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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 760, and 790

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending the sections of NCUA's regulations addressing nondiscrimination requirements, flood insurance and the description of NCUA to make minor, nonsubstantive technical corrections. The technical amendments update the regulations to reflect current agency practice and will not cause any substantive changes.

DATES: This rule is effective March 21, 2012.

FOR FURTHER INFORMATION CONTACT: Lance Noggle, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6555.

SUPPLEMENTARY INFORMATION:

I. Background
II. Regulatory Changes
III. Regulatory Procedures

I. Background

A. Why is NCUA adopting this rule?

NCUA reviews one-third of its regulations each year to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2, Developing and Reviewing Government Regulations. In its 2011 review, NCUA determined minor revisions to parts 760 and 790 are necessary to reflect current agency practice. In addition, a similar update to part 701 is made.

B. What changes does this rule make?

This rule amends parts 701, 760 and 790 of NCUA's regulations to make minor technical corrections. The corrections are necessary to update and conform the sections to current agency practice. Specifically, section 701.31 is updated to reflect that the Board has redesignated the Office of Consumer Protection to hear discrimination complaints under the Fair Housing Act and Equal Credit Opportunity Act. The Office of Examination and Insurance previously was assigned this responsibility. The rule amends section 701.31 to remove references to ''Office of Examination and Insurance'' and to replace those references with ''Office of Consumer Protection''. Section 760.6 is updated to replace the Federal Emergency Management Administration's mailing address with its Web site address. Section 790.2 is amended to add the Office of Minority and Women Inclusion [1] to the list of office descriptions; remove the separate description of the Office of Capital Markets and Planning and incorporate it into the description of the Office of Examination and Insurance; change the title of Director to Chief Financial Officer in the description of the Office of the Chief Financial Officer; update the description of the Regional Offices to reflect that other offices are primarily involved in chartering and insurance issues; and update the contact address of Region II.

II. Regulatory Changes

This rule provides minor technical corrections and will not cause any substantive changes.

III. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

The Board is issuing this rulemaking as a final rule, effective upon publication. Generally, the Administrative Procedure Act (APA) requires a rulemaking to be published as a notice of proposed rulemaking with the opportunity for public comment, unless the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553. The Board believes good cause exists for issuing these amendments without notice and public comment. The amendments in this rule are not substantive, but merely technical in that they make minor corrections to update the regulations and conform them to current agency practice.

Additionally, the APA requires that a final rule must have a delayed effective date of 30 days from the date of publication, except for good cause. 5 U.S.C. 553(d). The Board also finds good cause to waive the customary 30-day delayed effective date requirement under the APA. 5 U.S.C. 553(d)(3). Again, the technical changes conform the rules to current agency practice. This rule will, therefore, be effective immediately upon publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those credit unions under ten million dollars in assets). This rule does not impose any regulatory burden. It merely makes non-substantive technical changes to parts 701, 760 and 790 of NCUA's regulations. These changes will not have a significant economic impact on a substantial number of small credit unions. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden. 44 U.S.C. 3507(d); 5 CFR part 1320. For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. These technical amendments do not impose any new paperwork burden.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive

[1] The Office of Minority and Women Inclusion was required to be established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

order. These changes will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that these changes do not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the APA. 5 U.S.C. 551. Based on similar technical changes to the NCUA regulations, we believe the Office of Management and Budget will determine that this rule is not a major rule for purposes of SBREFA. As required by SBREFA, NCUA will file the appropriate reports with Congress and the General Accounting Office so this rule may be reviewed.

List of Subjects

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Marital status discrimination, Mortgages, Religious discrimination, Sex discrimination, Signs and symbols.

12 CFR Part 760

Flood insurance.

12 CFR Part 790

Organization and functions (Government agencies).

By the National Credit Union Administration Board on March 15, 2012.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, NCUA amends 12 CFR parts 701, 760, and 790 of title 12, chapter VII, of the Code of Federal Regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761A, 1761B, 1766, 1767, 1782, 1784, 1786, 1787, 1789, Section 701.6 is also authorized by 15 U.S.C. 1601, *et seq.;* 42 U.S.C. 1981 and 3601–3610, Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Section 701.31 is amended by revising the image in paragraph (d)(3).

§ 701.31 Nondiscrimination requirements.

* * * * *

(d) * * *

(3) * * *

BILLING CODE 7535–01–P

EQUAL HOUSING OPPORTUNITY

EQUAL HOUSING LENDER

We Do Business in Accordance With
Federal Fair Lending Laws

UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development Washington, D.C. 20410
For processing under the Federal Fair Housing Act
and to:
National Credit Union Administration
Office of Consumer Protection
Alexandria, VA 22314-3428
For processing under NCUA Regulations

UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL TO DISCRIMINATE IN ANY CREDIT TRANSACTION:

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU SHOULD SEND A COMPLAINT TO:

National Credit Union Administration
Office of Consumer Protection
Alexandria, VA 22314-3428

NCUA 1582
(Revised 2/2012)

BILLING CODE 7535–01–C

* * * * *

PART 760—LOANS IN AREAS HAVE SPECIAL FLOOD HAZARDS

■ 3. The authority for citation part 760 continues to read as follows:

Authority: 12 U.S.C. 1757, 1789; 42 U.S.C 4012a, 4104, 4104b, 4106, and 4128.

§ 760.6 [Amended]

■ 4. Section 760.6 is amended by removing from paragraph (a) ''FEMA, P.O. Box 2012, Jessup, MD 20794–2012'' and adding in its place ''FEMA's Web site at *www.fema.gov*''.

PART 790—DESCRIPTION OF NCUA; REQUEST FOR AGENCY ACTION

■ 5. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f.

■ 6. In § 790.2:

■ a. Revise paragraphs (b)(4), (b)(5), and (b)(13);

■ b. Remove from table in paragraph (c)(1) the address for Region No. II ''1775 Duke Street, Suite 4206, Alexandria, VA 22314–3437'' and add in its place ''1900 Duke St., Suite 300, Alexandria, VA 22314–3498''; and

■ c. Revise paragraph (c)(2).

The revisions read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(4) *Office of Chief Financial Officer.* NCUA's Chief Financial Officer is in charge of budgetary, accounting and financial matters for the NCUA, including responsibility for submitting annual budget and staffing requests for approval by the Board and, as required, by the Office of Management and Budget; for managing NCUA's budgetary resources; for managing the operations of the National Credit Union Share Insurance Fund (NCUSIF) to include accounting, financial reporting and the collection and payment of capitalization deposits, insurance premiums and insurance dividends; for collecting annual operating fees from federal credit unions; for maintaining NCUA's accounting system and accounting records; for processing payroll, travel, and accounts payable disbursements; and for preparing internal and external financial reports. The Chief Financial Officer is also responsible for providing NCUA's executive offices and Regional Directors with administrative services, including: agency security; contracting and procurement; management of equipment and supplies; acquisition; printing; graphics; and warehousing and distribution.

(5) *Office of Examination and Insurance.* The Director of the Office of Examination and Insurance: formulates standards and procedures for examination and supervision of the community of federally insured credit unions, and reports to the Board on the performance of the examination program; manages the risk to the NCUSIF, to include overseeing the NCUSIF Investment Committee, monitoring the adequacy of NCUSIF reserves, analyzing the reasons for NCUSIF losses, formulating policies and procedures regarding the supervision of financially troubled credit unions, and evaluating certain requests for special assistance pursuant to Section 208 of the Federal Credit Union Act and for certain proposed administrative actions regarding federally insured credit unions; serves as the Board expert on accounting principles and standards and on auditing standards; represents NCUA at meetings with the American Institute of Certified Public Accountants (AICPA), Federal Financial Institutions Examination Council (FFIEC) and General Accounting Office (GAO); and collects data and provides statistical reports. The Director is responsible for developing and conducting research in support of NCUA programs, and for preparing reports on research activities for the information and use of agency staff, credit union officials, state credit union supervisory authorities, and other governmental and private groups. The Director is also responsible for providing interest rate risk assessment, investment expertise and advice to the Board and agency staff and conducting research and development to assess risk areas of emerging products, delivery systems, infrastructure issues, and investments.

* * * * *

(13) *Office of Minority and Women Inclusion.* The Office of Minority and Women Inclusion was established pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. It has the responsibility for all NCUA matters relating to diversity in management, employment, and business activities. Specific duties of the office include developing and implementing standards for: equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of NCUA; increased participation of minority-owned and women-owned businesses in the programs and contracts of NCUA, including standards for coordinating technical assistance to such businesses; assessing the diversity policies and practices of credit unions regulated by NCUA; and preserving credit unions run by minorities and/or serving minorities.

* * * * *

(c) * * *

(2) A Regional Director is in charge of each Regional Office. The Regional Director manages NCUA's programs in the Region assigned in accordance with established policies. A Regional Director's duties include: directing examination and supervision programs to promote and assure safety and soundness; assisting other offices in chartering and insurance issues; managing regional resources to meet program objectives in the most economical and practical manner; and maintaining good public relations with public, private, and governmental organizations, Federal credit union officials, credit union organizations, and other groups which have an interest in credit union matters in the assigned Region. The Regional Director maintains liaison and cooperation with other regional offices of Federal departments and agencies, state agencies, city and county officials, and other governmental units that affect credit unions. The Regional Director is aided by an Associate Regional Director for Operations and Associate Regional Director for Programs. Staff working in the Regional Office report to the Associate Regional Director for Operations. Each region is divided into examiner districts, each assigned to a Supervisory Credit Union Examiner; groups of examiners are directed by a Supervisory Credit Union Examiner, each of whom in turn reports directly to the Associate Regional Director for Programs.

