRs. The responsibilities and duties as provided for in Article 17, Rule 3 (Obligations), Article 21, Rule 6 (Submission of Clearing Information for Transactions Executed Off-Exchange) and Article 9, Rule 14 (Reporting Riskless Principal Transactions) would apply to the activities of those individuals registered with the Exchange as IBRs, and clerks thereto.[10] Only registered IBRs (and their clerks) would be permitted to act on behalf of Institutional Brokers in making clearing submissions pursuant to Article 21, Rule 6, submitting Benchmark orders pursuant to Article 20, Rule 4.b.(2) or entering Riskless Principal trading reports pursuant to Article 9, Rule 14.

The Exchange believes that it is appropriate to make an IBR's status as such contingent on registration with Exchange. A Participant's status as an Institutional Broker is voluntary and requires registration with the Exchange, which is consistent with the current proposal related to IBRs.[11] The proposed interpretation would permit firms registered as Institutional Brokers to designate certain individuals as IBRs, while employing other individuals in separate, non-IBR capacities.[12] In this manner, firms which wish to conduct a portion of their business as an Institutional Broker, but also engage in other activities may do so without subjecting those other areas to those provisions of the CHX rules specifically applicable to Institutional Brokers. The Exchange believes that the proposed changes would permit Institutional Brokers to carry out a multifaceted business strategy, while still ensuring that the activities of those persons acting as IBRs are subject to the appropriate regulatory provisions. The proposed amendment to Interpretation and Policy .02 of Article 17, Rule 1 is consistent with the effective operation and regulation of Institutional Brokers and IBRs.

Pursuant to the proposed amendment to Interpretation and Policy .02, a firm registered with the Exchange as Institutional Broker could maintain other lines of business separate and distinct from its Institutional Broker activities without subjecting those other areas to the requirements of Article 17, Rule 3 contingent upon the creation and maintenance of effective information barrier procedures as specified in proposed Rule 6 of Article 17. The responsibilities and duties of Article 17, Rule 3 are closely tailored to the historical activities of individuals

[3] Article 17, Rule 1, Interpretation and Policy .02.

[4] The Exchange replaced its traditional auction marketplace with its New Trading Model beginning in late 2006. *See* Securities Exchange Act Rel. No. 54550 (Sept. 29, 2006), 71 FR 59563 (Oct. 10, 2006) (SR–CHX–2006–05).

[5] *See* Securities Exchange Act Rel. No. 63564 (Dec. 16, 2010), 75 FR 80870 (Dec. 23, 2010) (SR–CHX–2010–25).

[6] *See* Securities Exchange Act Rel. No. 65633 (Oct. 26, 2011), 76 FR 67509 (Nov. 1, 2011) (SR–CHX–2011–29).

[7] The OTC market making activity of such firms would presumably be subject to existing FINRA rules applicable to such activity.

[8] Among other things, all applicants seeking to register as Institutional Broker Representatives must successfully complete an Institutional Broker exam. Article 6, Rule 3, Interpretation and Policy .01(a).

[9] The Exchange provides the Brokerplex® trading system for use by IBRs in conducting their business. Brokerplex is an order and trade entry, recordation and management system developed and operated by the CHX for use by IBRs to receive, transmit and hold orders from their clients while seeking execution within the CHX Matching System or elsewhere in the National Market System. Brokerplex can be used to record trade executions and send transaction reports to a Trade Reporting Facility (''TRF''), as defined in FINRA Rules 6300 *et seq.,* as amended from time-to-time. Brokerplex can also be used by Institutional Brokers to initiate clearing submissions to a Qualified Clearing Agency via the Exchange's reporting systems. *See* Article 21, Rule 6 (Submission of Clearing Information for Transactions Executed Off-Exchange). The Exchange currently restricts Brokerplex use to registered IBRs and would continue to do so.

[10] Article 17, Rule 3 sets forth the substantive obligations owed by Institutional Brokers registered with the Exchange pursuant to Article 17, Rule 1. These obligations include the entry of orders into an automated system, handling of orders within an integrated system, maintenance of specific trading accounts, certain defined obligations in handling and executing orders, and maintenance of certain records. Article 21, Rule 6 authorizes Institutional Brokers to make clearing submissions into the Exchange's systems for certain non-CHX trades. Article 9, Rule 14 specifies the manner in which Participants may report riskless principal transactions to the Exchange.

[11] *See* Article 17, Rule 3, Interpretation and Policy .04.

[12] For example, a firm could organize itself to have one business unit consisting of IBRs sending orders to the Exchange and other trading centers for execution, and facilitating non-CHX clearing submissions pursuant to Article 21, Rule 6 and separately maintain another business unit chiefly engaged in OTC market making.

operating as IBRs. The Exchange does not believe that there is any particular need to extend the reach of those obligations to the activities of individuals who are not acting in the capacity of an IBR. Non-IBR activities of a Participant firm registered as an Institutional Broker would, of course, remain subject to all other applicable provisions of the Exchange's rules. The non-IBR personnel at a Institutional Broker could continue to send orders to the Exchange; however, those orders would be regarded as standard order-sending Participant orders, and not as Institutional Broker activity. The Exchange can and will distinguish between orders sent to the Matching System by IBRs and other orders sent by Institutional Brokers to the Matching System for billing and other purposes.

Orders and other activity sent to the Exchange by non-IBR affiliated persons of an Institutional Broker would be subject to the provisions of Section E.1. of the CHX Fee Schedule applicable to most Participants, and would not be billed as Institutional Broker activity pursuant to Section E.3. of the Fee Schedule. Firms registered as Institutional Brokers would only receive a credit pursuant to the provisions of Section F.2. of the Fee Schedule for the trading activity of registered IBRs.[13] Firms registered as Institutional Brokers would remain subject to the obligations of Article 17, Rule 3, Article 21, Rule 6, and Article 9, Rule 14 as to the activities of those individuals associated with the firm and registered as an IBR. The Exchange believes that this treatment of Institutional Broker activity appropriately recognizes that firms registered as Institutional Brokers may engage in other activities which should not be judged by the specific standards devised for Institutional Broker activity.

The limitation that only IBRs could act on behalf of Institutional Brokers in making clearing submissions pursuant to Article 21, Rule 6, entering Benchmark orders pursuant to Article 20, Rule 4.b.(2) and reporting Riskless Principal transactions pursuant to Article 9, Rule 14 is consistent with the above-described limitations, since the ability to make such clearing submissions is restricted to IBRs using Brokerplex and the rationale for making riskless principal trade reports to the Exchange is to facilitate the entry of clearing submissions pursuant to Article 21, Rule 6. The Exchange also proposes to modify the text of Article 17, Rule 5(a) to clarify in that rule that the ability to make clearing submissions is limited to IBRs. Since the entry of Benchmark orders to the Exchange for execution is limited to Institutional Brokers, the Exchange believes that such orders should only be submitted by CHX-registered IBRs.[14]

The Exchange proposes to amend Article 17, Rule 3(e) to clarify that the obligations owed by Institutional Brokers under Article 11 are not limited simply to the maintenance of certain required records, but also include the affirmative provision of electronic information to the Exchange in certain circumstances. Article 11, Rule 3(b) requires Institutional Brokers to provide specified information in an electronic format to the Exchange about orders accepted and handled by those firms. Article 11, Rule 4 requires that Institutional Brokers provide electronic records of trade executions received in other, non-CHX trading centers. The provision of trading data by Institutional Brokers in an electronic format is designed to facilitate the creation of automated surveillance reports run by the CHX's Market Regulation Department in furtherance of the Exchange's obligation to oversee trading activity of its Institutional Brokers.

As noted above, the proposed changes to Interpretation and Policy .02 to Article 17, Rule 1 provide that the proposed limitation of the obligations of Institutional Brokers to the activities of its IBRs is contingent upon the creation and maintenance of effective information barrier procedures between the Institutional Broker and non-Institutional Broker units. The Exchange proposes to add Rule 6 (Non-Institutional Broker Unit; Information Barriers) to Article 17 to define the specific information barrier requirements for that purpose. A multi-unit Institutional Broker would be required to establish and maintain information barriers between the Institutional Broker unit and non-Institutional Broker unit. Such information barriers will be required to be reasonably designed to prevent the Institutional Broker unit from having knowledge of unexecuted customer orders in possession of the non-Institutional Broker unit and likewise prevent the non-Institutional Broker unit from having knowledge of unexecuted customer orders in the possession of the Institutional Broker unit. The Institutional Broker unit may, however, transmit an order to the non-Institutional Broker unit of the firm for purposes of handling and executing the order, and the non-Institutional Broker unit may likewise transmit an order to the Institutional Broker unit.

At the time an Institutional Broker wished to set up a non-Institutional Broker unit within the firm, it would be required to submit to the Exchange its Written Supervisory Procedures (''WSPs'') as they pertain to these information barrier procedures. At minimum, the WSPs will have to satisfactorily address (1) the manner in which the firm will satisfy the requirements of this rule (including the compliance and audit procedures it proposes to implement to ensure that the information barrier is maintained); and (2) identify the names and titles of the person or persons responsible for maintenance, supervision and surveillance of the procedures. The Exchange's existing rules require Institutional Brokers to provide the Exchange with such information and reports relating to its transactions as the Exchange may request.[15] The Exchange expects Institutional Brokers to take appropriate remedial action against any person violating this rule or the Institutional Broker's internal compliance and audit procedures as a part of their existing supervisory responsibilities, as well as recognizing that the Exchange may take appropriate remedial action for any such violation.

In addition, the proposed rule provides that the firm's WSPs must describe the internal controls that the Institutional Broker will implement to satisfy each of the conditions stated in the rule, and the compliance and audit procedures proposed to implement and ensure that the controls are maintained. If the Exchange determined that the organizational structure and the compliance and audit procedures proposed by the Institutional Broker are acceptable, the Exchange would so inform the Institutional Broker, in writing. Unless the Exchange finds that an Institutional Broker's information barrier procedures are acceptable, all activities of an Institutional Broker (including those of a non-IBR) will be subject to the obligations placed upon an Institutional Broker as provided in the Exchange's rules.

The Exchange believes that the provisions regarding the information barrier procedures of new Rule 6 of Article 17 are sufficient to address the issues presented by the operation of a non-Institutional Broker unit within a firm which is an Exchange-registered

[13] The Exchange plans to propose changes to its Fee Schedule to make explicit this billing structure.

[14] The Exchange also proposes to delete the reference in the Benchmark order definitions in both Article 20 and Article 1, Rule 2 to the Trading Phase Date of Reg NMS, since the Reg NMS rules were implemented a number of years ago.

[15] Article 6, Rules 7 (Providing Information) and 9 (Provision of Information to the Exchange) and Article 11, Rule 1 (Furnishing of Records).

Institutional Broker. The CHX understands that the non-Institutional Broker unit of such firms will largely function in a similar manner to other order sending firms which are not registered with the Exchange as an Institutional Broker pursuant to our rules. The Exchange believes that the information barrier procedures of proposed Rule 6 are adequate to provide a meaningful separation of the Institutional Broker and non-Institutional Broker units.

The Exchange is proposing an Interpretation and Policy to define the elements of an adequate information barrier procedure for purposes of new Rule 6. Proposed Interpretation and Policy .01 defines an ''information barrier'' as an organizational structure in which the Institutional Broker functions are conducted in a physical location separate from the locations in which the non-Institutional Broker activities are conducted. The Institutional Broker and non-Institutional Broker units should not use trading or order management systems which permit them to share information about orders or transactions being handled by each respective unit. However, upon request and not on his or her own initiative, an Institutional Broker Representative may furnish to persons at the same firm or an affiliated firm (''affiliated persons''), the same sort of market information that the Institutional Broker would make available in the normal course of its Institutional Broker activity to any other person. The Institutional Broker Representative must provide such information to affiliated persons in the same manner that he or she would make such information available to a non-affiliated person. An individual person may not simultaneously act as an Institutional Broker Representative and as a representative of the non-Institutional Broker unit. The Exchange believes that the information barrier requirements as set forth in the proposed Interpretation and Policy are reasonable and appropriate given the nature of the relationship between the Institutional Broker and non-Institutional Broker units. The CHX further believes that the articulation of these standards in the proposed Interpretation and Policy will provide clarity and direction to interested Institutional Brokers in creating their information barrier procedures.

Finally, the Exchange seeks to make typographical and clarifying changes throughout its rules regarding various references to Institutional Brokers by capitalizing that phrase throughout to distinguish the rights and obligations of CHX-registered Institutional Brokers from other Participants which may be colloquially or informally referred to as institutional brokers. The Exchange proposes to make an addition to Article 17, Rule 1 to clarify that Institutional Brokers may only use those Exchange systems which the Exchange has designated for their use.[16] The Exchange also proposes to delete the reference in Article 15, Rule 1 to proceedings based upon the refusal of an Institutional Broker or Market Maker to register. As this filing clarifies, registration as either an Institutional Broker or Market Maker is voluntary act and the failure to register does not represent a violation of any Exchange rule or interpretation.[17]

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[18] and furthers the objectives of Section 6(b)(5) in particular,[19] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest. The proposed stated interpretation clarifies that the CHX will regard the responsibilities and duties of Institutional Brokers set forth in the specified rules as applying only to the activities of Institutional Broker Representatives, and their clerks. The proposed changes would facilitate the operation of firms which wish to conduct as portion of their business as an Institutional Broker, but also engage in other activities (such as OTC market making) without subjecting those other areas to those provisions of the CHX rules and Fee Schedule specifically applicable to the activities of Institutional Brokers. The Exchange believes that the proposed changes would permit Institutional Brokers to carry out a multifaceted business strategy, while still ensuring that the activities of those persons acting as IBRs are subject to the appropriate fees and regulatory obligations. The Exchange believes that such an interpretation promotes just and equitable principles of trade because it appropriately limits the application of those rules governing the obligations and permitted activities of Institutional Brokers to the activities of those individuals acting in the capacity of an IBR.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CHX–2012–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2012–02. This file number should be included on the subject line if email is used. To help the Commission process and review your

[16] Currently, those systems are limited to the Brokerplex order entry, management and recordation system.

[17] Registration as an IBR under Article 17 or a Market Maker Trader under Article 16 is likewise elective. An Institutional Broker would be deemed to have violated CHX rules, however, if it gave unauthorized access to Exchange systems designated for use by an IBR to non-IBRs (other than clerks thereto).

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2012–02 and should be submitted on or before February 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1287 Filed 1–23–12; 8:45 am]

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[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66179; File No. SR–DTC–2011–08]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Enhance Risk Management Controls Associated With the Receiver Authorized Delivery Function

January 18, 2012.

I. Introduction

On November 16, 2011, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–DTC–2011–08 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder. The proposed rule change was published for comment in the **Federal Register** on December 2, 2011.[3] The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The rule change will enhance the risk management controls associated with DTC's Receiver Authorized Delivery (''RAD'') function. The RAD function enables each Participant to control and review a Deliver Order (''DO'')[4] or a Payment Order (''PO'')[5] that is directed to its account by another Participant before its account is updated. The RAD function was built in 1990 to route money market instrument (''MMI'') transactions for receiver approval. In 1996, there was a conversion for all transactions to settle in same-day funds subject to the net debit cap control[6] and collateral controls[7]. Any DO that obligated a Participant to pay $15 million or more and any PO that obligated a Participant to pay $1 million or more became subject to RAD. (In order to minimize blockage, DTC excluded from RAD any DO under $15 million and any PO under $1 million.) Transactions in such lower amounts were directed to the account of the receiving Participant without the RAD filter. For such lower amounts, the receiving Participant has the ability on the same day as the original delivery to instruct a matched reclaim[8] transaction not subject to the original delivering Participant's collateral monitor and net debit cap controls.

With this rule filing, DTC is proposing the following revisions to RAD:

(i) DTC will expand RAD to include Omgeo Institutional Delivery (''ID'') transactions in excess of $15 million at the receiving Participant's election. If no election is made, these transactions will be processed for receipt in the same manner as they currently are processed. (Currently, ID transactions are not routed to RAD and are not subject to matched reclaim.) The change will reduce the receiving Participant's risk relating to ID transactions.

(ii) Participants will be able to elect to have all free MMI deliveries bypass RAD on a counterparty by counterparty basis. Currently, all free money market instrument (''MMI'') deliveries are routed to RAD for receiver approval.[9] The change will help facilitate customer account transfers.

(iii) DTC will be able, in its discretion, to apply RAD to all DOs and POs initiated by a ''Wind-Down Participant'' [10] regardless of value. A receiving Participant will have the option to raise its RAD limit in accordance with its own transaction management objectives (but not to reinstitute matched reclaims in lieu of RAD). DTC views this improvement as a means for Participants, bilaterally, and DTC, multilaterally, to manage liquidity and credit risk in a Wind-Down scenario and to eliminate the risk of matched reclaims to a Wind-Down Participant.

(iv) DTC will exclude from RAD certain receives or deliveries (*e.g.,* the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–65831 (November 28, 2011), 76 FR 75570 (December 2, 2011). In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements is incorporated into the discussion of the proposed rule change in Section II below.

[4] A Deliver Order is the term used to define an instruction initiating the book-entry transfer of a security from one DTC Participant, as delivering Participant, to another DTC Participant, as receiving Participant.

[5] A Payment Order is the term used to define an instruction initiating a transaction in which a Participant charges another Participant for changes in value for outstanding stock loans or option contract premiums. Payment orders involve no securities, only money.

[6] The net debit cap control is designed so that DTC may complete settlement even if a Participant fails to settle. Before completing a transaction in which a Participant is the receiver of securities, DTC calculates the effect the transaction would have on such Participant's account and determines whether any resulting net debit balance would exceed its net debit cap. Any transaction that would cause the Participant net debit balance to exceed the Participant's net debit cap is placed on a pending (recycling) queue until another transaction creates sufficient credit in such Participant's account so that the net debit cap will not be exceeded.

[7] An example of a collateral control is the Collateral Monitor (''CM''). DTC tracks collateral in a Participant's account through the CM. At all times, the CM reflects the amount by which the collateral value in the account exceeds the net debit balance of the account. When processing a transaction, DTC verifies that the CM of neither the deliverer nor the receiver will become negative when the transaction completes. If the transaction would cause either party to have a negative CM, the transaction will recycle until the deficient account has sufficient collateral to proceed or until the applicable cutoff occurs.

[8] A ''reclaim'' is a separate DO or PO that a receiving Participant may use to return a DO or PO (typically received in error).

[9] A receiver that authorizes a free MMI transaction is deemed to have made an agreement outside of DTC with the deliverer that it will make payment outside of DTC in accordance with the agreement of the parties. DTC does not monitor or enforce compliance with such agreements. Participants must enforce these agreements themselves.

[10] DTC Rule 32 defines a ''Wind-Down Participant'' and provides for actions that may be taken with respect to such a Participant.

OCC Market Loan program[11] account) because these are effectively matched and/or approved by other mechanisms. DTC also seeks to conform the language of its existing procedures pertaining to processing of reclaims to reflect its current practices:

(v) Receiving Participants may, only on the same day as the original delivery, instruct a matched reclaim transaction. Any such matched reclaim of a DO with a settlement value of less than $15 million and a PO with a value less than $1 million may be processed without reference to the collateral monitor and net debit cap controls for the original delivering Participant.[12]

III. Discussion

Section 19(b)(2)(B) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[13] In particular, Section 17A(b)(3)(A)[14] of the Act requires, among other things, that the clearing agency be so organized and have the capacity to safeguard the securities and funds which are in the custody or control of such clearing agency or for which it is responsible.

Because the proposed change would allow DTC to enhance the risk management controls associated with the RAD function to reduce Participant counterparty risk, to enhance DTC's liquidity management, and to facilitate customer account transfers, the Commission believes that the proposed rule change is consistent with DTC's obligations under the Act to safeguard securities and funds in its possession or control for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2)[15] of the Act, that the proposed rule change (File No. SR–DTC–2011–08) be, and hereby is, approved.[16]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1289 Filed 1–23–12; 8:45 am]

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[11] For more information about the OCC's Market Loan Program, see Securities Exchange Release Act No. 34–59298 (January 26, 2009) 74 FR 5692 (January 30, 2009) [SR–DTC–2008–15].

[12] For more information regarding this change, see Securities Exchange Release Act No. 34–48121 (July 2, 2003) 68 FR 41030 (July 2, 2003) [SR–DTC–2003–06].

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 15 U.S.C. 78q–1(b)(3)(A).

[15] 15 U.S.C. 78s(b)(2).

[16] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66180; File No. SR–NYSEArca–2012–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating To Listing and Trading of Shares of Twenty-Six Series of ProShares Trust II Under NYSE Arca Equities Rule 8.200

January 18, 2012.

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 January 6, 2012, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.200: ProShares UltraPro Australian Dollar, ProShares UltraPro Canadian Dollar, ProShares UltraPro Swiss Franc, ProShares UltraPro Euro, ProShares UltraPro U.S. Dollar, and ProShares UltraPro Yen (collectively, ''UltraPro Funds''); ProShares UltraPro Short Australian Dollar, ProShares UltraPro Short Canadian Dollar, ProShares UltraPro Short Swiss Franc, ProShares UltraPro Short Euro, ProShares UltraPro Short U.S. Dollar, and ProShares UltraPro Short Yen (collectively, ''UltraPro Short Funds''); ProShares Ultra Australian Dollar, ProShares Ultra Canadian Dollar, ProShares Ultra Swiss Franc and ProShares Ultra U.S. Dollar (collectively, ''Ultra Funds''); ProShares UltraShort Australian Dollar, ProShares UltraShort Canadian Dollar, ProShares UltraShort Swiss Franc and ProShares UltraShort U.S. Dollar (collectively, ''UltraShort Funds''); and ProShares Short Australian Dollar, ProShares Short Canadian Dollar, ProShares Short Swiss Franc, ProShares Short Euro, ProShares Short U.S. Dollar, and ProShares Short Yen (collectively, ''Short Funds''). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Equities Rule 8.200, Commentary .02 permits the trading of Trust Issued Receipts (''TIRs'') either by listing or pursuant to unlisted trading privileges (''UTP'').[3] The Exchange proposes to list and trade shares (''Shares'') of the following pursuant to NYSE Arca Equities Rule 8.200: ProShares UltraPro Australian Dollar, ProShares UltraPro Canadian Dollar, ProShares UltraPro Swiss Franc, ProShares UltraPro Euro, ProShares UltraPro U.S. Dollar, ProShares UltraPro Yen, ProShares UltraPro Short Australian Dollar, ProShares UltraPro Short Canadian Dollar, ProShares UltraPro Short Swiss Franc, ProShares UltraPro Short Euro, ProShares UltraPro Short U.S. Dollar, ProShares UltraPro Short Yen, ProShares Ultra Australian Dollar, ProShares Ultra Canadian Dollar,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to TIRs that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars and floors; and swap agreements.

ProShares Ultra Swiss Franc, ProShares Ultra U.S. Dollar, ProShares UltraShort Australian Dollar, ProShares UltraShort Canadian Dollar, ProShares UltraShort Swiss Franc, ProShares UltraShort U.S. Dollar, ProShares Short Australian Dollar, ProShares Short Canadian Dollar, ProShares Short Swiss Franc, ProShares Short Euro, ProShares Short U.S. Dollar, and ProShares Short Yen (each a ''Fund'' and, collectively, ''Funds'').[4] Each of the Funds is a series of the ProShares Trust II (''Trust''), a Delaware statutory trust. ProShare Capital Management LLC (''Sponsor'') is the Trust's sponsor and Wilmington Trust Company is the Trust's trustee. Brown Brothers Harriman & Co. (''Administrator'') serves as the administrator, custodian and transfer agent of the Funds. SEI Investments Distribution Co. (''Distributor'') serves as distributor of the Shares.