[FR Doc. 2012–6835 Filed 3–20–12; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1088; Directorate Identifier 2011–NM–099–AD; Amendment 39–16985; AD 2012–06–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted by reports of difficulties in opening the airstair door. This AD requires inspecting the structure and gearbox drain paths for blockages by sealant, and removing any blockages. We are issuing this AD to detect and correct drain paths blocked by sealant, resulting in an airstair door that is unable to be opened, which could hinder evacuation in the event of an emergency.

DATES: This AD becomes effective April 25, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 25, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 19, 2011 (76 FR 64849), and proposed to correct an unsafe condition for the specified products. The MCAI states:

> Several operators have reported difficulties in opening the airstair door. Investigation revealed that the airstair door gearbox drain paths were blocked by sealant, causing water to accumulate and freeze in the gearbox assembly. An airstair door that is unable to be opened could hinder evacuation in the event of an emergency.
>
> This [Canadian] directive mandates a one-time [general visual] inspection [for sealant blockages] and [removal of any] sealant interfering with the airstair gearbox drain paths.

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

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter, Air Line Pilots Association, International, supports the NPRM (76 FR 64849, October 19, 2011).

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 64849, October 19, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 64849, October 19, 2011).

Costs of Compliance

We estimate that this AD will affect about 83 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $14,110, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $0, for a cost of $255. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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 the NPRM (76 FR 64849, October 19, 2011), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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:

2012–06–04 Bombardier, Inc.: Amendment 39–16985. Docket No. FAA–2011–1088; Directorate Identifier 2011–NM–099–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 25, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes; certificated in any category; serial numbers 4161 through 4296 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 53: Fuselage.

(e) Reason

This AD was prompted by reports of difficulties in opening the airstair door. We are issuing this AD to detect and correct drain paths blocked by sealant, resulting in an airstair door that is unable to be opened, which could hinder evacuation in the event of an emergency.

(f) Compliance

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

(g) Actions

Within 600 flight hours after the effective date of this AD, do a general visual inspection of the structure and gearbox drain paths for blockages by sealant, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–53–48, dated December 2, 2010. If any blockages are found, before further flight, remove blockages, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–53–48, dated December 2, 2010.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–06, dated April 26, 2011; and Bombardier Service Bulletin 84–53–48, dated December 2, 2010; for related information.

(j) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Bombardier Service Bulletin 84–53–48, dated December 2, 2010.

(2) For service information identified in this AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 9, 2012.

Ali Bahrami

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6531 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1324; Directorate Identifier 2011–NM–104–AD; Amendment 39–16983; AD 2012–06–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes), and Model A310 series airplanes. This AD was prompted by a report of a crack in the selector valve pipe of the forward cargo door located in the avionics bay opposite the line replaceable unit racking. This AD requires replacing a certain aluminum high pressure pipe with a new corrosion resistant stainless steel pipe. We are issuing this AD to prevent cracking in the selector valve pipe of the forward cargo door which could impact the 90 VU avionics line replaceable unit, and could result in multiple computer failures, affecting flight safety.

DATES: This AD becomes effective April 25, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 25, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 22, 2011 (76 FR 79558). That NPRM proposed to require replacing a certain aluminum high pressure pipe with a new corrosion resistant stainless steel pipe. The MCAI states:

> An A300–600 operator has reported a hydraulic leak at the forward cargo door area. After further investigation, the forward cargo door selector valve pipe Part Number (P/N) A5231006100300, located in the avionics bay opposite to Line Replaceable Unit (LRU) racking, was found cracked.
>
> This condition, if not detected and corrected, can impact the 90 VU avionics LRU, which could result in multiple computer failures, affecting flight safety.
>
> For the reasons described above, this AD requires the replacement of the aluminum pipe P/N A5231006100300 with a stainless steel pipe P/N A5231007000600.
>
> This [EASA] AD has been corrected to make clear that the use of Airbus SB A310–

52–2067 and Airbus SB [service bulletin] A300–52–6065 at original issue is acceptable to comply with paragraph (1) of this [EASA] AD, unless, inadvertently, the high pressure pipe P/N A5231007000600 has been replaced in service, after original issue of the SB's accomplishment, with P/N A5231006100300.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 79558, December 22, 2011) or on the determination of the cost to the public.

Changes to AD

We have clarified that the models affected by Airbus Mandatory Service Bulletin A300–52–6065, Revision 01, dated July 5, 2010, are Model A300–600 series airplanes. We have changed paragraph (g) of this AD accordingly.

We have revised the heading for and the wording in paragraph (j) of this AD; this change has not changed the intent of that paragraph.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes and/or the changes described previously. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 79558, December 22, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 79558, December 22, 2011).

Costs of Compliance

We estimate that this AD will affect 152 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $51,680, or $340 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

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 the NPRM (76 FR 79558, December 22, 2011), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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:

2012–06–02 Airbus: Amendment 39–16983. Docket No. FAA–2012–1324; Directorate Identifier 2011–NM–104–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 25, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category; all certificated models, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 52: Doors.

(e) Reason

This AD was prompted by a report of a crack in the selector valve pipe of the forward cargo door located in the avionics bay opposite the line replaceable unit racking. We are issuing this AD to prevent cracking in the selector valve pipe of the forward cargo door which could impact the 90 VU avionics line replaceable unit, and could result in multiple computer failures, affecting flight safety.

(f) Compliance

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

(g) Replacement

Except as provided by paragraph (h) of this AD: Within 30 months or 6,000 flight hours after the effective date of this AD, whichever occurs first, replace the aluminum high pressure pipe having part number (P/N) A5231006100300 with a new pipe made of corrosion resistant stainless steel and having P/N A5231007000600, in accordance with the Accomplishment Instructions of Airbus

Mandatory Service Bulletin A300–52–6065, Revision 01, dated July 5, 2010 (for Model A300–600 series airplanes); or A310–52–2067, Revision 01, dated July 5, 2010 (for Model A310 series airplanes).

(h) Exception

Any airplane that has incorporated Airbus Modification 12464 in production has the new P/N A5231007000600 installed and is therefore compliant with the requirements of paragraph (g) of this AD. If the high pressure pipe has been replaced with P/N A5231006100300 in service after delivery of the airplane, replace the high pressure pipe in accordance with paragraph (g) of this AD within the times specified in paragraph (g) of this AD.

(i) Parts Installation

As of the effective date of this AD, no person may install an aluminum high pressure pipe having P/N A5231006100300, on any airplane.

(j) Credit for Previous Actions

This paragraph gives credit for the replacement required by paragraph (g) of this AD, if the replacement was done before the effective date of this AD using Airbus Service Bulletin A300–52–6065, dated July 9, 2002 (for Model A300–600 series airplanes); or A310–52–2067, dated July 9, 2002 (for Model A310 series airplanes).

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(l) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2011–0085, dated May 12, 2011 (corrected May 31, 2011); Airbus Mandatory Service Bulletin A300–52–6065, Revision 01, dated July 5, 2010; and Airbus Mandatory Service Bulletin A310–52–2067, Revision 01, dated July 5, 2010; for related information.

(m) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Airbus Mandatory Service Bulletin A300–52–6065, Revision 01, dated July 5, 2010.

(ii) Airbus Mandatory Service Bulletin A310–52–2067, Revision 01, dated July 5, 2010.

(2) For service information identified in this AD, contact Airbus SAS–EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*.

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

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on March 8, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6520 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1414; Directorate Identifier 2011–NM–227–AD; Amendment 39–16982; AD 2012–06–01]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company Model 560XL airplanes. This AD was prompted by reports of jammed or stiff rudder control due to water freezing on the rudder bias cables and pulleys of the stinger. This AD requires modification of the drain installation of the tailcone stinger on the aft canted bulkhead, inspections for drain holes in the forward and aft frames, and modification of the drain holes. We are issuing this AD to prevent ice accumulation on the cables and pulleys of the stinger, which could result in jamming of the rudder and consequent reduced controllability of the airplane.

DATES: This AD is effective April 25, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 25, 2012.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: David Fairback, Aerospace Engineer, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4154; fax: (316) 946–4107; email: *david.fairback@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would

apply to the specified products. That NPRM was published in the **Federal Register** on December 30, 2011 (76 FR 82205). That NPRM proposed to require modification of the drain installation of the tailcone stinger on the aft canted bulkhead, inspections for drain holes in the forward and aft frames, and modification of the drain holes.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. The National Transportation Safety Board supports the NPRM (76 FR 82205, December 30, 2011).

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed–except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 82205, December 30, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 82205, December 30, 2011).

Costs of Compliance

We estimate that this AD affects 475 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification of stinger drain installation	10 work-hours × $85 per hour = $850	$489	$1,339	$636,025
Prior/concurrent modification of drain holes	5 work-hours × $85 per hour = $425	255	680	323,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–06–01 Cessna Aircraft Company: Amendment 39–16982 ; Docket No. FAA–2011–1414; Directorate Identifier 2011–NM–227–AD.

(a) Effective Date

This AD is effective April 25, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Cessna Aircraft Company Model 560XL airplanes; certificated in any category; serial numbers –5002 through –5372 inclusive, –5501 through –5830 inclusive, –6002 through –6080 inclusive, and –6082 through –6086 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of jammed or stiff rudder control due to water freezing on the rudder bias cables and pulleys of the stinger. We are issuing this AD to prevent ice accumulation on the cables and pulleys of the stinger, which could result in jamming of the rudder and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Modification of the Drain Installation

Within 800 flight hours or 12 months after the effective date of this AD, whichever occurs first: Modify the drain installation of the tailcone stinger on the aft canted bulkhead (i.e., install a drain and rubber seals), in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB560XL–53–16, dated October 4, 2011.

(h) Modification of the Drain Holes

For airplanes identified in Cessna Alert Service Letter ASL560XL–53–08, dated January 21, 2011: Prior to or concurrently with the modification required by paragraph (g) of this AD, modify the drain holes, including inspecting for a missing drain hole and, before further flight, drilling a larger drain hole as applicable; in accordance with the Accomplishment Instructions of Cessna Alert Service Letter ASL560XL–53–08, dated January 21, 2011.

Note 1 to paragraphs (g) and (h) of this AD: After accomplishing the actions required by paragraphs (g) and (h) of this AD, maintenance and/or preventative maintenance under 14 CFR part 43 is permitted provided the maintenance does not

result in changing the AD-mandated configuration (reference 14 CFR 39.7).

(i) No Reporting

Although Cessna Service Bulletin SB560XL–53–16, dated October 4, 2011; and Cessna Alert Service Letter ASL560XL–53–08, dated January 21, 2011; both specify to submit certain maintenance information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(k) Related Information

For more information about this AD, contact David Fairback, Aerospace Engineer, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4154; fax: (316) 946–4107; email: *david.fairback@faa.gov.*

(l) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) on the date specified under 5 U.S.C. 552(a) and 1 CFR part 51.

(i) Cessna Service Bulletin SB560XL–53–16, dated October 4, 2011, including Service Bulletin Supplemental Data SB560XL–53–16, Revision A, dated October 20, 2011.

(ii) Cessna Alert Service Letter ASL560XL–53–08, dated January 21, 2011.

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.*

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

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

Issued in Renton, Washington, on March 9, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6522 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0129; Airspace Docket No. 12–AWA–1]

RIN 2120–AA66

Revocation of Multiple Domestic, Alaskan, and Hawaiian Compulsory Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes twenty-two Domestic, Alaskan, and Hawaiian compulsory reporting points previously removed from service and taken out of the FAA aeronautical database. The FAA is removing these Part 71 outdated compulsory reporting points since they are no longer valid, to be consistent with the FAA's aeronautical database. This will avoid confusion and eliminate safety issues with existing fixes using the same fix name elsewhere within the National Airspace System (NAS).

DATES: Effective date 0901 UTC, May 31, 2012. The Director of the **Federal Register** approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, 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:

History

After a recent review of aeronautical data, the National Flight Data Center (NFDC) identified twenty-two compulsory reporting points listed in FAA Order (FAAO) 7400.9, Airspace Designations and Reporting Points that were no longer valid and not contained in the FAA's aeronautical database as reporting points. The reporting points included fourteen Domestic reporting points designated at all altitudes, two Alaskan low altitude and five Alaskan high altitude reporting points, and one Hawaiian reporting point designated at all altitudes. No regulatory actions were accomplished prior to these compulsory reporting points being removed from the FAA aeronautical database and seven of the reporting point names have since been reused for navigation fixes elsewhere within the NAS. To overcome confusion and flight safety issues associated with publishing outdated and conflicting compulsory reporting point information, the FAA is removing the twenty-two reporting points, as identified by NFDC, from Part 71, and removing them from FAAO 7400.9. Accordingly, since this is an administrative change and does not affect any current compulsory reporting points, notice and public procedures under Title 5 U.S.C. 553(b) are unnecessary.

The Rule

The FAA amends Title 14 Code of Federal Regulations (14 CFR) part 71 by removing fourteen Domestic reporting points designated at all altitudes, two Alaskan low altitude and five Alaskan high altitude reporting points, and one Hawaiian reporting point. Specifically, the FAA removes the ABACO, ALLBA, BACUS, BRIMS, CARPS, CATFI, CRABI, EARNS, FLASH, FLORI, GATES, OHIOS, SMELT, and SQUID Domestic reporting points; the NESSY and SAVRY (both low altitude) and the AUGIN, ENCOR, KILLA, NESSY, and SAVRY (all high altitude) Alaskan reporting points; and the SHILA Hawaiian reporting point, from part 71.

Domestic Reporting Points designated at all altitudes are listed in paragraph 7003 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. Alaskan Low Altitude Reporting Points are listed in paragraph 7004 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. Alaskan High Altitude Reporting Points are listed in paragraph 7005 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. Hawaiian Reporting Points are listed in paragraph 7006 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 reporting points listed in this document will be revised subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

necessary to keep them operationally current. Therefore, this 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 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 removes Domestic, Alaskan, and Hawaiian Reporting Points contained in the NAS.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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, signed August 9, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 7003 Other domestic reporting points.

ABACO: [Removed]

* * * * *

ALLBA: [Removed]

BACUS: [Removed]

* * * * *

BRIMS: [Removed]

CARPS: [Removed]

CATFI: [Removed]

* * * * *

CRABI: [Removed]

* * * * *

EARNS: [Removed]

FLASH: [Removed]

FLORI: [Removed]

GATES: [Removed]

* * * * *

OHIOS: [Removed]

* * * * *

SMELT: [Removed]

SQUID: [Removed]

* * * * *

Paragraph 7004 Alaskan low altitude reporting points.

* * * * *

NESSY: [Removed]

* * * * *

SAVRY: [Removed]

* * * * *

Paragraph 7005 Alaskan high altitude reporting points.

* * * * *

AUGIN: [Removed]

* * * * *

ENCOR: [Removed]

* * * * *

KILLA: [Removed]

* * * * *

NESSY: [Removed]

* * * * *

SAVRY: [Removed]

* * * * *

Paragraph 7006 Hawaiian reporting points.

* * * * *

SHILA: [Removed]

* * * * *

Issued in Washington, DC, March 12, 2012.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2012–6744 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 39 and 40

[Docket No. RM11–16–000; Order No. 759]

Transmission Relay Loadability Reliability Standard

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission approves Reliability Standard PRC–023–2 (Transmission Relay Loadability) submitted by the North American Electric Reliability Corporation (NERC), the Electric Reliability Organization certified by the Commission. The Reliability Standard requires transmission owners, generation owners, and distribution providers to set load-responsive phase protective relays according to specific criteria to ensure that the relays reliably detect—and protect the electric network from—fault conditions, but do not limit transmission loadability or interfere with system operators' ability to protect system reliability. The Commission also approves NERC Rules of Procedure Section 1700—Challenges to Determinations, which provides registered entities a means to challenge determinations made by planning coordinators under Reliability Standard PRC–023.

DATES: *Effective Date:* This rule will become effective May 7, 2012.

FOR FURTHER INFORMATION CONTACT:

Kevin Ryan (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6840.

Kenneth U. Hubona (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 13511 Label Lane, Suite 203, Hagerstown, MD 21740, (301) 665–1608.

SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

Transmission Relay Loadability Reliability Standard

Docket No. RM11–16–000

Order No. 759

Final Rule

(Issued March 15, 2012)

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission approves Reliability Standard PRC–023–2 (Transmission Relay Loadability) submitted by the North American Electric Reliability Corporation (NERC), the Electric Reliability Organization (ERO) certified by the Commission. The Reliability Standard requires transmission owners, generation owners, and distribution providers to set load-responsive phase protective relays according to specific criteria to ensure that the relays reliably detect—and protect the electric network from—fault conditions, but do not limit transmission loadability or interfere with system operators' ability to protect system reliability.[2] The Commission also approves NERC Rules of Procedure Section 1700—Challenges to Determinations, which provides registered entities a means to challenge determinations made by planning coordinators under Reliability Standard PRC–023.

I. Background

A. Relay Protection Systems

2. Protective relays are devices that detect and initiate the removal of faults on an electric system.[3] They are designed to read electrical measurements, such as current, voltage, and frequency, and can be set to recognize certain measurements as indicating a fault. When a protective relay detects a fault on an element of the system under its protection, it sends a signal to an interrupting device(s) (such as a circuit breaker) to disconnect the element from the rest of the system. Impedance relays, which are the most common type of relays used to protect transmission lines, continuously measure voltage and current on the protected transmission line and operate when the measured magnitude and phase angle of the impedance (voltage/current) falls within the settings of the relay.

B. Reliability Standard PRC–023–1 and Order No. 733

3. Currently effective Reliability Standard PRC–023–1 applies to relay settings on (1) all transmission lines and transformers with low-voltage terminals operated or connected at or above 200 kV; and (2) those transmission lines and transformers with low voltage terminals operated or connected between 100 kV and 200 kV that are designated by planning coordinators as critical to the reliability of the bulk electric system.[4] The Reliability Standard consists of three Requirements and an Attachment A. Requirement R1 requires entities with certain transmission facilities to set their relays according to one of thirteen specific settings (sub-parts R1.1 through R1.13) designed to maximize loadability while maintaining Reliable Operation of the bulk electric system for all fault conditions. Requirement R2 provides additional obligations for entities that elect certain settings. Requirement R3 requires planning coordinators to designate facilities, operated between 100 kV and 200 kV, that are critical to the reliability of the bulk electric system and are therefore subject to Requirement R1. Attachment A specifies the protection systems that are subject to and excluded from the Standard's Requirements.

4. On March 18, 2010, the Commission issued a Final Rule approving Reliability Standard PRC–023–1 (Transmission Relay Loadability), that requires transmission owners, generator owners, and distribution providers set load-responsive phase protection relays according to specific criteria to ensure that the relays reliably detect and protect the electric network from all fault conditions, but do not operate during non-fault load conditions.[5] In addition, under section 215(d)(5) of the FPA, the Commission directed the ERO to develop modifications to the Standard to address certain issues identified by the Commission.