The Exchange notes that the Commission has previously approved the listing and trading of other series of the Commodities and Currency Trust (now known as ProShares Trust II) on the American Stock Exchange LLC,[5] trading on NYSE Arca pursuant to UTP[6] and listing and trading on NYSE Arca.[7] The Exchange further notes that the shares of other ProShares Ultra Funds, UltraShort Funds and Short Funds based on various securities indexes have previously been approved by the Commission.[8]

According to the Registration Statement, the UltraPro Funds seek daily investment results (before fees and expenses) that correspond to three times (+300%) the daily performance, whether positive or negative, of their corresponding benchmark and the UltraPro Short Funds seek daily investment results (before fees and expenses) that correspond to three times the inverse (−300%) of the daily performance, whether positive or negative, of their corresponding benchmark. The Ultra Funds seek daily investment results (before fees and expenses) that correspond to twice (+200%) the daily performance, whether positive or negative, of their corresponding benchmarks and the UltraShort Funds seek daily investment results (before fees and expenses) that correspond to twice the inverse (−200%) of the daily performance, whether positive or negative, of their corresponding benchmarks. The Short Funds seek daily investment results (before fees and expenses) that correspond to the inverse (−100%) of the daily performance, whether positive or negative, of their corresponding benchmarks. Each reference to a corresponding benchmark is a ''Benchmark'' and together, ''Benchmarks,'' as described below.

Each of the Funds will hold futures contracts on the applicable Benchmark and, in the case of a Benchmark index, futures on such Benchmark index or the Benchmark index components, traded on a United States exchange (''Benchmark Futures Contracts'') and, to a limited extent, forward contracts, as described below, to produce the economically ''inverse,'' ''leveraged,'' and ''inverse leveraged'' investment results, as set forth by each Fund's investment objective.[9]

According to the Registration Statement, each Fund seeks to achieve its investment objective by investing under normal market conditions,[10] in Benchmark Futures Contracts. In the event position accountability rules or position limits are reached with respect to a particular Benchmark Futures Contract, the Sponsor may, in its commercially reasonable judgment, cause the relevant Fund to obtain exposure through over-the-counter forward contracts referencing the particular exchange rate, index or index components, or invest in other forward contracts not based on the particular exchange rate, if such instruments tend to exhibit trading prices or returns that correlate with the Benchmarks or any Benchmark Futures Contract and will further the investment objective of a Fund.[11] A Fund may also invest in forward contracts if the market for a specific Benchmark Futures Contract experiences emergencies (*e.g.,* natural disaster, terrorist attack or an act of God) or disruptions (*e.g.,* a trading halt or a flash crash) to prevent a Fund from obtaining the appropriate amount of investment exposure to the affected Benchmark Futures Contracts directly.[12]

Each Fund will also invest in cash equivalents (such as shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes and repurchase agreements collateralized by government securities, whether denominated in U.S. dollars or the applicable foreign currency) that serve or will serve as collateral for the investments in futures and forward contracts. The Funds do not currently intend to invest directly in any currency but may invest directly in U.S. Treasury securities.

The Funds' investment in Benchmark Futures Contracts and forward contracts may involve a small investment relative to the amount of investment exposure assumed and may result in losses exceeding the amounts invested. Such instruments, particularly when used to create leverage, may expose the Funds to potentially dramatic changes (losses or gains) in the value of the instruments and imperfect correlation between the value of the instruments and the applicable Benchmark.

The Funds will not seek to achieve their stated investment objective over a period of time greater than one day because mathematical compounding prevents the Funds from perfectly achieving such results. Accordingly, results over periods of time greater than one day typically will not be a simple multiple (*e.g.,* 2x, 3x, or −1x, −2x, −3x) of the period return of the corresponding Benchmark and may differ significantly.

If an UltraPro Fund (or UltraPro Short Fund) is successful in meeting its

[4] *See* registration statement on Form S–1, dated December 22, 2011 (File No. 333–178707) (''Registration Statement''). The description of the Funds and the Shares contained herein is based, in part, on the Registration Statement.

[5] *See, e.g.,* Securities Exchange Act Release No. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39).

[6] *See, e.g.,* Securities Exchange Act Release No. 58162 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73).

[7] *See, e.g.,* Securities Exchange Act Release No. 58457 (September 3, 2008), 73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (approving listing of certain leveraged ProShares Funds on the Exchange).

[8] *See, e.g.,* Securities Exchange Act Release Nos. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (approving the listing and trading of shares of the xtraShares Trust); 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41) (approving the listing and trading of shares of the ProShares Trust); 55117 (January 17, 2007), 72 FR 3442 (January 25, 2007) (SR–Amex 2006–101) (approving the listing and trading of shares of the ProShares Trust); 56592 (October 1, 2007), 72 FR 57364 (October 9, 2007) (SR–Amex–2007–60) (approving the listing and trading of 6 issues of shares of the ProShares Trust based on international equity indexes); and 56998 (December 19, 2007), 72 FR 73404 (December 27, 2007) (SR–Amex–2007–104) (approving the listing and trading of shares of the ProShares Trust).

[9] Terms relating to the Funds, the Shares and the Benchmarks referred to, but not defined, herein are defined in the Registration Statement.

[10] The term ''under normal conditions'' [sic] includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[11] To the extent practicable, the Funds will invest in forward contracts cleared through the facilities of a centralized clearing house.

[12] According to the Registration Statement, the Sponsor will also attempt to mitigate the Funds' credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty. The Sponsor will take various steps to limit counterparty credit risk, as described in the Registration Statement.

objective, its value on a given day (before fees and expenses) should gain (or lose) approximately three times as much on a percentage basis as its corresponding Benchmark when the Benchmark rises on a given day. Conversely, its value on a given day (before fees and expenses) should lose (or gain) approximately three times as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day.

If an Ultra Fund (or UltraShort Fund) is successful in meeting its objective, its value on a given day (before fees and expenses) should gain (or lose) approximately twice as much on a percentage basis as its corresponding Benchmark when the Benchmark rises on a given day. Conversely, its value on a given day (before fees and expenses) should lose (or gain) approximately twice as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day.

If a Short Fund is successful in meeting its objective, its value on a given day (before fees and expenses) should gain approximately as much on a percentage basis as the corresponding Benchmark when the Benchmark declines on a given day. Conversely, its value on a given day (before fees and expenses) should lose approximately as much on a percentage basis as the corresponding Benchmark when the Benchmark rises on a given day.

In seeking to achieve each Fund's daily investment objective, the Sponsor will use a mathematical approach to investing. Using this approach, the Sponsor will determine the type, quantity and mix of investment positions that the Sponsor believes in combination should produce daily returns consistent with a Fund's objective. The Sponsor will rely upon a pre-determined model to generate orders that result in repositioning each Fund's investments in accordance with its daily investment objectives.

According to the Registration Statement, a number of factors may affect a Fund's ability to achieve a high degree of correlation with its Benchmark, and there can be no guarantee that a Fund will achieve a high degree of correlation. While the Funds do not expect that their daily returns will deviate adversely from their respective daily investment objectives, several factors may affect their ability to achieve this correlation. Among these factors are a Fund's expenses, including fees, transaction costs and the cost of the investment techniques employed by that Fund, bid-ask spreads, a Fund's Share prices being rounded to the nearest cent, changes to a Benchmark that are not disseminated in advance and the need to conform a Fund's portfolio holdings to comply with investment restrictions or policies or regulatory or tax law requirements.

ProShares UltraPro Australian Dollar, ProShares UltraPro Short Australian Dollar, ProShares Ultra Australian Dollar, ProShares UltraShort Australian Dollar, and ProShares Short Australian Dollar

These Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of the Australian dollar spot price versus the U.S. dollar (''AUD/USD''). The Benchmark for each of these Funds will be the U.S. dollar price of the Australian dollar. These Funds will use the 4 p.m. Eastern Time (''E.T.'') Australian Dollar exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Australian dollar is the national currency of Australia and the currency of the accounts of the Reserve Bank of Australia, the Australian central bank. The official currency code for the Australian dollar is ''AUD.'' The Australian dollar is referred to in Australia as ''dollar.'' As with U.S. currency, 100 Australian cents are equal to one Australian dollar. In Australia, unlike most other countries, cash transactions are rounded to the nearest five cents. The most commonly used symbol used to represent the Australian dollar is ''A$.''

As of December 30, 2011, open interest in AUD/USD futures contracts traded on the Chicago Mercantile Exchange (''CME'') was $11.56 billion. AUD/USD futures contracts had an average daily trading volume in 2011 of 123,006 contracts.

ProShares UltraPro Canadian Dollar, ProShares UltraPro Short Canadian Dollar, ProShares Ultra Canadian Dollar, ProShares UltraShort Canadian Dollar, and ProShares Short Canadian Dollar

These Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of the Canadian dollar spot price versus the U.S. dollar (CAD/USD). The Benchmark for each of these Funds will be the U.S. dollar price of the Canadian dollar. These Funds will use the 4 p.m. E.T. Canadian dollar exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Canadian Dollar is the national currency of Canada and the currency of the accounts of the Bank of Canada, the Canadian central bank. The official currency code for the Canadian dollar is ''CAD.'' As with U.S. currency, 100 Canadian cents are equal to one Canadian dollar.

As of December 30, 2011, open interest in CAD/USD futures contracts traded on CME was $11.66 billion. CAD/USD futures contracts had an average daily trading volume in 2011 of 89,667 contracts.

ProShares UltraPro Swiss Franc, ProShares UltraPro Short Swiss Franc, ProShares Ultra Swiss Franc, ProShares UltraShort Swiss Franc, and ProShares Short Swiss Franc

These Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of the Swiss franc spot price versus the U.S. dollar (''CHF/USD''). The Benchmark for each of these Funds will be the U.S. dollar price of the Swiss Franc. These Funds will use the 4 p.m. E.T. Swiss franc exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Swiss franc is the national currency of Switzerland and Liechtenstein and the currency of the accounts of the Swiss National Bank, the central bank of Switzerland. The official currency code for the Swiss franc is ''CHF.'' Each Swiss franc is equal to 100 Swiss centimes.

As of December 30, 2011, open interest in CHF/USD futures contracts traded on CME was $4.99 billion. CHF/USD futures contracts had an average daily trading volume in 2011 of 40,955 contracts.

ProShares UltraPro Euro, ProShares UltraPro Short Euro, and ProShares Short Euro

These Funds will be designed to track a multiple, the inverse, or an inverse multiple of the daily change in the spot price of the euro versus the U.S. dollar (''EUR/USD''). The Benchmark for each of these Funds will be the U.S. dollar price of the Euro. These Funds will use the 4 p.m. E.T. Euro exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Euro is the official currency of the Eurozone, which consists of 17 European states including: Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, and Spain. The Euro is managed and administered by the European Central Bank and the European System of Central Banks. As of December 30, 2011, open interest in

EUR\USD futures contracts traded on CME was $46.12 billion. EUR\USD futures contracts had an average daily trading volume in 2011 of 336,947 contracts.

ProShares UltraPro U.S. Dollar, ProShares UltraPro Short U.S. Dollar, ProShares Ultra U.S. Dollar, ProShares UltraShort U.S. Dollar, and ProShares Short U.S. Dollar

These Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of their Benchmark, the U.S. Dollar Index (''U.S. Dollar Index'' or ''Index'').[13] The U.S. Dollar Index is a geometrically-averaged calculation of six currencies weighted against the U.S. dollar. The six component currencies are the Euro, Japanese yen, British pound, Canadian dollar, Swedish krona and Swiss franc. The component currencies do not have the same weight. The Euro has a weighting of 57.6%, the Japanese yen a weighting of 13.6%, the British pound a weighting of 11.9%, the Canadian dollar a weighting of 9.1%, the Swedish krona a weighting of 4.2% and the Swiss franc a weighting of 3.6%. The U.S. Dollar Index is calculated by Bloomberg in real time approximately every 15 seconds using the spot prices of the Index's component currencies. The price used for the calculation of the Index is the mid-point between the Bloomberg top of the book bid/offer in the component currencies.

In addition to the data on EUR/USD, CAD/USD, CHF/USD and JPY/USD futures contracts stated herein, as of December 30, 2011, open interest in U.S. Dollar Index futures contracts traded on ICE was $5.44 billion. U.S. Dollar Index futures contracts had an average daily trading volume in 2011 of 30,341 contracts. Open interest in British pound (''GBP/USD'') futures contracts traded on the CME was $19.59 billion, and GBP/USD futures contracts had an average daily trading volume in 2011 of 116,115 contracts. Open interest in Swedish krona (''SEK/USD'') futures contracts traded on the CME was $16.79 million, and SEK/USD futures contracts had an average daily trading volume of 8 contracts.