1. Currently Effective Requirement R1

5. Requirement R1 states that each transmission owner, generator owner, and distribution provider subject to Reliability Standard PRC–023–1 shall use one of the criteria prescribed in sub-parts R1.1 through R1.13 for any specific circuit terminal to prevent its phase protective relay setting from limiting transmission system loadability while maintaining reliable protection of the bulk electric system for all fault conditions.

6. In Order No. 733, the Commission directed the ERO, under section 215(d)(5) of the FPA, to develop modifications to Requirement R1 to: (1) Require that transmission owners, generator owners, and distribution providers give their transmission operators a list of transmission facilities that implement sub-part R1.2;[6] (2) require entities that have protective relays set pursuant to sub-part R1.10 to verify that the limiting piece of equipment is capable of sustaining the anticipated overload for the longest clearing time associated with a fault;[7] and (3) require the ERO to document, subject to audit by the Commission, and to make available for review to users, owners, and operators of the Bulk-Power System, by request, a list of those facilities that have protective relays set pursuant to sub-part R1.12.[8]

2. Currently Effective Requirement R2

7. Requirement R2 states that transmission owners, generator owners, and distribution providers that use a circuit with the protective relay settings determined by the practical limitations described in specified R1 sub-parts must use the calculated circuit capability as the circuit's facility rating and must obtain the agreement of the planning coordinator, transmission operator, and reliability coordinator with the calculated circuit capability.

3. Currently Effective Requirement R3

8. Requirement R3 requires planning coordinators to designate which transmission lines and transformers with low-voltage terminals operated or connected between 100 kV and 200 kV are critical to the reliability of the bulk electric system and therefore subject to Requirement R1. Sub-part R3.1 requires planning coordinators to have a process to identify critical facilities. Sub-part R3.1.1 specifies that the process must

[1] 16 U.S.C. 824o (2006).

[2] In the context of the proposed Reliability Standard, ''loadability'' refers to the ability of protective relays to refrain from operating under all permissible loading conditions on all applicable transmission lines and transformers.

[3] A ''fault'' is defined in the NERC Glossary of Terms used in Reliability Standards as ''[a]n event occurring on an electric system such as a short circuit, broken wire, or an intermittent connection.''

[4] Pursuant to section 40.3 of the Commission's regulations, all Commission-approved Reliability Standards are available on NERC's Web site at *www.nerc.com. See* 18 CFR 40.3.

[5] *Transmission Relay Loadability Reliability Standard,* Order No. 733, 130 FERC ¶ 61,221 (2010), *order on reh'g and clarification,* Order No. 733–A, 134 FERC ¶ 61,127 (2011); *clarified,* Order No. 733–B, 136 FERC ¶ 61,185 (2011).

[6] Order No. 733, 130 FERC ¶ 61,221, at P 186.

[7] *Id.* P 203.

[8] *Id.* P 224.

consider input from adjoining planning coordinators and affected reliability coordinators. Sub-parts R3.2 and R3.3 require planning coordinators to maintain a list of critical facilities and provide it to reliability coordinators, transmission owners, generator owners, and distribution providers within 30 days of initially establishing it, and within 30 days of any subsequent change.

9. In Order No. 733, the Commission directed the ERO to modify Requirement R3 to: (1) Apply an ''add in'' approach to sub-100 kV facilities that are owned or operated by currently registered entities or entities that become registered entities in the future, and are associated with a facility that is included on a critical facilities list defined by the Regional Entity; [9] (2) specify the test that planning coordinators must use to determine whether a sub-200 kV facility is critical to the reliability of the Bulk-Power System; [10] and (3) add the Regional Entity to the list of entities that receive a list of sub-200 kV facilities determined by the planning coordinator to be critical to the reliability of the bulk electric system.[11] In addition, the Commission directed the ERO to develop an appeals process for entities to challenge a criticality determination.[12]

4. Currently Effective Attachment A

10. Attachment A to Reliability Standard PRC–023–1 specifies which protection systems are subject to and excluded from the Standard's Requirements. Section 1 of Attachment A provides that the Reliability Standard applies to any protective functions that can operate with or without time delay, on load current, including but not limited to: (1) Phase distance; (2) out-of-step tripping; (3) switch-on-to-fault; (4) overcurrent relays; and (5) communication-aided protection applications. Section 2 states that the Reliability Standard requires evaluation of out-of-step blocking schemes [13] to ensure that they do not operate for faults during the loading conditions defined in the Standard's Requirements. Finally, section 3 expressly excludes certain relay elements and protection systems from the Reliability Standard's Requirements.

11. The Commission, in Order No. 733, directed the ERO to modify Attachment A to: (1) include section 2 as an additional Requirement with the appropriate violation risk factor and violation severity level in the Reliability Standard; [14] and (2) include supervising relay elements on the list of relays and protection systems that are specifically subject to the reliability Standard.[15]

5. Currently Effective Implementation Plan

12. Reliability Standard PRC–023–1 established staggered effective dates for various Requirements and facilities. The Standard also included a footnote (exceptions footnote) to the ''Effective Dates'' section honoring temporary exceptions from enforcement actions approved by the NERC Planning Committee before NERC proposed the Reliability Standard.

13. In Order No. 733, the Commission directed the ERO, under section 215(d)(5), to modify the Reliability Standard to include an implementation plan for sub-100 kV facilities [16] and to remove the exceptions footnote from the ''Effective Dates'' section of the Reliability Standard.[17]

II. NERC Petition: Proposed Reliability Standard PRC–023–2 and Rule of Procedure, Section 1700—Challenges to Determinations

14. In a March 18, 2011 Filing (March 18 Petition), NERC requests Commission approval of Reliability Standard PRC–023–2 (Transmission Relay Loadability) and NERC Rules of Procedure Section 1700—Challenges to Determinations.

15. In support of the March 18 Petition, NERC states that the proposed Reliability Standard requires transmission owners, generator owners, and distribution providers to verify relay loadability using methods that achieve ''the reliability goal of this Standard in an effective and efficient manner familiar to the responsible entities.'' [18] In addition, NERC specifically identifies the benefits of proposed Reliability Standard PRC–023–2 as including (a) consistent identification of operationally critical circuits operated below 200 kV that must comply with the Requirements of the Standard, and (b) providing transmission operators, planning coordinators, reliability coordinators, and the ERO with more information regarding the criteria selected by entities for verifying relay loadability.[19]

A. Reliability Standard PRC–023–2

16. Reliability Standard PRC–023–2 contains six requirements with the stated purpose of ensuring that protective relay settings do not limit transmission loadability, do not interfere with system operators' ability to take remedial action to protect system reliability, and are set to reliably detect all fault conditions and protect the electrical network from these faults.[20] The proposed Reliability Standard also includes two attachments. Attachment A specifies the protection systems that are subject to and excluded from the Standard's Requirements. Attachment B specifies the criteria for determining the circuits which must comply with Requirements R1 through R5.

Requirement R1

17. NERC describes Reliability Standard PRC–023–2 Requirement R1 as follows:

> Requirement R1 mandates that each Transmission Owner, Generator Owner, and Distribution Provider shall use any one of the identified criteria (Requirement R1, criteria 1 through 13) for any specific circuit terminal to prevent its phase protective relay settings from limiting transmission system loadability while maintaining reliable protection of the [bulk electric system] for all fault conditions. Each Transmission Owner, Generator Owner, and Distribution Provider shall evaluate relay loadability at 0.85 per unit voltage and power factor angle of 30 degrees[.] [21]

18. With the exception of clarifying language and the addition of criterion 10.1, proposed Requirement R1 retains the same criteria as currently existing PRC–023–1. Criteria 1 through 13 prescribe specific criteria to be used for certain transmission system configurations. These criteria account for the presence of devices such as series capacitors, and address circuit and transformer thermal capability.

19. Criterion 1 specifies transmission line relay settings based on the highest seasonal facility rating using the 4-hour thermal rating of a transmission line, plus a design margin of 150 percent. Criterion 2 allows transmission line relays to be set so that they do not operate at or below 115 percent of the highest seasonal 15-minute facility rating of a circuit, when a 15-minute rating has been calculated and published for use in real-time operations. Criterion 3 allows

[9] *Id.* P 60.

[10] *Id.* P 69.

[11] *Id.* P 237.

[12] *Id.* P 97.

[13] ''Out-of-step blocking'' refers to a protection system that is capable of distinguishing between a fault and a power swing. If a power swing is detected, the protection system, ''blocks,'' or prevents the tripping of its associated transmission facilities.

[14] Order No. 733 at 244.

[15] *Id.* P 264.

[16] *Id.* P 283.

[17] *Id.* P 284.

[18] March 18 Petition at 42.

[19] *Id.* at 5.

[20] Reliability Standard PRC–023–2, Section A.3 (Purpose).

[21] March 18 Petition at 30.

transmission line relays to be set so that they do not operate at or below 115 percent of the maximum theoretical power capability. Criterion 4 may be applied where series capacitors are used on long transmission lines to increase power transfer. Criterion 5 applies in cases where the maximum end-of-line three-phase fault current is small relative to the thermal loadability of the conductor. Criterion 6 may be used for system configurations where generation is remote from load busses or main transmission busses.

20. Criterion 7 is appropriate for system configurations that have load centers that are remote from the generation center. Criterion 8 applies to system configurations that have one or more transmission lines connecting a remote, net importing load center to the rest of the system. Criterion 9 applies to the same system configuration, but applies to the load end. Criterion 10 is specific to transmission transformer fault protective relays and transmission lines terminated only with a transformer. Criterion 11 may be used for transformer overload protection relays when criterion 10 cannot be met. Criterion 12 may be used when the circuits have three or more terminals. The limited circuit loading capability established by this criterion will become the facility rating of the circuit. Finally, criterion 13 is intended to apply when otherwise supportable situations and practical limitations are not identified under criteria 1 through 12.

21. NERC explains that Reliability Standard PRC–023–2 modifies PRC–023–1 by adding criterion 10.1 to address the Commission's directive that entities with protective relays set pursuant to Requirement R1.10 of PRC–023–1, which is criterion 10 of Requirement 1 of PRC–023–2, must verify that the limiting piece of equipment is capable of sustaining the anticipated overload for the longest clearing time associated with a fault.[22] The criterion requires coordination so that settings on a transformer's load responsive relay do not expose the transformer to a fault level and duration that exceeds the transformer's mechanical withstand capability.[23] NERC further states in the March 18 Petition that it believes Requirement 10.1 is equally effective and efficient as the approach directed in Order No. 733.[24]

Requirement R2

22. Proposed Reliability Standard PRC–023–2 adds a new Requirement R2 that requires each transmission owner, generation owner, and distribution provider to set its out-of-step blocking elements to allow tripping of phase protective relays for faults that occur during the loading conditions modeled under Requirement R1. NERC states in the March 18 Petition that Requirement R2 has been added to proposed Reliability Standard PRC–023–2 to address the Commission's directive to include section 2 of PRC–023–1 Attachment A as an additional Requirement with the appropriate violation risk factor and violation severity level.[25] NERC has assigned this proposed Requirement a high violation risk factor and a severe violation severity level reflecting the impact to reliability of violating the Requirement.

Requirements R3, R4, and R5

23. Requirement R3 in Reliability Standard PRC–023–2 renumbers and makes conforming edits to Requirement R2 from PRC–023–1. Requirement R4 requires an entity that chooses to use Requirement R1 criterion 2 as the basis for verifying transmission line relay loadability to provide its planning coordinator, transmission operator, and reliability coordinator with an updated list of circuits associated with those transmission line relays at least once each calendar year. Similarly, Reliability Standard PRC–023–2 adds a new Requirement R5 that requires entities that set transmission line relays according to Requirement R1 criterion 12 to provide an updated list of the circuits associated with those relays to its Regional Entity at least once each calendar year, to allow the ERO to compile a list of all circuits that have protective relays settings that limit circuit capability. In the March 18 Petition, NERC states that new Requirements R4 and R5, respectively, address the Commission's directives relating to providing transmission operators a list of transmission facilities that implement criterion 2 and directing that the ERO create a list of those facilities that have protective relays set pursuant to criterion 12.[26]

Requirement R6

24. Requirement R6 of Reliability Standard PRC–023–2 requires each planning coordinator to conduct an assessment at least once each calendar year (but no less frequently than every 15 months) by applying the criteria in Attachment B to determine the circuits in its planning coordinator area for which entities must comply with Requirements R1 through R5. Sub-part 6.1 requires the planning coordinator to maintain a list of circuits subject to PRC–023–2 per application of Attachment B identifying the year in which any criterion in Attachment B applies. Sub-part 6.2 requires the planning coordinator to provide the list to all Regional Entities, reliability coordinators, transmission owners, generators owners, and distribution providers within its planning coordinator area within 30 calendar days of establishing the initial list, and 30 days of any subsequent change thereto. NERC states in the March 18 Petition that the proposed sub-part 6.2, formerly Requirement R3.3 in PRC–023–1, modifies the Requirement in order to address the Commission's directive to add the Regional Entity to the list of entities that receive the list of critical facilities.[27]

Attachment A

25. Attachment A to Reliability Standard PRC–023–2 includes a new section 1.6 that extends the Standard's applicability to include phase overcurrent supervisory elements (i.e., phase fault detectors) associated with current-based, communication-assisted schemes (i.e., pilot wire, phase comparison, and line current differential) where the scheme is capable of inadvertent tripping for loss of communications, even if there is no fault on the line. In addition, conforming changes are made to proposed section 2.1, formerly section 3.1 of the PRC–023–1, to recognize that elements described in new section 1.6 are no longer excluded from the proposed Standard's scope. NERC states in the March 18 Petition that these changes have been made to address the Commission's directives to include supervising relay elements on the list of relays and protection systems that are specifically subject to the Reliability Standard.[28] NERC further states that it believes section 1.6 of Attachment A is equally effective and efficient in addressing the Commission's concern as the approach directed in Order No. 733.[29]

[22] *Id.* at 20.

[23] The mechanical withstand capability is determined on the basis of the transformer's design and the periodic transformer maintenance to preserve that capability by the owner. The withstand capability could be compromised, for example, if the moisture level in a transformer is allowed to increase above the design value but remains within dielectric acceptance.

[24] March 18 Petition at 20–21.

[25] *Id.* at 24.

[26] *Id.* at 20, 23.

[27] *Id.* at 24.

[28] *Id.* at 25.

[29] *Id.*

Attachment B

26. Attachment B of Reliability Standard PRC–023–2 specifies six criteria that planning coordinators must apply to identify sub-200kV facilities that are subject to compliance with the Reliability Standard. Specifically, a facility is subject to PRC–023–2 if the facility meets any one of the following six criteria:

- Is a monitored facility of a permanent flowgate in the Eastern Interconnection, a major transfer path within the Western Interconnection, or a comparable monitored facility in the Quebec Interconnection, that has been included to address reliability concerns for loading of that circuit (Criteria B1);
- Is a monitored facility of an interconnection reliability operating limit, where the limit was determined in the planning horizon pursuant to Reliability Standard FAC–010 (System Operating Limits Methodology for Planning Horizon) (Criteria B2);
- Forms a path to supply off-site power to a nuclear plant as established in the nuclear plant interface requirements pursuant to Reliability Standard NUC–001 (Nuclear Plant Interface Coordination) (Criteria B3).[30]
- Is identified through a sequence of power flow analyses specified in Attachment B and performed by the planning coordinator (Criteria B4);
- Is selected by the planning coordinator based on technical studies or assessments other than those specified above, in consultation with the facility owner (Criteria B5); or
- Is mutually agreed upon for inclusion by the planning coordinator and the facility owner (Criteria B6).

27. NERC states in the March 18 Petition that while the six criteria presented in Attachment B vary from some of the guidance provided in Order No. 733, they nonetheless identify all facilities that must be subject to proposed Reliability Standard PRC–023–2 in order to achieve the Standard's reliability objective.[31] NERC further reports that it is in the process of applying the test to a representative sample of utilities from each of the three Interconnections and plans to file the results of these tests by February 17, 2013. NERC states that it plans to revise Attachment B, if necessary, pending the results of this test and clarifications made in Order No. 733–A.[32]

28. The Commission, in Order No. 733, provided guidance that a test to determine critical sub-200 kV facilities should include the same simulations and assessments as the Transmission Planning (TPL) Reliability Standards.[33] While the TPL Standards permit manual system adjustments between two contingencies, NERC explains in the March 18 Petition that it believes it is more informative, and in line with the reliability objective, to require testing of double contingencies without such manual adjustments, thereby modeling a situation in which an operator fails to, or does not have time to, make appropriate system adjustments. This focused testing exceeds the requirements of the TPL Standards and, NERC asserts, is an equally efficient and effective approach to addressing the Commission's concern that the test must be sufficiently robust to provide assurance that all appropriate facilities are identified and made subject to the Reliability Standard for the Standard to achieve its purpose.

29. In Order No. 733, the Commission also provided guidance regarding elements of a definition of desirable system performance that must inform any test to determine which sub-200 kV circuits are critical to system reliability. The Commission's guidance stated, among other things, that the power system should maintain all facilities within their applicable thermal (i.e., current), voltage, or stability ratings (short time ratings are applicable).[34] In the March 18 Petition, NERC asserts that it is most appropriate to focus on avoiding thermal loading of transmission circuits.[35] In order to achieve its reliability goal, NERC believes, Reliability Standard PRC–023–2 must apply to circuits whose relays will be challenged by excessive thermal loading to the point that a relay hampers the system operator's ability to take remedial action. NERC believes this test is an equally effective and efficient approach to addressing the Commission's concern regarding the rigorousness of the test.[36]

Implementation Plan

30. In the March 18 Petition, NERC proposes staggered effective dates for Reliability Standard PRC–023–2, i.e., the mandatory compliance date after an allotted implementation period, for each of the Standard's requirements. The implementation plan provides 18 months for planning coordinators to apply the criteria in Attachment B and determine which sub-200 kV circuits must be subject to the Standard. Those entities responsible for compliance on circuits identified by a planning coordinator pursuant to Requirement R6 are provided until the first day of the first calendar quarter 39 months following notification to become compliant, or until the first day of the first calendar year in which any criterion in Attachment B applies if the planning coordinator indentifies the circuit in an assessment of a future year more than 39 months beyond the year in which the assessment is conducted.

Violation Risk Factors/Violation Severity Levels

31. NERC assigns Requirements R1, R2, and R6 a ''high'' violation risk factor, Requirement R3 a ''medium'' violation risk factor, and Requirements R4 and R5 a ''lower'' violation risk factor. NERC also proposes violation severity levels for each of the Requirements of Reliability Standard PRC–023–2.