ProShares UltraPro Yen, ProShares UltraPro Short Yen, and ProShares Short Yen

These Funds will be designed to track a multiple, the inverse or an inverse multiple of the daily performance of the Japanese yen spot price versus the U.S. dollar (''JPY/USD''). The Benchmark for each of these Funds will be the U.S. dollar price of the Japanese yen. These Funds will use the 4 p.m. E.T. Japanese yen exchange rate as provided by Bloomberg, expressed in terms of U.S. dollars per unit of foreign currency, as the basis for the underlying Benchmark. The Japanese yen has been the official currency of Japan since 1871. The Bank of Japan has been operating as the central bank of Japan since 1882. The official currency code for the Japanese yen is ''YEN.''

As of December 30, 2011, open interest in JPY/USD futures contracts traded on the CME was $25.75 billion. JPY/USD futures contracts had an average daily trading volume in 2011 of 113,476 contracts.

Benchmark Futures Contracts Held by the Funds

All open Benchmark Futures Contracts held by the Funds will be traded on a United States exchange and will be calculated at their then current market value, based upon the last traded price before the net asset value (''NAV'') calculation time, for that particular futures contract traded on the applicable United States exchange on the date with respect to which NAV is being determined; provided, that if a futures contract traded on a United States exchange could not be liquidated on such day, due to the operation of daily limits or other rules of the exchange upon which that position is traded or otherwise, the Sponsor may in its sole discretion choose to determine a fair value price as the basis for determining the market value of such position for such day.

The Benchmark Futures Contracts trade on the follow exchanges:

Fund benchmarks	*Benchmark futures contracts*	*Exchange*[14]
Australian dollar/US dollar exchange rate	AUD/USD	CME
Canadian dollar/US dollar exchange rate	CAD/USD	CME
European euro/US dollar exchange rate	EUR/USD	CME
Japanese yen/US dollar exchange rate	JPY/USD	CME
Swiss franc/US dollar exchange rate	CHF/USD	CME
US Dollar Index	USDX	ICE
	CAD/USD	CME
	CHF/USD	CME
	EUR/USD	CME
	GBP/USD	CME
	JPY/USD	CME
	SEK/USD	CME

The daily 4 p.m. E.T. closing value for each Benchmark is published daily on *www.wsj.com*. The value of the Benchmarks will be disseminated by one or more major market data vendors and will be updated at least every 15 seconds during the Exchange's Core Trading Session. Data regarding the Benchmarks is also available from the respective Benchmark provider to subscribers.[15]

[13] The U.S. Dollar Index was created by the U.S. Federal Reserve in 1973. Following the ending of the 1944 Bretton Woods Agreement, which had established a system of fixed exchange rates, the U.S. Federal Reserve Bank began the calculation of the U.S. Dollar Index to provide an external bilateral trade-weighted average of the U.S. dollar as it freely floated against global currencies. Futures contracts based on the U.S. Dollar Index (''USDX'' or ''U.S. Dollar Index futures contracts'') were listed on November 20, 1985, and are now available only on the IntercontinentalExchange (''ICE'') electronic trading platform. Options on the futures contracts began trading on September 3, 1986, and are available both on the ICE electronic trading platform and on the ICE options trading floor.

[14] Each Benchmark Futures Contract trades electronically for 21 or more hours each trading session, beginning every Sunday evening and closing for the week on the following Friday evening.

[15] ICE Futures U.S., Inc. compiles, maintains, determines and weights the components of the U.S. Dollar Index. The U.S. Dollar Index and USDX are trademarks and service marks of ICE Futures U.S., Inc. registered in the United States, Great Britain, the European Union and Japan and used under license. ICE Futures U.S., Inc. is not engaged in the business of trading in commodities or securities but operates a derivatives exchange. ICE Futures U.S., Inc. maintains a Code of Conduct applicable to all personnel that prohibits disclosure of any confidential information obtained during the course of one's employment and the use or disclosure of any material non-public information relating to

Continued

Net Asset Value

According to the Registration Statement, the NAV of each Fund will be total assets including, but not limited to, all cash and cash equivalents or other debt securities, less total liabilities, each determined on the basis of generally accepted accounting principles. In particular, the NAV will include any unrealized profit or loss on Benchmark Futures Contracts and other Fund holdings, and any other credit or debit accruing to a Fund but unpaid or not received by a Fund.

The NAV per Share of each Fund will be computed by dividing the value of the net assets of such Fund (*i.e.,* the value of its total assets, less total liabilities) by its total number of Shares outstanding. Expenses and fees will be accrued daily and taken into account for purposes of determining NAV. The NAV of each Fund will be calculated by the Administrator and will be determined each business day as described in the Registration Statement.

Creation and Redemption of Shares

According to the Registration Statement, the Funds will create and redeem Shares from time to time, but only in one or more ''Creation Units.'' A Creation Unit is a block of 50,000 Shares of a Fund. Creation Units may be created or redeemed only by authorized participants, as described in the Registration Statement. Except when aggregated in Creation Units, the Shares will not be redeemable securities. Authorized participants may pay a fixed and variable transaction fee in connection with each order to create or redeem a Creation Unit. Authorized participants may sell the Shares included in the Creation Units they purchase from the Funds to other investors. On any business day, an authorized participant may place an order with the Distributor to create one or more Creation Units. An order to create or redeem Shares must be placed by 3 p.m. E.T. The total cash payment required to create each Creation Unit will be the NAV of 50,000 Shares of the applicable Fund on the purchase order date plus the applicable transaction fee.

According to the Registration Statement, the procedures by which an authorized participant can redeem one or more Creation Units will mirror the procedures for the purchase of Creation Units. On any business day, an authorized participant may place an order with the Distributor to redeem one or more Creation Units. Individual shareholders may not redeem directly from a Fund.

By placing a redemption order, an authorized participant agrees to deliver the Creation Units to be redeemed through DTC's book-entry system to the applicable Fund not later than noon E.T., on the third business day immediately following the redemption order date (T+3). The redemption proceeds from a Fund will consist of the cash redemption amount. The cash redemption amount will be equal to the NAV of the number of Creation Unit(s) of such Fund requested in the authorized participant's redemption order as of the time of the calculation of such Fund's NAV on the redemption order date, less transaction fees, as described in the Registration Statement.

Availability of Information Regarding the Shares

The Web site for the Funds (*www.proshares.com*) and/or the Exchange, which are publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV per Share; (b) calculation of the premium or discount of the closing market price against the NAV per Share; (c) the prospectus; and (d) other applicable quantitative information.

The NAV per Share will be calculated and disseminated daily. One or more major market data vendors will disseminate for the Funds on a daily basis information with respect to the corresponding Indicative Optimized Portfolio Value (''IOPV'') (as discussed below), recent NAV per Share and Shares outstanding. The Exchange will also make available on its Web site (*www.nyse.com*) daily trading volume of the Shares, closing prices of the Shares, and the NAV per Share. The intraday pricing and settlement values of the Benchmark Futures Contracts held by the Funds are also available from the CME, the ICE, and other public sources or on-line information services such as *www.ino.com*. Real-time dissemination of spot pricing for the Australian dollar, Canadian dollar, Swiss franc, Euro and Japanese yen and data for the U.S. Dollar Index are available from various major market data vendors. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line.

Portfolio Disclosure

Each Fund's total portfolio composition will be disclosed on the Funds' Web site or another relevant Web site as determined by the Trust and/or the Exchange. The Trust will provide Web site disclosure of portfolio holdings daily and will include, as applicable, the description and notional value (in U.S. dollars) of the Funds' investments in Benchmark Futures Contracts and forward contracts, if any, cash equivalents and amount of cash held in the portfolio of each Fund. This public Web site disclosure of the portfolio composition of each Fund will occur at the same time as the disclosure by the Sponsor of the portfolio composition to authorized participants, so that all market participants are provided portfolio composition information at the same time. Therefore, the same portfolio information will be provided on the public Web site as well as in electronic files provided to authorized participants. Accordingly, each investor will have access to the current portfolio composition of each Fund through the Funds' Web site.

Dissemination of Net Asset Value and Indicative Optimized Portfolio Value

The Administrator will calculate and disseminate, once each trading day, the NAV per Share to market participants. The NAV calculation time for each Fund will be 4 p.m. E.T. The Exchange will obtain a representation (prior to listing of the Funds) from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time. In addition, the Sponsor will cause to be made available on a daily basis the total payment required to create each Creation Unit of the applicable Fund on the purchase order date in connection with the issuance of the respective Shares.

The IOPV relating to Shares of each Fund will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[16] The IOPV will be an indicator of the value of the investments and cash and receivables less liabilities of a Fund at the time the IOPV is disseminated. The IOPV will be calculated by NYSE Arca using the prior day's closing net assets of each Fund as a base and updating throughout the Core Trading Session changes in the value of Benchmark Futures Contracts and forward contracts, if any, held by the Fund. The IOPV should not be viewed as an actual real time update of the NAV because NAV is calculated only once at the end of each trading day. The IOPV also should not be viewed as a precise value of the Shares.

changes to the composition of the U.S. Dollar Index or changes to the U.S. Dollar Index methodology in violation of applicable laws, rules or regulations.

[16] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IOPV published on CTA or other data feeds.

Criteria for Initial and Continued Listing

The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Shares.

The minimum number of Shares for each Fund to be outstanding at the start of trading will be 100,000 Shares. The Exchange believes that this minimum number of Shares for each Fund to be outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the objectives of the Funds. The Exchange represents that, for the initial and continued listing of the Shares, the Funds must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A–3 under the Act.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T.[17] The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in TIRs to facilitate surveillance. See ''Surveillance'' below for more information.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying Benchmark Futures Contracts, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule[18] or by the halt or suspension of trading of the underlying Benchmark Futures Contracts.

The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IOPV, the Benchmark value, or the value of the underlying Benchmark Futures Contracts occurs. If the interruption to the dissemination of the IOPV, the Benchmark value, or the value of the underlying Benchmark Futures Contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including TIRs, to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on the ICE and the CME in that these markets are members of the Intermarket Surveillance Group (''ISG''). A list of ISG members is available at *www.isgportal.org.*[19]

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Suitability

Currently, NYSE Arca Equities Rule 9.2(a) (Diligence as to Accounts) provides that an ETP Holder, before recommending a transaction in any security, must have reasonable grounds to believe that the recommendation is suitable for the customer based on any facts disclosed by the customer as to its other security holdings and as to its financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder must make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that such ETP Holder believes would be useful to make a recommendation.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Equities Rule 9.2(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in these securities, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that members must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

In addition, FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to leveraged exchange-traded funds (''ETFs'') (which include the Shares) and options on leveraged ETFs, as described in FINRA Regulatory Notices 09–31 (June 2009), 09–53 (August 2009) and 09–65 (November 2009) (''FINRA Regulatory Notices''). ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in the FINRA Regulatory Notices.

As disclosed in the Registration Statement, the Funds will seek

[17] *See* NYSE Arca Equities Rule 7.34 regarding hours for the NYSE Arca Opening, Core and Late Trading Sessions.

[18] *See* NYSE Arca Equities Rule 7.12.

[19] The Exchange may obtain information regarding Benchmark Futures Contracts from exchanges with which the Exchange has entered into a surveillance sharing agreement or that are ISG members. The Exchange notes that not all components of the portfolio for the Funds may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

leveraged, inverse, or leveraged inverse returns on a daily basis, and the Funds will not seek to achieve their stated investment objective over a period of time greater than one day because compounding prevents the Funds from perfectly achieving such results. Accordingly, results over periods of time greater than one day typically will not be a leveraged multiple (+300% or +200%), the inverse (−100%) or a leveraged inverse multiple (−200% or −300%) of the period return of the applicable Benchmark and may differ significantly from these multiples. The Exchange's Information Bulletin regarding the Funds, described below, will provide information regarding the suitability of an investment in the Shares, as stated in the Registration Statement.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Unit size (and that Shares are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IOPV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. The Exchange notes that investors purchasing Shares directly from the Funds will receive a prospectus. ETP Holders purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Bulletin will reference the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to leveraged ETFs and options on leveraged ETFs. The Information Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Bulletin will reference that the Funds are subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the Commodity Futures Trading Commission has regulatory jurisdiction over the trading of Benchmark Futures contracts traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares of the Funds. The Bulletin will disclose that information about the Shares of the Funds is publicly available on the Funds' Web site.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [20] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Benchmark Futures Contracts held by the Funds are traded on CME and ICE, which are ISG members. Each Fund will seek to achieve its investment objective by investing under normal market conditions, in Benchmark Futures Contracts. In the event position accountability rules or position limits are reached with respect to a particular Benchmark Futures Contract, the Sponsor, may, in its commercially reasonable judgment, cause the relevant Fund to obtain exposure through over-the-counter forward contracts referencing the particular exchange rate, index or index components, or invest in other forward contracts not based on the particular exchange rate, if such instruments tend to exhibit trading prices or returns that correlate with the Benchmarks or any Benchmark Futures Contract and will further the investment objective of a Fund. The intra-day futures prices, closing price and settlement prices of the Benchmark Futures Contracts held by the Funds are also available from the CME and ICE, as applicable, automated quotation systems, published or other public sources, or on-line information services. Quotation and last sale information for the Shares will be available via CTA. Each Fund's total portfolio composition will be disclosed on the Funds' Web site or another relevant Web site.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Real-time dissemination of spot pricing for the Australian dollar, Canadian dollar, Swiss franc, Euro and Japanese yen and data for the U.S. Dollar Index is available from various major market data vendors. The NAV per Share will be calculated daily and made available to all market participants at the same time. One or more major market data vendors will disseminate for the Funds on a daily basis information with respect to the IOPV, recent NAV per Share and Shares outstanding. The IOPV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. Trading in Shares of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. The Exchange may halt trading during the day in which an interruption to the dissemination of the IOPV, the Benchmark value or the value of the underlying Benchmark Futures Contracts occurs. If the interruption to the dissemination of the IOPV, the Benchmark value or the value of the underlying Benchmark Futures Contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

[20] 15 U.S.C. 78f(b)(5).

Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. The Information Bulletin will also reference the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to leveraged ETFs and options on leveraged ETFs.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, IOPV, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2012–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2012–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the 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 Section, 100 F Street, NE., Washington, DC 20549–1090, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2012–04 and should be submitted on or before February 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1290 Filed 1–23–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66178; File No. SR–Phlx–2011–170]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving a Proposed Rule Change Requesting Permanent Approval of the Pilot Program Permitting NASDAQ OMX PSX To Accept Inbound Orders That Nasdaq Execution Services, LLC Routes in Its Capacity as a Facility of the NASDAQ Stock Market LLC

January 18, 2012.

I. Introduction

On December 1, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change requesting permanent approval of the Exchange's pilot program to permit the Exchange's NASDAQ OMX PSX system (''PSX'') to accept certain inbound orders that Nasdaq Execution Services, LLC (''NES'') routes in its capacity as a facility of the NASDAQ Stock Market LLC (''Nasdaq''). The proposed rule change was published for comment in the **Federal Register** on December 15, 2011.[3] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Background

Exchange Rule 985(b) prohibits the Exchange or any entity with which it is affiliated from, directly or indirectly, acquiring or maintaining an ownership interest in, or engaging in a business venture with, an Exchange member or an affiliate of an Exchange member in the absence of an effective filing under Section 19(b) of the Exchange Act.[4] NES is a broker-dealer that is a member of the Exchange, and currently provides to members of Nasdaq optional routing

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65934 (December 9, 2011), 76 FR 78060 (''Notice'').

[4] 15 U.S.C. 78s(b).

services to other market centers.[5] NES is owned by The NASDAQ OMX Group, Inc. (''NASDAQ OMX''), which also owns three registered securities exchanges—Nasdaq, the Exchange, and NASDAQ OMX BX, Inc.[6] Thus, NES is an affiliate of each of these exchanges. Absent an effective filing, Exchange Rule 985(b) would prohibit NES from being a member of the Exchange.

On September 9, 2010, the Commission approved the Exchange's proposed rule change relating to the establishment of PSX as a platform for trading NMS stocks.[7] As part of this approval, the Exchange was approved to receive inbound routes of cash equities orders by NES in its capacity as an order routing facility of Nasdaq on a pilot basis.[8] The Exchange now seeks permanent approval of this inbound routing pilot.[9]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,[11] which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulation thereunder, and the rules of the Exchange. Further, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

Recognizing that the Commission has previously expressed concern regarding the potential for conflicts of interest in instances where a member firm is affiliated with an exchange to which it is routing orders, the Exchange previously implemented limitations and conditions to NES's affiliation with the Exchange to permit the Exchange to accept inbound orders that NES routes in its capacity as a facility of Nasdaq, on a pilot basis.[13] The Exchange now seeks to make this pilot permanent. Specifically, the Exchange states it is in compliance with the following limitations and conditions:[14]

- First, the Exchange and FINRA have entered into a regulatory services agreement (''FINRA RSA'') pursuant to which FINRA reviews NES's compliance with the Exchange's rules through FINRA's examination program.[15] Pursuant to the FINRA RSA, however, the Exchange retains ultimate responsibility for enforcing its rules with respect to NES.
- Second, FINRA and the Exchange[16] will monitor NES for compliance with PSX's trading rules, and collect and maintain certain related information.[17]
- Third, FINRA will provide a report to the Exchange's Chief Regulatory Officer (''CRO''), on at least a quarterly basis, that: (i) quantifies all alerts (of which the Exchange and FINRA become aware) that identify NES as a participant that has potentially violated Commission or Exchange rules and (ii) quantifies the number of investigations that identify NES as a participant that has potentially violated Exchange or Commission Rules.[18]
- Fourth, the Exchange adopted Rule 985(c)(2), which requires NASDAQ OMX, as the holding company owning NES and the Exchange, to establish and maintain procedures and internal controls reasonably designed to ensure that NES does not develop or implement changes to its system on the basis of non-public information regarding planned changes to the Exchange's systems, obtained as a result of its affiliation with the Exchange, until such information is available generally to similarly situated Exchange members in connection with the provision of inbound routing to the Exchange.[19]
- Fifth, routing of orders from NES to the Exchange, in NES's capacity as a facility of Nasdaq, will be authorized for a pilot period of twelve months, as further extended to April 8, 2012.[20]

The Exchange believes that by meeting the above-listed conditions it has set up mechanisms that protect the independence of the Exchange's regulatory responsibility with respect to NES, and has demonstrated that NES cannot use any information advantage it may have because of its affiliation with the Exchange.[21]

In the past, the Commission has expressed concern that the affiliation of an exchange with one of its members raises potential conflicts of interest, and the potential for unfair competitive advantage.[22] Although the Commission

[5] NES operates as a facility of Nasdaq that provides outbound routing from Nasdaq to other market centers, subject to certain conditions. *See* Nasdaq Exchange Rule 4758(b).

[6] *See* Securities Exchange Act Release No. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31) (''Phlx Approval Order''). *See also* Securities Exchange Act Release No. 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01).

[7] *See* Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR–Phlx–2010–79) (''PSX Approval Order'').

[8] *See* PSX Approval Order. *See also* Securities Exchange Act Release No. 65552 (October 13, 2011), 76 FR 64989 (October 19, 2011) (SR–Phlx–2011–139) (extending the inbound routing pilot through April 8, 2012).

[9] *See* Notice.

[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(1).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* PSX Approval Order, 75 FR at 56637—56638.

[14] *See* Notice, 76 FR at 78061.

[15] The Exchange also states that NES is subject to independent oversight by FINRA, its Designated Examining Authority, for compliance with financial responsibility requirements. *See* Notice, 76 FR at 78061, n.5.

[16] Personnel performing real-time oversight of equity trading on Nasdaq will also perform similar functions with respect to PSX pursuant to a regulatory services agreement among Nasdaq, the Exchange, NASDAQ OMX BX, Inc., and NASDAQ OMX (the ''Intercompany RSA'') under the direction, authority, and oversight of Phlx's Chief Regulatory Officer (''CRO'') and the Regulatory Oversight Committee (''ROC'') of its Board of Directors.

[17] Pursuant to the FINRA RSA, both the Exchange and FINRA will collect and maintain all alerts, complaints, investigations and enforcement actions in which NES (in its capacity as a facility of Nasdaq routing orders to the Exchange) is identified as a participant that has potentially violated applicable Commission or Exchange rules. The Exchange and FINRA will retain these records in an easily accessible manner in order to facilitate any potential review conducted by the Commission's Office of Compliance Inspections and Examinations. *See* Notice, 76 FR at 78061, n.7.

[18] *See id.*

[19] *See* Phlx Rule 985(c)(2). *See also* Notice, 76 FR at 78061.

[20] *See* Notice, 76 FR at 78061.

[21] *See id.*

[22] *See, e.g.*, Securities Exchange Act Release Nos. 54170 (July 18, 2006), 71 FR 42149 (July 25, 2006) (SR–NASDAQ–2006–006) (order approving Nasdaq's proposal to adopt Nasdaq Rule 2140, restricting affiliations between Nasdaq and its members); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving the combination of the New York Stock Exchange, Inc. and Archipelago Holdings, Inc.); 58673 (September 29, 2008), 73 FR 57707 (October 8, 2008) (SR–Amex–2008–62) (order approving the

continues to be concerned about potential unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interest when the exchange is affiliated with one of its members, for the reasons discussed below, the Commission believes that it is consistent with the Act to permit NES, in its capacity as a facility of Nasdaq, to provide inbound routing to the Exchange on a permanent basis instead of a pilot basis, subject to the other conditions described above.

The Exchange has proposed four ongoing conditions applicable to NES's inbound routing activities in its capacity as a facility of Nasdaq, which are enumerated above. The Commission believes that these conditions mitigate its concerns about potential conflicts of interest and unfair competitive advantage. In particular, the Commission believes that FINRA's oversight of NES,[23] combined with FINRA's monitoring of NES's compliance with the Exchange's rules and quarterly reporting to Phlx's CRO, will help to protect the independence of the Exchange's regulatory responsibilities with respect to NES.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–Phlx–2011–170) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

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combination of NYSE Euronext and the American Stock Exchange LLC); 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (SR–ISE–2009–85) (order approving the purchase by ISE Holdings of an ownership interest in DirectEdge Holdings LLC); and 59281 (January 22, 2009), 74 FR 5014 (January 28, 2009) (SR–NYSE–2008–120) (order approving a joint venture between NYSE and BIDS Holdings L.P.).

[23] This oversight will be accomplished through the FINRA RSA between the Exchange and FINRA, and, as applicable, a 17d–2 Agreement. *See* PSX Approval Order, 75 FR at 56638, n.80 and accompanying text.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66176; File No. SR–EDGX–2012–03]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGX Rule 1.5(q)

January 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 13, 2012, the EDGX Exchange, Inc. (the ''Exchange'' or the ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

EDGX Exchange, Inc. (''EDGX'' or the ''Exchange''), proposes to amend EDGX Rule 1.5(q) to change the starting time of the Pre-Opening Session from 7 a.m. Eastern Time (''ET'') to 8 a.m. ET. The Exchange proposes to make a conforming amendment to Rule 14.1(c)(2) to change the reference for the starting time of the Pre-Opening Session from 7 a.m. ET to 8 a.m. ET. Through this filing, the Exchange proposes to amend the rule text from SR–EDGX–2011–27,[3] which proposed to change the Pre-Opening Session starting time to 7 a.m. ET. The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange filed a rule change to amend EDGX Rule 1.5(q) to change the starting time of the Pre-Opening Session from 8 a.m. ET to 7 a.m. ET.[4] This change would have allowed the Exchange to compete with other exchanges that open their markets for entry of orders prior to 8 a.m. ET.[5] The Exchange proposes to amend the rule text of its August 25 Rule Filing at this time in order to accommodate Members who initially expressed an interest in the change in Pre-Opening Session time to begin at 7 a.m. ET; but, after further consideration, Members confirmed that they were no longer interested because the additional costs and resources needed to open earlier outweighed any incidental benefits from increased trading activity that they would incur. As such, based on the Exchange's feedback from Members it surveyed in September 2011, the Exchange confirmed that no Members adversely relied upon the August 25 Rule Filing.

At this time, the Exchange has not implemented the 7 a.m. ET starting time for the Pre-Opening Session because it has not notified its Members pursuant to the language in the August 25 Rule Filing.[6] In addition, the Exchange notes Members are not adversely impacted by the amendment to the rule text of the August 25 Rule Filing as no Members were required to incur any costs or make any changes to their systems to comply with the earlier Pre-Opening time if they were not planning to trade beginning at 7 a.m. ET.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65197 (August 25, 2011), 76 FR 54281 (August 31, 2011) (SR–EDGX–2011–27). For the purposes of this filing, the Exchange will refer to SR–EDGX–2011–27 as the ''August 25 Rule Filing.'' Given that the August 25 Rule Filing was immediately effective but not operative, the Exchange proposes to amend its rule text in this filing.