B. NERC Rules of Procedure Section 1700—Challenges to Determinations

32. In addition to the Reliability Standard, NERC included in its petition new Rules of Procedure Section 1700—Challenges to Determinations, which provides a process for registered entities to challenge a planning coordinator's determination made under a Reliability Standard that a facility operated below 200 kV is subject to compliance with the standard. Pursuant to Rule 1702, a registered entity is encouraged, but not required, initially to meet with the planning coordinator to resolve any dispute. If the matter remains unresolved, the registered entity may challenge the determination with the appropriate Regional Entity. The registered entity may appeal the Regional Entity's decision to NERC, and the NERC Board of Trustees would appoint a panel to review the Regional

[30] As we stated previously, ''[w]e would expect that any [nuclear plant interface requirements] agreed to between a nuclear plant generator operator and transmission entity would include all facilities needed to transmit offsite power and auxiliary power to the nuclear facility. *Mandatory Reliability Standard for Nuclear Plant Interface Coordination,* 125 FERC ¶ 61,065, at P 51 (2008).

[31] March 18 Petition at 14.

[32] *Id.* at 13.

[33] Order No. 733 at P 80.

[34] *Id.* P 84.

[35] March 18 Petition at 19. With respect to NERC's assertion, the Commission agrees that avoiding thermal loading may be appropriate criteria for some regions. However, for other regions, such as the Western Interconnection, voltage and stability criteria considerations would be included as appropriate.

[36] As explained in the March 18 Petition, the system performance measure in this test is less rigorous than that required by TPL–003 (System Performance Following Loss of Two or More bulk electric system Elements) because it ignores voltage and stability ratings. NERC points out, however, that the contingency condition in Attachment B is more stringent than that in TPL–003, and the contingency and system performance measure were developed together in order to align with the reliability objective of the proposed Standard. March 18 Petition at 19.

Entity decision. The Board of Trustees has the authority, but not the duty, to review the matter upon the request of the planning coordinator or registered entity. The registered entity may appeal the final NERC decision to the applicable governmental authority, e.g., the Commission for appeals within the United States.

III. Notice of Proposed Rulemaking and Comments

33. On September 15, 2011, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve Reliability Standard PRC–023–2.[37] In the NOPR, the Commission proposed to approve Reliability Standard PRC–023–2. The Commission indicated that the Version 2 standard and new Rule of Procedure 1700 adequately address the directed modifications set forth in Order No. 733. The Commission also proposed to accept the Attachment B criteria for identifying sub-200 kV facilities to which the Reliability Standard applies.[38] Finally, the Commission proposed to approve the implementation plan, Violation Risk Factors, and Violation Severity levels.

34. In addition, the NOPR set forth certain questions regarding the Attachment B criteria.[39] Specifically, the Commission proposed the following questions to be addressed in the report regarding the application of Attachment B criteria NERC intends to file by February 17, 2013:

- Whether the power system assessment proposed in criterion B4 includes the critical system conditions utilized under Reliability Standard TPL–003–0 Requirement R1.3.2;[40]
- Whether applicable entities evaluate relay loadability under the B4 criterion consistent with Requirement R1 which requires, in part, that they ''evaluate relay loadability at 0.85 per unit voltage and a power factor angle of 30 degrees'' in addition to applicable current data;[41]
- What ''technical studies or assessments'' will be used by planning coordinators to identify critical facilities under Criterion B5;[42] and
- Whether Attachment B is sufficiently comprehensive to capture all circuits in a planning coordinator's area that could have an operational impact on the reliability of the bulk electric system.[43]

35. On September 21, 2011, notice of the September 15 NOPR was published in the **Federal Register** with comments due on or before November 21, 2011.[44] Timely comments were filed by the American Public Power Association (APPA), ISO New England Inc. (ISO–NE), the Midwest Independent System Operator, Inc. (MISO), and NERC.

IV. Discussion

36. Pursuant to section 215(d)(2) of the FPA, the Commission approves Reliability Standard PRC–023–2, including the Violation Risk Factors and Violation Severity Levels, and implementation plan. The Reliability Standard meets the directives outlined in Order No. 733, and further contributes to the reliability of the Bulk-Power System by requiring load-responsive phase protection relay settings that will provide essential facility protection for faults while not limiting transmission loadability or interfering with system operators' ability to protect system reliability. In addition, the Reliability Standard provides for the consistent identification of operationally critical circuits operated below 200 kV that must comply with the Requirements of the Standard. Accordingly, we find that the Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

37. Also, pursuant to section 215(f) of the FPA, the Commission approves NERC Rule of Procedure Section 1700—Challenges to Determinations as just, reasonable, not unduly discriminatory or preferential, in the public interest, and satisfying the requirements of section 215(c) of the FPA.[45] Rule of Procedure Section 1700 addresses the Order No. 733 directive for a mechanism by which a registered entity can challenge a determination by a planning coordinator made pursuant to Reliability Standard PRC–023–2.

38. NERC indicates in its comments that it is in the process of applying the test set forth in Attachment B of Reliability Standard PRC–023–2 to a representative sample of utilities from each of the three Interconnections and will file the results of these tests in a report on or before February 17, 2013. We adopt the NOPR proposal and direct NERC to address in the report several specific questions regarding the implementation of the applicability criteria set forth in Attachment B, as discussed below.

39. Further, commenters raise a number of concerns regarding the specific substantive Requirements of the Reliability Standard, the Standard's Attachment B, and the violation risk factor designations. These commenter concerns are discussed below.

A. Reliability Standard PRC–023–2

1. Requirement R1

40. Requirement 1 of PRC–023–2 provides that applicable entities must use one of the identified criteria (Requirement R1, criteria 1 through 13) for any specific circuit terminal to prevent its phase protective relay settings from limiting transmission system loadability while maintaining reliable protection of the [bulk electric system] for all fault conditions. Requirement R1.13 provides that ''[w]here other situations present practical limitations on circuit capability, set the phase protection relays so they do not operate at or below 115% of such limitations.''

41. MISO contends that over-reliance on criterion R1.13 would adversely impact operations, reliability, flexibility, and transmission congestion costs, and lead to unnecessary transmission expansion in the future to comply with transmission planning standards. To avoid this result, MISO requests that the Commission clarify the applicability of the standard by narrowing the scope of the protection systems covered by the Standard under Attachment A. In particular, MISO requests the Commission clarify that the following protection systems are excluded from the standard: (a) Differential current relays and negative sequence relays; (b) supervisory elements with unanimous consent logic; (c) redundant voting protective relay schemes; and (d) switch-on-to-fault protective relay schemes. We address MISO's request below.

a. Differential Current Relays & Negative Sequence Relays

42. MISO requests that we clarify that differential current relay elements and negative sequence relay elements should not be covered by the standard ''as they would not trip with or without time delay on load current.''[46] MISO argues that the exclusion of these

[37] *Transmission Relay Loadability Reliability Standard,* 136 FERC ¶ 61,187 (September 15, 2011) (September 15 NOPR).

[38] *Id.* P 38.

[39] *Id.* PP 41–45.

[40] *Id.* P. 43.

[41] *Id.*

[42] *Id.* P 44.

[43] *Id.* P 45.

[44] 76 FR 58,424 (2011).

[45] Section 215(f) of the FPA provides, *inter alia,* that ''[a] proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest and satisfies the requirements of subsection (c).''

[46] MISO Comments at 3.

specific relay elements from the proposed standard ''would be consistent with the purpose and intent of the standard and would prevent an inappropriate and unnecessary expansion of the standard's applicability.'' [47]

43. We grant MISO's request for clarification in part. As noted by MISO, differential current relay elements and negative sequence relay elements, by their nature, are not load responsive. As the Commission noted previously, the exclusion of a protection system from Reliability Standard PRC–023 appears to be unnecessary if the system is not load-responsive.[48] Therefore, we grant MISO's request for clarification to the extent that non-load responsive relays are not covered by Reliability Standard PRC–023–2, however we decline to direct NERC to include the assets in the exclusion list of Section 3 of Attachment A as the exclusion list should be limited to protection systems that would otherwise be subject to the Standard.

b. Supervisory Relay Elements

44. In Order No. 733, the Commission directed NERC to include supervisory relay elements on the list of relays and protection systems that are specifically subject to the PRC–023 Reliability Standard.[49] In Order No. 733–B, the Commission clarified that its directive regarding the applicability of the Reliability Standard to supervisory relays does not foreclose the development of an approach tailored to eliminate application of the standard to some supervisory relays but not to others, where technically justified.[50]

45. In response to the directive, NERC modified Attachment A of Reliability Standard PRC–023–2, which identifies types of protection systems that are subject to, and others that are excluded from, the standard. In part, Attachment A provides that ''this standard includes any protective functions which could trip with or without time delay, on load current, including but not limited to * * * 1.6. Phase overcurrent supervisory elements (i.e., phase fault detectors) associated with current-based, communication-assisted schemes * * * where the scheme is capable of tripping for loss of communications.'' In the March 18 Petition, NERC explained that section 1.6, while addressing a subset of supervisory relays, is equally effective and efficient in addressing the Commission's reliability concern. According to NERC, including all supervisory relays would have unintended negative impacts on system reliability by impacting the dependability and security of certain protection systems.[51] NERC explains that supervisory overcurrent elements used as fault detectors ''by themselves cannot trip on load current, with or without time delay. Since the trip logic requires assertion of the fault detector and the supervised protective function (which already is required to meet the loadability requirements), the overall protective function will meet the loadability requirement.'' [52]

Comments

46. In its comments, MISO raises a concern that an interpretation of the term ''phase overcurrent supervisory elements'' in section 1.6 of Attachment A that includes elements in a unanimous consent scheme could lead to unnecessary facility limit reductions.[53] MISO asks the Commission to clarify that it is acceptable to consider ''unanimous consent'' logic when evaluating transmission relay loadability. According to MISO, ''[i]f a relay scheme contains multiple relay elements and requires 'unanimous consent' among two or more of the relay elements in order to initiate a tripping action [of a circuit breaker], transmission relay loadability should be based solely on the relay element that is least sensitive to load so long as the relay elements could never initiate a tripping action without the operation of the relay element least sensitive to load.'' [54]

Commission Determination

47. Giving due weight to NERC's technical expertise on this issue, we approve NERC's modification to Attachment A and find that NERC has developed an equally efficient and effective approach to addressing the Order No. 733 directive regarding supervisory relays. NERC's proposal identifies a subset of supervisory relay elements, consistent with the Commission's clarification in Order No. 733–B.

48. We deny MISO's request for clarification. There are various types of protection schemes. MISO describes a specific protection scheme that uses unanimous consent logic and asks whether elements of the scheme are subject to Reliability Standard PRC–023–2. This is a fact intensive inquiry, and we will not rule on this matter based on the information provided in MISO's comments. If MISO seeks further clarification of this issue, it should pursue the matter with NERC. The Commission will not make a determination on MISO's specific scenario without a complete record and without it going through NERC's Reliability Standards development process or interpretation process.

c. Redundant Voting Schemes—the Most Load Sensitive Relay

49. MISO requests that we clarify how entities should handle certain redundant voting protective relay schemes.[55] MISO explains that, in a redundant voting protective relay scheme for a transmission facility, there are three protective relay schemes and only two of the three must operate to initiate tripping. MISO argues that the most load sensitive of these three relay schemes should be exempt from the standard, ''so long as the most load sensitive of the three protective relay scheme can never initiate a tripping action on its own with[out] a tripping output from one of the other two protective relay schemes.'' [56]

50. We decline to grant MISO's request on this issue. MISO's limited comments on this issue do not provide adequate information or technical support for its request. Without adequate support, the Commission cannot respond to MISO's request.

d. Switch-on-to-Fault Protective Relay Schemes

51. MISO requests that the Commission clarify that a switch-on-to-fault protective relay scheme, which is specifically included in section 1.3 of Attachment A, may be excluded from the requirements of the Reliability Standard if it meets each of three stated conditions presented by MISO.[57]

52. Currently effective Reliability Standard PRC–023 explicitly addresses switch-on-to-fault protective relay schemes. Switch-on-to-fault schemes are protection systems designed to trip a transmission line breaker when the breaker is closed into a fault. Because the current fault detectors for these systems must be set low enough to detect ''zero-voltage'' faults, i.e., close-in, three-phase faults, these systems may be susceptible to operate on load.[58] We note that the System Protection and Control Task Force acknowledged, with

[47] *Id.*

[48] *Transmission Relay Loadability Reliability Standard,* 127 FERC ¶ 61,175, at n. 98 (2009).

[49] Order No. 733 at P 264.

[50] Order No. 733–B at P 39.

[51] March 18 Petition at 25–28.

[52] *Id.* at 27.

[53] MISO Comments at 4.

[54] *Id.*

[55] MISO Comments at 5.

[56] *Id.*

[57] *Id.* at 5–6.

[58] Order No. 733 at n. 187.

regard to switch-on-to-fault schemes ''* * * a concern, based on actual events which have occurred in connection with blackouts, for the undesired operation of [switch-on-to-fault] schemes when a breaker is closed into a line.'' [59] Because the relays applied in switch-on-to-fault schemes are load-responsive, the Commission agreed with the ERO's technical decision to make such relays subject to the requirements of PRC–023. As noted above, MISO proposed a set of conditions that would remove an otherwise load-responsive relay from the requirements of Reliability Standard PRC–023. MISO has not, however, provided any explanation or technical support for its proposed conditions. Therefore, we decline to grant the requested clarification.

2. Requirement R3

53. Requirement R3 of PRC–023–2 requires a transmission owner, generator owner and/or distribution provider to obtain the agreement of the planning coordinator, transmission operator, and reliability coordinator for a calculated circuit capacity with the practical limitations described in Requirement R1, criteria 6, 7, 8, 9, 12, or 13.

a. Comments

54. MISO requests that the Commission clarify that Requirement R3 was not intended to create an obligation of the planning coordinator, transmission operator and reliability coordinator to independently verify or approve the calculated circuit capability provided by the transmission owner, generation owner or distribution provider.[60] MISO argues that this obligation to obtain the agreement could impute an obligation on the planning coordinator, transmission operator and/or reliability coordinator to evaluate the calculated circuit capability without providing corresponding criteria that should be applied in the evaluation.[61] MISO also requests that the Commission provide guidance on how such entities should resolve disputes over calculated circuit capabilities.

b. Commission Determination

55. We deny MISO's request for clarification. The Commission addressed MISO's concern in Order No. 733.[62] Specifically, in the Order No. 733 rulemaking, commenters argued that the use of the term ''agreement'' in PRC–023–1 simply meant that ''the entity calculating the circuit capability is required to provide the circuit capability to the relevant functional entities'' and that ''planning coordinators, transmission operators, and reliability coordinators must simply agree that they will use the circuit capability provided by the transmission owner, generator owner, or distribution owner.'' [63] The concerns raised at that time mirror the concerns raised by MISO; commenters indicated that the applicable parties did not want to be ''responsible for reviewing and approving the calculated circuit capabilities under Requirement R[3].'' [64]

56. The Commission rejected the commenters' arguments in Order No. 733, finding that the language ''shall obtain the agreement'' requires that ''the entity calculating the circuit capability must reach an understanding with the relevant functional entity that the calculated circuit capability is capable of achieving the reliability goal of PRC–023–1.'' [65] In addition, the Commission clarified that since the Standard is ''intended to ensure that protective relay settings do not limit transmission loadability or interfere with system operators' ability to take remedial action to protect system reliability, and to ensure that relays reliably detect all fault conditions and protect the electrical network from these faults,'' the agreement required under Requirement R3 should ''center around achieving these purposes.'' [66] Having adequately addressed this matter in Order No. 733, it is unnecessary to elaborate further in response to MISO and, accordingly, we deny MISO's request on this issue.

57. Further, to the extent that a dispute arises between responsible entities over the determination of a calculated circuit capability under Requirement R3, nothing precludes the responsible entities from raising the dispute with the applicable Regional Entity.

3. Requirement R6

58. Requirement R6 of the Reliability Standard requires planning coordinators to conduct an assessment applying the criteria in Attachment B to determine a list of circuits subject to PRC–023–2 Requirements R1 through R5. Under Attachment B, the planning coordinator is required to evaluate ''[t]ransmission lines operated below 100 kV and transformers with low voltage terminals connected below 100 kV that are part of the [bulk electric system].''

a. Comments

59. MISO requests clarification regarding the application of Requirement R6 to sub-100 kV facilities.[67] Specifically, MISO requests clarification ''with regard to what final and FERC-approved process is used by the Regional Entities to identify sub-100 kV facilities 'critical to the reliability of the bulk electric system.' '' [68] MISO further requests clarification on how planning coordinators will be provided access to the list of such sub-100 kV facilities, and, finally, MISO requests clarification whether the use of such a list of sub-100 kV facilities is adequate to demonstrate compliance with Requirement R6.

b. Commission Determination

60. With regard to MISO's request concerning the identification of sub-100 kV facilities, we note that bulk electric system facilities are currently identified through the application of NERC's definition of bulk electric system and NERC's registration process, as applied by the Regional Entities.[69] Regional Entities should inform planning coordinators of such sub-100kV facilities that already may have been identified so that the planning coordinator is able to fulfill its responsibilities pursuant to Requirement R6.

61. We deny MISO's request for clarification ''that the use of such a list as/if provided by the Regional Entities is adequate to demonstrate compliance with a requirement to evaluate 'Transmission lines operated below 100 kV and transformers with low voltage terminals connected below 100 kV that are part of the [bulk electric system].' ''[70] The identification of facilities is only the first step in the process of determining whether the Standard applies. Once a planning coordinator has been provided with a list of sub-100 kV facilities that are part of the bulk electric system, if any, it must apply the criteria in Attachment B to determine whether Requirements R1 through R5 of Reliability Standard PRC–023–2 will apply to the individual facilities.

4. Attachment B

62. Attachment B specifies which circuits must comply with

[59] NERC Planning Committee, System Protection and Control Task Force, ''Switch-on-to-Fault Schemes in the Context of Line Relay Loadability,'' at 2 (June 7, 2006).

[60] *Id.* at 6–7.

[61] *Id.*

[62] Order No. 733 at P 229.

[63] *Id.* P 228.

[64] *Id.*

[65] *Id.* P 229.

[66] *Id.*

[67] MISO Comments at 8.

[68] *Id.*

[69] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693 FERC Stats. & Regs. ¶ 31,242, at P 77 (2007).

[70] MISO Comments at 8.

Requirements R1 through R5. Criterion B4 addresses circuits that are identified through a specified sequence of power flow analyses performed by the planning coordinator, which simulate double contingencies without manual adjustments between the contingencies.

a. Comments

63. IS0–NE requests that the Commission direct the ERO to remove criterion B4 of Attachment B from PRC–023–2.[71] ISO–NE argues: (1) That such a criterion does not accurately recognize how the bulk electric system is operated; (2) that the system is neither planned nor operated to withstand two overlapping outages without intervening operator action; and (3) that such testing may result in unsolved cases, or voltages well below criteria.[72] As an example, ISO–NE cites a system designed to bring on fast start generation before the second contingency. ISO–NE argues that testing under that scenario without the fast start generation removes transmission paths into an area, thus increasing current flows on the remaining circuits and increasing reactive losses, resulting in lower voltages. In addition, ISO–NE states that unsolved cases have no flows to evaluate and therefore cannot be analyzed as required under criterion B4, and that solved cases with below-criteria voltage and excessive currents are unrealistic. ISO–NE concludes that such simulations may misidentify system conditions as severe cases when in reality they are not, thwarting the purpose of the testing.