[4] *Id.* The Exchange initially proposed to expand its operational hours to open the System earlier so that Members could enter and execute orders beginning at 7 a.m. ET rather than 8 a.m. ET.

[5] *See* The NASDAQ Stock Market LLC Rule 4617 (opens at 7 a.m. EST). *See also* NASDAQ OMX BX Rule 4617 (opens at 7 a.m. EST); NYSE Arca Equities Rule 7.34 (opens at 1 a.m. Pacific Time).

[6] *See* Securities Exchange Act Release No. 65197 (August 25, 2011), 76 FR 54281 (August 31, 2011) (SR–EDGX–2011–27), stating the Exchange will provide notice to Members in an information circular when the proposed rule change will be effective, which will be no later than January 1, 2012.

Based on the foregoing, the Exchange proposes to amend Rule 1.5(q) and make a conforming amendment to Rule 14.1(c)(2) to change the starting time of the Pre-Opening Session from 7 a.m. ET back to 8 a.m. ET as it appeared before the August 25 Rule Filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[7] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that amending its rule text from the August 25 Rule Filing will afford the Exchange additional time to evaluate the potential benefits of an earlier starting time for the Pre-Opening Session. In addition, the Exchange believes that it is not discriminating against its Members given that the Exchange contacted Members to discuss amending the text of the August 25 Rule Filing, and the Exchange confirmed that no Members had adjusted their infrastructure or incurred any costs in reliance on the August 25 Rule Filing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange notes that waiver of this requirement will permit the Exchange to immediately remove language from its rules that could otherwise create confusion for Members because the 7 a.m. ET start time has not been implemented.[12] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to avoid confusion among its Members and would immediately provide certainty with respect to the Exchange's rules regarding the start time for the Pre-Opening Session. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2012–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2012–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2012–03 and should be submitted on or before February 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1286 Filed 1–23–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *Id.*

[12] *See* Securities Exchange Act Release No. 65197 (August 25, 2011), 76 FR 54281 (August 31, 2011) (SR–EDGX–2011–27), stating the Exchange will provide notice to Members in an information circular when the proposed rule change will be effective, which will be no later than January 1, 2012.

[13] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66174; File No. SR–CBOE–2012–003]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

January 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2012, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule's Volume Incentive Program (the ''Program''), which was implemented on January 1, 2012.[3] The Program credits Trading Permit Holders (''TPHs'') certain per contract amounts resulting from each public customer (''C'' origin code) order transmitted by that TPH which is executed electronically on the Exchange in all multiply-listed option classes (excluding QCC trades), provided the TPH meets certain volume thresholds in a month. The volume thresholds are calculated based on the customer contracts per day (''CPD'') entered and executed over the course of the month.[4] However, the description of the Program does not discuss the results of a circumstance in which there is a CBOE System outage or other interruption of electronic trading on CBOE. Any such interruption would prevent TPHs from electronically executing public customer orders in multiply-listed classes, which would in turn inhibit TPHs from executing enough of those orders to reach the volume thresholds that would allow them to qualify for the credit tiers. As such, the Exchange proposes to add a stipulation that in the event of a CBOE System outage or other interruption of electronic trading on CBOE, the Exchange will take into account, on a pro rata basis, the length of time of the interruption for purposes of calculating the contracts per day (the ''Stipulation'').

For example, consider a situation in which a month has twenty trading days, but a CBOE System outage occurs for one-half of one trading day, and a TPH electronically executes 1,980,000 public customer contracts during that month. Currently, without the Stipulation, the TPH's CPD for the month would be 99,000 (1,980,000 public customer contracts divided by 20 trading days), which would not qualify the TPH for any credits under the Program (as the lowest ($0.05 per contract) credit tier begins at 100,001 CPD). However, with the Stipulation, the Exchange would consider there to have been 19.5 trading days in the month (accounting for the ½ day during which there was a System outage that prevented electronic trading). The TPH's CPD for the month would then be 101,538 (1,980,000 public customer contracts divided by 19.5 trading days), and contracts 100,001 through 101,538 (so, 1,538 contracts per day) would qualify for the $0.05 per contract rebate, so the TPH would receive a credit of $1499.50 (1,538 contracts per day multiplied by 19.5 trading days in the month multiplied by $0.05 per contract credit).

The purpose of this proposed change is to prevent a TPH from failing to meet a credit threshold if the reason for such failure was a CBOE electronic trading interruption.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5)[6] of the Act in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Stipulating that in the event of a CBOE System outage or other interruption of electronic trading on CBOE, the Exchange will take into account, on a pro rata basis, the length of time of the interruption for purposes of calculating the contracts per day perfects the mechanism of a free and open market and protects investors by ensuring that TPHs are not prevented from receiving credits under the Program through no fault of their own.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66054 (December 23, 2011), 76 FR 82332 (December 30, 2011) (SR–CBOE–2011–120).

[4] *See* Exchange Fees Schedule, Section 21.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 C.F.R. 240.19b–4(f)(2).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2012–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2012–003. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–003, and should be submitted on or before February 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–1284 Filed 1–23–12; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Amstem Corporation, Anesiva, Inc., Balsam Ventures, Inc., and Catcher Holdings, Inc.; Order of Suspension of Trading

January 20, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Amstem Corporation because it has not filed any periodic reports since the period ended December 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Anesiva, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Balsam Ventures, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Catcher Holdings, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on January 20, 2012, through 11:59 p.m. EST on February 2, 2012.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–1455 Filed 1–20–12; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Meeting and Webinar on the Active Traffic and Demand Management and Intelligent Network Flow Optimization Operational Concepts; Notice of Public Meeting

AGENCY: Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

The U.S. Department of Transportation (USDOT) Intelligent Transportation System Joint Program Office (ITS JPO) will host a series of free public meetings and webinars to obtain stakeholder input on the Active Traffic and Demand Management (ADTM) and Intelligent Network Flow Optimization (INFLO) operational concepts. The ADTM meeting is scheduled for February 7, 2012, 8:30 a.m. to 4:30 p.m. followed by the INFLO meeting on February 8, 2012, 8:30 to 4:30 p.m. The location for both meetings is the Hall of States, 444 North Capitol Street NW., Washington, DC 20001, (202) 624–5490.

Persons planning to attend any part of the public meetings and/or webinars should register by January 31, 2012 using the following link: *http://www.itsa.org/index.php?option=com_forme&fid=7.* For additional questions, please contact Tyler Messa at *tmessa@itsa.org.*

Background

INFLO is a collection of high-priority transformative applications identified by the USDOT's Mobility program that relate to improving roadway throughput and reducing crashes through the use of frequently collected and rapidly disseminated multi-source data drawn from connected travelers, vehicles, and infrastructure. The program's goal is to support the research and refinement of the INFLO bundle of applications and the potential deployment of an operational system.

ATDM involves market-ready technologies and innovative operational approaches for managing traffic congestion within the existing infrastructure. The vision for ATDM research is to allow transportation agencies to increase traffic flow, improve travel time reliability, and optimize available capacity throughout the transportation network.

Issued in Washington, DC, on the 18th day of January 2012.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2012–1321 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review for Philadelphia International Airport, Philadelphia, PA

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Philadelphia International Airport under the provisions of 49 U.S.C. 47504 (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 Code of Federal Regulations (CFR) Part 150 (hereinafter referred to as ''Part 150'') by the City of Philadelphia. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under Part 150 for Philadelphia International Airport were in compliance with applicable requirements, effective June 1, 2010, and published in the **Federal Register** at 75 FR 44046 (July 27, 2010). The proposed noise compatibility program will be approved or disapproved on or before July 17, 2012.

DATES: *Effective Date:* The effective date of the start of FAA's review of this noise compatibility program is January 20, 2012. The public comment period ends March 19, 2012.

FOR FURTHER INFORMATION CONTACT: Susan L. McDonald, Environmental Protection Specialist, Federal Aviation Administration, Harrisburg Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011, email: *susan.mcdonald@faa.gov*, Telephone: (717) 730–2841. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing the proposed noise compatibility program for the Philadelphia International Airport, Philadelphia, PA, which will be approved or disapproved on or before July 17, 2012. This notice also announces the availability of the program for public review and comment directly to the FAA.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the proposed noise compatibility program for the Philadelphia International Airport, effective on January 20, 2012. The airport operator has requested that the FAA review this material and that the noise mitigation measure, to be implemented jointly by the airport, be approved as a noise compatibility program under Section 47504 of the Act.

Preliminary review of the submitted material indicates that it conforms to Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 17, 2012. The FAA's detailed evaluation will be conducted under the provisions of Section 150.33 of Part 150. The primary considerations in the evaluation process are whether the proposed measure may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether it is reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed noise compatibility program, with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program are available for examination by appointment at the following locations:

Philadelphia International Airport, Office of the Noise Abatement Program Manager, located at 2801 Island Avenue, Suite 13, Philadelphia, PA 19153, Monday–Friday 8 a.m.–4 p.m., and Federal Aviation Administration, Harrisburg Airports District Office, 3905 Hartzdale Drive, Suite 508, Camp Hill, PA 17011, Monday 8 a.m.–4:30 p.m.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Camp Hill, Pennsylvania, January 13, 2012.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2012–1206 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Availability of the Draft Program Environmental Impact Report (PEIR): Southern California Association of Governments (SCAG)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Availability of the Draft Program Environmental Impact Report (PEIR).

SUMMARY: The Southern California Association of Governments (SCAG) has prepared a Draft Program Environmental Impact Report (PEIR), SCH# 2011051018, in accordance with the California Environmental Quality Act for the 2012–2035 Regional Transportation Plan and Sustainable Communities Strategy (2012–2035 RTP/SCS, Plan or Project). Please find attached the Notice of Availability of this Draft PEIR for the 2012–2035 RTP/SCS.

DATES: Hard copies will be available for review at SCAG's office in downtown Los Angeles (at the address above) and at major public libraries in the region (contact SCAG for specific locations). A limited number of CD copies are available upon request. The review period for the Draft 2012–2035 RTP/SCS begins on December 30, 2011. Written comments will be accepted until 5 p.m. on February 14, 2012.

FOR FURTHER INFORMATION CONTACT: Please direct written comments to Jacob Lieb at *2012PEIR@scag.ca.gov* *<mailto:2012PEIR@scag.ca.gov>* or at the address shown above or visit our Web site at *http://www.scag.ca.gov* *http://www.scag.ca.gov/.* Please include a return address and the name of a contact person in your agency, if appropriate.

SUPPLEMENTARY INFORMATION: You are receiving this notice after our initial mail-out because the initial Email attempt to contact you or someone from your agency was returned as undeliverable. We apologize for any inconvenience that this may cause, but we do look forward to receiving any comments and questions regarding the PEIR.

The 2012–2035 RTP/SCS is a long-range regional transportation plan that

provides a blueprint to help achieve a coordinated and balanced regional transportation system in the SCAG region.

The Proposed 2012–2035 RTP/SCS provides land use and transportation recommendations to help achieve a coordinated balance of land uses and transportation improvements such that vehicle trips and vehicle trip lengths are reduced and land is used efficiently and sustainably, thereby minimizing energy and water consumption. The 2012–2035 RTP/SCS contains transportation and urban form strategies that encourage compact growth, increased jobs/housing balance and transit-oriented development, where feasible, in all parts of the region.

The Draft PEIR will be available on SCAG's Web site at *www.scag.ca.gov/peir <http://www.scag.ca.gov/peir.>*

Issued on: January 18, 2012.

Shawn E. Oliver,

Transportation Engineer, Federal Highway Administration, Sacramento, California 95814–4708.

[FR Doc. 2012–1293 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2006–26367 and FMCSA–2011–0131]

Motor Carrier Safety Advisory Committee (MCSAC): Public Meeting Medical Review Board: Joint Public Meeting With MCSAC

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

ACTION: Notice of Meeting of Motor Carrier Safety Advisory Committee (MCSAC) and Joint Meeting with the Medical Review Board (MRB).

SUMMARY: FMCSA announces that MCSAC will hold a meeting on Monday–Thursday, February 6–9, 2012, which will include a joint meeting on Monday, February 6, 2012, with the MRB to finalize recommendations of the joint MCSAC–MRB subcommittee to the FMCSA Administrator on obstructive sleep apnea. The MCSAC will meet separately on Tuesday–Thursday, February 7–8, 2012, where it will consider issues relating to the prevention of harassment of truck and bus drivers through electronic on-board recorders (EOBRs). On Thursday, February 9, there will be a preliminary discussion of ideas and concepts the MCSAC believes the Agency should consider concerning motorcoach hours-of-service (HOS). All four days of the meeting will be open to the public.

Time and Dates: The meetings will be held on Monday–Wednesday, February 6–8, 2012, from 8:30 a.m. to 5 p.m., Eastern Time (E.T.), and on Thursday, February 9, 2012, from 8:30 a.m. to 12 p.m., E.T. The meetings will be held at the Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 in the Washington and Jefferson Rooms on the 2nd floor. The Hilton Alexandria Old Town is located across the street from the King Street Metro station.

Copies of all MCSAC Task Statements and an agenda for the entire 4-day meeting will be made available in advance of the meeting at *http://mcsac.fmcsa.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Elizabeth Turner at (617) 494–2068, *elizabeth.turner@dot.gov,* by Wednesday, February 1, 2012.

SUPPLEMENTARY INFORMATION:

I. Background

MCSAC

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The MCSAC provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations, and operates in accordance with the Federal Advisory Committee Act (FACA, 5 U.S.C. App. 2).

MRB

Section 4116 of the SAFETEA–LU requires the Secretary of Transportation, with the advice of the MRB, to ''establish, review, and revise medical standards for operators of CMVs [commercial motor vehicles] that will ensure that the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely.'' On November 2, 2010, the Secretary of Transportation announced the five medical experts who serve on the MRB. FMCSA is planning revisions to the physical qualification regulations of CMV drivers, and the MRB will provide the necessary science-based guidance to establish realistic and responsible medical standards. The MRB operates in accordance with FACA.

Sleep Apnea and Other Sleep Disorders

The MCSAC and the MRB joint subcommittee on obstructive sleep apnea will report to the full MCSAC and MRB committees its recommendations on ideas and concepts the Agency should consider for a future rulemaking on obstructive sleep apnea. The full committees will consider the report and submit recommendations to the FMCSA Administrator.

Hours-of-Service (HOS) for Drivers of Passenger-Carrying CMVs

The MCSAC will begin consideration of Task 11–06, concerning ideas and concepts the Agency should consider in deciding whether to initiate a rulemaking to amend or revise the HOS requirements for drivers of passenger-carrying CMVs.

Driver Harassment

On August 26, 2011, the Seventh Circuit Court of Appeals vacated the Agency's April 2010 final rule concerning EOBRs because the agency failed to consider a statutory mandate to ''ensure that [EOBRs] are not used to harass vehicle operators'' *Owner-Operator Indep. Drivers Ass'n et al.* v. *Fed. Motor Carrier Safety Admin.,* 656 F.3d 580 (7th Cir. 2011). The FMCSA has requested that the MCSAC provide ideas and concepts on how the Agency could address the statutory mandate in a future EOBR rulemaking.

II. Meeting Participation

Oral comments from the public will be heard during the last hour of the meetings on Monday–Wednesday, and during the last 15 minutes of the meeting on Thursday. Members of the public may submit written comments on the topics to be considered during the meeting by Wednesday, February 1, 2012, to Federal Docket Management System (FDMC) Docket Number FMCSA–2006–26367 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays.

Issued on: January 19, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–1401 Filed 1–23–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0299]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt eight individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective January 24, 2012. The exemptions expire on January 24, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On November 29, 2011, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (76 FR 73769). That notice listed eight applicants' case histories. The eight individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the eight applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The eight exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, and a completely detached retina. In most cases, their eye conditions were not recently developed. Seven of the applicants were either born with their vision impairments or have had them since childhood. One individual sustained his vision condition as an adult and has had it for a period of 4 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these eight drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 5 to 35 years. In the past 3 years, none of the drivers was involved in crashes, two were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the November 29, 2011, notice (76 FR 73769).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in

interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the eight applicants, none of the applicants was involved in crashes, two were convicted of moving violations in a CMV, exceeding the speed limit by 9 mph and 10 mph, respectively. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the eight applicants listed in the notice of November 29, 2011 (76 FR 73769).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the eight individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

Based upon its evaluation of the eight exemption applications, FMCSA exempts Marion J. Coleman, Jr. (KY), Layne C. Coscorrosa (WA), Lex A. Fabrizio (UT), Mark A. Ferris (IA), Charles J. Kennedy (OH), John E. Nichols (PA), Greg W. Story (NC) and Gilford J. Whittle (GA) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may

apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 10, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–1399 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0368]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

SUMMARY: FMCSA announces receipt of applications from twenty individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before February 23, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0368 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1 (202) 493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The twenty individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

Qualifications of Applicants

Guillermo V. Apodaca

Mr. Apodaca, age 76, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Apodaca understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a Commercial Motor Vehicle (CMV) safely. Mr. Apodaca meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from New Mexico.

Charles S. Bird

Mr. Bird, 56, has had ITDM since 2002. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bird understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bird meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Dorin D. Blodgett

Mr. Blodgett, 23, has had ITDM since 1999. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blodgett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blodgett meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A operator's license from Indiana.

James W. Dusing

Mr. Dusing, 58, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dusing understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dusing meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Minnesota.

Jeffrey M. Halida

Mr. Halida, 39, has had ITDM since 1985. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Halida understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Halida meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Matthew E. Hay

Mr. Hay, 25, has had ITDM since 1997. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hay understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Hay meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A operator's license from Texas.

Tracy N. Jenkins

Mr. Jenkins, 49, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jenkins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jenkins meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Delaware.

Jon W. Jernigan

Mr. Jernigan, 29, has had ITDM since 1989. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jernigan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jernigan meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Oklahoma.

Gregory A. King

Mr. King, 32, has had ITDM since 1984. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. King understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. King meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from North Carolina.

Derrick D. LaRue

Mr. LaRue, 50, has had ITDM since 1973. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. LaRue understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. LaRue meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable proliferative diabetic retinopathy. He holds a Class 10 operator's license from Rhode Island.

Matthew R. Linehan

Mr. Linehan, 47, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Linehan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Linehan meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

David J. Lloyd

Mr. Lloyd, 54, has had ITDM since 2002. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lloyd understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lloyd meets the vision requirements of 49 CFR 391.41(b)(10).

His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alabama.

Cory A. Meadows

Mr. Meadows, 21, has had ITDM since 2000. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Meadows understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Meadows meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Lori L. Monosso

Ms. Monosso, 47, has had ITDM since 2005. Her endocrinologist examined her in 2011 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Monosso understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Monosso meets the vision requirements of 49 CFR 391.41(b)(10). Her optometrist examined her in 2011 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Wisconsin.

Kenneth D. Nemetz

Mr. Nemetz, 60, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nemetz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nemetz meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A operator's license from Wisconsin.

John L. Scherette

Mr. Scherette, 48, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Scherette understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scherette meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Washington.

James P. Shurkus

Mr. Shurkus, 56, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shurkus understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shurkus meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Hampshire.

Joel L. Topping

Mr. Topping, 42, has had ITDM since 1984. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Topping understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Topping meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from Nevada.

Joshua C. Wyse

Mr. Wyse, 21, has had ITDM since 2008. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wyse understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wyse meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Rowland P. Yee

Mr. Yee, 51, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yee meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Hawaii.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR

52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: January 13, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–1387 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0365]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from thirteen individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision requirement.

DATES: Comments must be received on or before February 23, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0365 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–(202) 493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Program Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The thirteen individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Daniel C. Berry

Mr. Berry, age 46, has had a prosthetic right eye due to a traumatic injury sustained in childhood. The best corrected visual acuity in left eye, 20/20. Following an examination in 2011, his optometrist noted, ''Mr. Berry has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Berry reported that he has driven straight trucks for 27 years, accumulating 540,000 miles and tractor-trailer combinations for 27 years, accumulating 540,000 miles. He holds a Class A Commercial Driver's License (CDL) from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a Commercial Motor Vehicle (CMV).

Jeffrey H. Bohr

Mr. Bohr, 42, has had a prosthetic left eye due to a traumatic injury sustained in 1987. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his optometrist noted, ''As previously stated Mr. Bohr has completely normal vision in his right eye and should be able to perform

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

driving tasks in a commercial vehicle safely.'' Mr. Bohr reported that he has driven straight trucks for 7 years, accumulating 385,000 miles. He holds a Class B CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William J. Byron

Mr. Byron, 66, has had a macular scar in his right eye due to a traumatic injury sustained in 1977. The best corrected visual acuity in his right eye is 20/125 and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, ''Based on his history and my clinical exams for nearly two years, it is my opinion that Mr. Byron has sufficient vision to safely drive a commercial vehicle.'' Mr. Byron reported that he has driven straight trucks for 10 years, accumulating 120,000 miles and tractor-trailer combinations for 27 years, accumulating 2.295 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael P. Callihan

Mr. Callihan, 49, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/70 and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''Upon review of Mr. Callihan's test results I believe that in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Callihan reported that he has driven straight trucks for 20 years, accumulating 150,000 miles. He holds a Class B CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John Edmondson

Mr. Edmondson, 66, has had amblyopia in left eye since childhood. The best corrected visual acuity in his right eye is 20/400 and in his left eye, 20/25. Following an examination in 2011, his optometrist noted, ''In my medical opinion Mr. Edmondson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Edmondson reported that he has driven tractor-trailer combinations for 37 years, accumulating 925,000 miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard P. Frederiksen

Mr. Frederiksen, 29, has had a prosthesis left eye since age 3 due to a traumatic injury. The best corrected visual acuity in his right eye is 20/120. Following an examination in 2011, his optometrist noted, ''In my professional opinion, Mr. Frederiksen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Frederiksen reported that he has driven tractor-trailer combinations for 11 years, accumulating 550,000 miles. He holds a Class A CDL from Wyoming. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stephen J. Hall

Mr. Hall, 46, has had amblyopia in his right eye due since childhood. The best corrected visual acuity in his right eye is 20/150 and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''I certify that Stephen James Hall, in my medical opinion, has sufficient vision at this point in time to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hall reported that he has driven straight trucks for 22 years, accumulating 1.1 million miles and tractor-trailer combinations for 22 years, accumulating 1.65 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lonnie B. Hicks, Jr.

Mr. Hicks, 33, has had congenial optic atrophy in his right eye since birth. The best corrected visual acuity in his right eye is hand motion vision and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''Mr. Hicks has had this condition since birth and has sufficient vision to continue operating a commercial vehicle.'' Mr. Hicks reported that he has driven straight trucks for 15 years, accumulating 270,000 miles and tractor-trailer combinations for 15 years, accumulating 198,000. He holds a Class D operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Samuel V. Holder

Mr. Holder, 61, has had ocular hypertension in his right eye since 2009 and retinal detachment in his left eye since 2006. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2011, his ophthalmologist noted, ''I felt his vision was good enough to drive a commercial or personal vehicle. I certify his vision is good enough to do this.'' Mr. Holder reported that he has driven straight trucks for 10 years, accumulating 200,000 miles and tractor-trailer combinations for 41 years, accumulating 3.5 million miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy L. Klompien

Mr. Klompien, 51, has had a retina detachment in his right eye due to a traumatic injury sustained in 2006. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, ''I feel he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Klompien reported that he has driven straight trucks for 5 years, accumulating 150,000 miles and tractor-trailer combinations for 15 years, accumulating 1.05 million miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jerry L. Pettijohn

Mr. Pettijohn, 62, has had cataracts in his right eye since 1987. The best corrected visual acuity in his right eye is hand motion vision and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, ''I certify that in my medical opinion, Jerry Pettijohn does have sufficient vision to perform the driving tasks required to operate a commercial vehicle and should qualify for a vision exemption.'' Mr. Pettijohn reported that he has driven straight trucks for 44 years, accumulating 880,000 miles and tractor-trailer combinations for 17 years, accumulating 935,000 miles and buses for 5 years accumulating 25,000 miles. He holds a Class D operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jake Richter

Mr. Richter, 27, has had corneal scarring in his left eye since 1999. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/400. Following an examination in 2011, his optometrist noted, ''My medical opinion is that Mr. Richter has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Richter reported that he has driven straight trucks for 12 years,

accumulating 9,000 miles and tractor-trailer combinations for 3 years, accumulating 18,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bradley S. Sanders

Mr. Sanders, 43, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/60. Following an examination in 2011, his ophthalmologist noted, ''At this time, given Mr. Bradley Sanders' visual acuity bilaterally, the patient has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Sanders reported that he has driven straight trucks for 8 years, accumulating 21,840 miles. He holds a Class D operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business February 23, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: January 13, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–1390 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–10578; FMCSA–2003–16241; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2009–0303]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 6 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective February 9, 2012. Comments must be received on or before February 23, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: FMCSA–2001–10578; FMCSA–2003–16241; FMCSA–2005–22194; FMCSA–2005–22727; FMCSA–2009–0303, using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–(202) 493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 6 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 6 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

James S. Ayers (GA)
Ricky C. Dalton (UT)
Vernon J. Dohrn (MN)
Dennis L. Maxcy (NY)
Cameron S. McMillen (NM)
Dean B. Ponte (MA).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the

individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 6 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 53826; 66 FR 66966; 68 FR 61857; 68 FR 69434; 68 FR 75715; 70 FR 57353; 70 FR 71884; 70 FR 72689; 71 FR 646; 71 FR 4632; 71 FR 6825; 72 FR 71998; 73 FR 6246; 74 FR 60022; 74 FR 65846; 75 FR 1450; 75 FR 4623). Each of these 6 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 23, 2012.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 6 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: January 13, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–1389 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0006–N–2]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on November 17, 2011 (76 FR 71432).

DATES: Comments must be submitted on or before February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., 3rd Floor, Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., 3rd Floor, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On November 17, 2011, FRA published a 60-day notice in the **Federal Register** soliciting comment on these ICRs for which the agency is seeking OMB approval. 76 FR 71432. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to

OMB within 30 days of publication of this Notice to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirements (ICRs) and the expected burden being submitted for clearance by OMB as required by the PRA.

Title: Control of Alcohol and Drug Use in Railroad Operations.

OMB Control Number: 2130–0526.

Type of Request: Extension without change of a previously approved collection.

Affected Public: Businesses.

Abstract: The information collection requirements contained in pre-employment and ''for cause''testing regulations are intended to ensure a sense of fairness and accuracy for railroads and their employees. The principal information—evidence of unauthorized alcohol or drug use—is used to prevent accidents by screening personnel who perform safety-sensitive service. FRA uses the information to measure the level of compliance with regulations governing the use of alcohol or controlled substances. Elimination of this problem is necessary to prevent accidents, injuries, and fatalities of the nature already experienced and further reduce the risk of a truly catastrophic accident.

Form Number: FRA F 6180.73, 6180.74, 6180.94A, 61880.94B.

Total Annual Estimated Burden Hours: 31,797 hours.

ADDRESSES: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira-submissions@omb.eop.gov*.

Comments are invited on the following: 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 best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on January 18, 2012.

Michael Logue,

Acting Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. 2012–1380 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0006–N–1]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requirements (ICRs) abstracted below are being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on November 17, 2011 (76 FR 71433).

DATES: Comments must be submitted on or before February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., 3rd Floor, Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., 3rd Floor, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On November 17, 2011, FRA published a 60-day notice in the **Federal Register** soliciting comment on these ICRs for which the agency is seeking OMB approval. 76 FR 71433. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication of this Notice to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirements (ICRs) and the expected burden being submitted for clearance by OMB as required by the PRA.

Title: Trespasser Death Study.

OMB Control Number: 2130–0563.

Type of Request: Reinstatement of a previously approved collection.

Affected Public: Businesses.

Abstract: Trespasser deaths on railroad rights-of-way and other railroad property are the leading cause of fatalities attributable to railroad operations in the United States. In order to address this serious issue, interest groups, the railroad industry, and government (Federal, State, and local) must know more about the individuals who trespass. With such knowledge, specific educational programs, materials, and messages regarding the hazards and consequences of trespassing on railroad property can be developed and effectively distributed. Due to the lack of available demographic data, FRA proposes to conduct a follow-up study to the one released in 2008 titled *Rail Trespasser Fatalities; Developing Demographic Profile.* The previous study used a private contractor to obtain additional demographic data for the time period of 2003–2005 from local county medical examiners so as to develop a general, regional profile of ''typical'' trespassers in order to target audiences with appropriate education and enforcement campaigns that will reduce the annual

number of injuries and fatalities. The proposed or updated study will cover six additional years of demographic data, and will be used to determine the validity of the earlier regional profile of ''typical'' trespassers or establish a new regional profile of ''typical trespassers.''

Form Number: FRA F 6180.117.

Total Annual Estimated Burden Hours: 183 hours.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira-submissions@omb.eop.gov.*

Comments are invited on the following: 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 best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on January 18, 2012.

Michael Logue,

Acting Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. 2012–1379 Filed 1–23–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2012–0008]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget (OMB) to extend the approval of the following information collection:

49 U.S.C. 5335(a) and (b) National Transit Database

The information collected is used to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The **Federal Register** notice with a 60-day comment period soliciting comments was published on November 7, 2011 (Citation 76 FR 68811). No comments were received from that notice.

DATES: Comments must be submitted before February 23, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. 5335(a) and (b) National Transit Database.

Abstract: 49 U.S.C. Section 5335(a) and (b) requires the Secretary of Transportation to maintain a reporting system, using a uniform system of accounts, to collect financial and operating information from the nation's public transportation systems. Congress created the NTD to be the repository of transit data for the nation to support public transportation service planning. FTA has established the NTD to meet these requirements, and has collected data for over 30 years. FTA continues to seek ways to reduce the burden of NTD reporting, most recently introducing its new Sampling Manual in 2010 to reduce the burden of passenger mile sampling and introducing its new Small Systems Waiver in 2011 to reduce the reporting burden on small transit systems.

The NTD is comprised of four modules, Rural, Annual, Monthly, and Safety & Security.

NTD Rural Module: State DOTs and tribal governments participating in the Tribal Transit Program.

Estimated Annual Burden: Currently FTA receives reports from 54 State and Territorial DOTs, and from 56 Tribal Transit grant recipients. Combined, these States and Tribes report on behalf of approximately 1,450 subrecipients from FTA's Rural (Section 5311) Formula Program. For each subrecipient, the State or Tribe provides identifying information, sources of operating funds, sources of capital funds, vehicle revenue miles, vehicle revenue hours, and unlinked passenger trips. Additionally, a revenue vehicle inventory is reported, as well as total fatalities, injuries, and safety incidents for the year. FTA estimates that it takes approximately 20 hours to report on behalf of each subrecipient, including the time needed for the subrecipient to gather the information and report it to its State DOT, the time for the State DOT to assemble the data and submit it to FTA, and the time to respond to validation questions from FTA about the data.

Estimated Total Annual Burden: 29,000 hours.

Frequency: Annual reports.

NTD Annual Module—Small Systems Waiver: FTA expects about 300 transit systems with 30 or fewer vehicles to claim a Small Systems Waiver.

Estimated Annual Burden: FTA provides reduced reporting requirements to urbanized area transit systems with 30 or fewer vehicles. These systems are exempt from sampling for passenger miles and report only summary financial and operating statistics compared to full reporters in urbanized areas, similar to what is required of the rural subrecipients. Additionally, they also report contact information, funding allocation information, a revenue vehicle inventory, the number of stations and maintenance facilities, and total injuries, fatalities, and safety incidents. The reports are also required to be reviewed by an auditor and certified by the CEO. Systems with this waiver are also exempt from the Monthly and Safety & Security Modules. FTA estimates that completing a report for a Small Systems Waiver requires approximately 27 hours, including time to assemble the information and respond to validation questions from FTA about the report.

Estimated Total Annual Urban Burden: 8,100 hours.

Frequency: Annually.

NTD Annual Module—Full Reports: FTA expects about 400 transit systems to file complete reports, including 10 reports that represent a consolidated report from numerous small systems.

Estimated Annual Burden: The Full Report to the Annual Module is comprehensive. Basic contact information, as well as information on subrecipients and purchased transportation contracts must be provided. Sources of funds for operating expenses and capital expenses must be provided, as well as detailed operating and capital expenses for each mode by function and object class. Key service data collected includes vehicle revenue miles, vehicle revenue hours, unlinked passenger trips, and passenger miles traveled; these must be provided by average weekday, average Saturday, average Sunday, and as an annual total. Most systems that do not inherently collect passenger mile information (such

as a ferryboat or commuter rail) must conduct random sampling for passenger mile information. Large systems with more than 100 vehicles are required to sample for passenger miles every year, whereas smaller systems are only required to sample every third year. A comprehensive revenue vehicle inventory is collected, as well as information on fixed guideway mileage, passenger stations, maintenance facilities, fuel consumption, employee hours, and maintenance breakdowns. Reports are also required to be reviewed by an auditor and certified by the system CEO. Approximately 100 large systems are required to sample for passenger miles each year, while approximately 300 small systems are able to sample every three years. FTA estimates that it takes approximately 340 hours per year to sample for passenger miles, which is amortized over three years for small systems. FTA estimates that completing the remaining financial, operating, resource, and capital asset information requires approximately 200 hours per year per transit system, including gathering the information, completing the forms, and responding to validation questions.

Estimated Total Burden: 210,000 hours.

Frequency: Annually.

NTD Monthly Module: FTA expects about 450 transit systems to report to the Monthly Module.

Estimated Annual Burden: Each month, vehicle revenue miles, vehicle revenue hours, unlinked passenger trips, and vehicles operated in maximum service are submitted to the Monthly Module. FTA estimates that it takes approximately 4 hours each month for each system to report the data, including collecting and assembling the data for each mode, filling out the form, and responding to any validation questions in regards to the data.

Estimated Total Annual Urban Burden: 19,200 hours.

Frequency: Monthly.

NTD Safety & Security Module: FTA expects about 450 transit systems to report to the Safety & Security Module.

Estimated Annual Burden: Each system provides an annual report on the total number of security personnel, and an annual CEO certification of the safety data. Each month, systems provide a summary report of all minor fires and all incidents resulting in single-person injuries due to slips, falls, or electrical shocks. Additionally, systems must provide a detailed report within 30 days of any incident involving one or more fatalities, one or more injuries, or total property damage in excess of $25,000. FTA currently receives about 5,000 major incident reports per year, and estimates that it takes on average about 2 hours to collect data for each incident, enter it into the NTD, and respond to any validation question. Additionally, FTA estimates that each of the 450 full reporters spend on average one hour each month completing the minor incident summary reports.

Estimated Total Annual Urban Burden: 14,800 hours.

Frequency: Monthly.

Total Annual NTD Burden: 281,100 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW., Washington, DC 20503, Attention: FTA 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.

Issued on: January 19, 2012.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2012–1393 Filed 1–23–12; 8:45 am]

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H.R. 1540/P.L. 112–81

National Defense Authorization Act for Fiscal Year 2012 (Dec. 31, 2011; 125 Stat. 1298)

H.R. 515/P.L. 112–82

Belarus Democracy and Human Rights Act of 2011 (Jan. 3, 2012; 125 Stat. 1863)

H.R. 789/P.L. 112–83

To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the "Sergeant Matthew J. Fenton Post Office". (Jan. 3, 2012; 125 Stat. 1869)

H.R. 1059/P.L. 112–84

To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Jan. 3, 2012; 125 Stat. 1870)

H.R. 1264/P.L. 112–85

To designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the "M.D. Anderson Plaza" and to authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.S. Anderson. (Jan. 3, 2012; 125 Stat. 1871)

H.R. 1801/P.L. 112–86

Risk-Based Security Screening for Members of the Armed Forces Act (Jan. 3, 2012; 125 Stat. 1874)

H.R. 1892/P.L. 112–87

Intelligence Authorization Act for Fiscal Year 2012 (Jan. 3, 2012; 125 Stat. 1876)

H.R. 2056/P.L. 112–88

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes. (Jan. 3, 2012; 125 Stat. 1899)

H.R. 2422/P.L. 112–89

To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the "Sergeant Angel Mendez Post Office". (Jan. 3, 2012; 125 Stat. 1903)

H.R. 2845/P.L. 112–90

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Jan. 3, 2012; 125 Stat. 1904)

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