64. ISO–NE also asserts that criterion B4 provides no guidance on how the planning coordinator should dispatch the system in a model that tests overlapping contingencies, potentially resulting in different base assumptions used by the various planning coordinators.

b. Commission Determination

65. The Commission recognizes that concerns exist regarding the application of Attachment B. As discussed below, NERC will be providing a summary of the base cases used in applying the Attachment B criteria and an assessment of how the base cases used for the analysis relate to TPL–003–0, Requirement R1.3.2 in response to our Order No. 733 directive. In the NOPR, the Commission expressed concern that criterion B4 of Attachment B is silent as to the rigor of the simulations other than requiring planning coordinators to use their engineering judgment.[73] NERC's additional information regarding the base cases used in applying the Attachment B criteria will allow the Commission and other interested parties to evaluate whether further modifications to Attachment B may be warranted. Accordingly, we deny ISO–NE's request on this issue and will not direct the ERO to develop modifications to Attachment B at this time.

66. Therefore, we decline to direct NERC to remove criterion B4 from PRC–023–2 at this time.

5. Violation Risk Factors/Violation Severity Levels

67. As noted above, NERC has proposed a ''high'' violation risk factor for Requirement R6 of Reliability Standard PRC–023–2.

a. Comments

68. MISO requests that the Commission reject the assignment of a high violation risk factor to Requirement 6, arguing: (1) That a high violation risk factor implies there is a direct correlation between instability, uncontrolled separation and cascading outages and the maintenance of a list of sub-200 kV circuits to which the planning coordinator believes the requirements of the standard applies; (2) that there is no such direct correlation, as evidenced by the fact that NERC has created and the Commission is proposing to accept a process by which entities can dispute the inclusion of circuits on the planning coordinator's list; and (3) that appearance on or absence from the list in itself will not cause or prevent instability, uncontrolled separation and cascading outages; some other event or Reliability Standards violation (i.e., operating above System Operating Limits) would have to occur to trigger any impact to reliability.[74]

b. Commission Determination

69. In Order No. 733, we directed NERC to assign a ''high'' violation risk factor to Requirement R3 of Reliability Standard PRC–023–1.[75] The Requirement at issue is renumbered Requirement R6 in Reliability Standard PRC–023–2. NERC's assignment of a ''high'' violation risk factor to Requirement R6 is therefore consistent with our prior directive.

70. MISO's request is an untimely argument against an explicit directive from Order No. 733. Therefore, we reject MISO's request for a rejection of the assignment of a ''high'' violation risk factor to Requirement R6.

6. NERC Report on Implementation of Attachment B

71. In Order No. 733, the Commission directed NERC to specify the test that planning coordinators will use to determine whether a sub-200 kV facility is critical to the reliability of the Bulk-Power System.[76] In addition, the Commission directed NERC to file both the test and the results of applying the test to a representative sample of utilities from each of the three interconnections.[77] Attachment B to Reliability Standard PRC–023–2 represents the test filed in response to the above described directive. The NOPR set forth questions intended to assist the Commission's understanding regarding the implementation of the test. Specifically, the Commission proposed that NERC address the following questions regarding the application of Attachment B criteria in the report:

- Whether the power system assessment proposed in criterion B4 includes the critical system conditions utilized under Reliability Standard TPL–003–0 Requirement R1.3.2;[78]
- Whether applicable entities evaluate relay loadability under the B4 criterion consistent with Requirement R1 which requires, in part, that they ''evaluate relay loadability at 0.85 per unit voltage and a power factor angle of 30 degrees'' in addition to applicable current data;[79]
- What ''technical studies or assessments'' will be used by planning coordinators to identify critical facilities under criterion B5;[80] and
- Whether Attachment B is sufficiently comprehensive to capture all circuits in a planning coordinator's area that could have an operational impact on the reliability of the bulk electric system.[81]

a. Comments

72. In its November 21, 2011 Comments, NERC, with APPA concurring, responds to the questions proposed for inclusion in the report NERC intends to file by February 17, 2013.

73. With regard to the question whether the power system assessment proposed in criterion B4 includes the critical system conditions utilized under

[71] ISO–NE Comments at 4.

[72] *Id.* at 2–3.

[73] September 15 NOPR at P 43.

[74] MISO Comments at 7–8.

[75] Order No. 733 at P 297.

[76] *Id.* P 69.

[77] *Id.*

[78] *Id.* P 43.

[79] *Id.*

[80] *Id.* P 44.

[81] *Id.* P 45.

Reliability Standard TPL–003–0, Requirement R1.3.2, NERC states that the goal of the power flow analysis is to have planning coordinators utilize the base cases that are used for demonstrating compliance with the TPL Reliability Standards.[82] NERC proposes to include in its report a summary of the base cases used in applying the Attachment B criteria and an assessment of how the base cases used for the analysis relate to TPL–003–0, Requirement R1.3.2.[83]

74. In response to the proposed question whether applicable entities evaluate relay loadability under the B4 criterion consistent with Requirement R1 which requires, in part, that they ''evaluate relay loadability at 0.85 per unit voltage and a power factor angle of 30 degrees'' in addition to applicable current data, NERC states that, although the measures in criterion B4 of Attachment B do not explicitly reference voltage and power factor, the measures were derived from Requirement R1 of PRC–023–2; specifically, 0.85 per unit voltage and 30 degree power factor angle.[84] NERC states, therefore, that it is not necessary for it to include in the report a comparison of the results obtained using criterion B4 to the results that would be achieved based on assumptions consistent with Requirement R1.

75. Regarding the question proposed in the NOPR concerning what ''technical studies or assessments'' will be used by planning coordinators to identify facilities under criterion B5, NERC states that Attachment B does not identify a specific list to avoid unnecessarily limiting the technical studies or assessments a planning coordinator may use to identify circuits.[85] NERC proposes to include a discussion in the report on the types of studies that planning coordinators may use.[86]

76. Finally, in response to the last proposed question of whether Attachment B is sufficiently comprehensive to capture all circuits in a planning coordinator's area that could have an operational impact on the reliability of the bulk electric system, NERC proposes to include in the report an assessment that demonstrates whether Attachment B is comprehensive enough to capture all circuits that could have an operational impact on the reliability of the bulk electric system in the context of transmission relay loadabilty.[87]

b. Commission Determination

77. As discussed above, NERC reports that it is in the process of applying the test set forth in Attachment B to a representative sample of utilities from each of the three Interconnections and will file the results of these tests in a report on or before February, 2013. In light of the discussion in NERC's November 21 Comments,[88] we accept NERC's proposed plan to respond to the following three questions and direct NERC to include in the report:

- A summary of the base cases used in applying the Attachment B criteria and an assessment of how the base cases used for the analysis relate to TPL–003–0, Requirement R1.3.2;
- A discussion of the types of studies that planning coordinators may use to identify circuits under Attachment B; and
- An assessment that demonstrates whether Attachment B is comprehensive enough to capture all circuits that could have an operational impact on the reliability of the bulk electric system in the context of transmission relay loadabilty.

78. However, we are not persuaded by NERC's statement that it is not necessary for NERC to include in the report a comparison of the results obtained using criterion B4 to the results that would be achieved based on assumptions consistent with Requirement R1. The 0.85 per unit and 30 degrees power factor criteria in Requirement R1 is based on system conditions, voltage, current, and angle, observed prior to the cascading stage of the blackout. Although NERC states that criterion B4 was derived from these system criteria,[89] the Commission is concerned that testing, which does not, at a minimum, compare whether criteria that do not consider voltage or angle affect the appropriate identification of applicable facilities, is not responsive to ensuring the reliability objective of the critical facilities test or the reliability objective of PRC–023. For these reasons, we direct NERC to evaluate, in the report, relay loadability under the B4 criterion consistent with Requirement R1, which requires, in part, that NERC ''evaluate relay loadability at 0.85 per unit voltage and a power factor angle of 30 degrees'' in addition to applicable current data.

B. NERC Rules of Procedure Section 1700—Challenges to Determinations

1. NERC Petition

79. In its petition, NERC submitted new Rules of Procedure Section 1700—Challenges to Determinations, which sets out the procedure for a registered entity to challenge a determination by a planning coordinator under Reliability Standard PRC–023–2.

2. NOPR

80. In the NOPR, we proposed to approve NERC Rules of Procedure Section 1700, specifically proposed Rule 1702, finding that it addresses the Order No. 733 directives that NERC establish a mechanism for registered entities to challenge criticality determinations made by a planning coordinator.

3. Comments

81. No comments were filed concerning proposed Rules of Procedure Section 1700—Challenges to Determinations.

4. Commission Determination

82. NERC's proposal is responsive to the Commission's directive in Order No. 733. Accordingly, we adopt our NOPR proposal and we approve, pursuant to section 215(f) of the FPA, NERC Rule of Procedure Section 1700—Challenges to Determinations as just, reasonable, not unduly discriminatory or preferential, in the public interest, and satisfying the requirements of section 215(c) of the FPA.

V. Information Collection Statement

83. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[90] Upon approval of a collection(s) of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirement of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA)[91] requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons, or continuing a collection for which OMB approval and validity of the control number are about to expire.[92]

84. The Commission is submitting these reporting and recordkeeping

[82] NERC Comments at 3.
[83] *Id.*
[84] *Id.*
[85] *Id.* at 4–5.
[86] *Id.* at 5.
[87] *Id.*
[88] *Id.* at 12–19.
[89] *Id.* at 3.
[90] 5 CFR 1320.11.
[91] 44 U.S.C. 3501–20.
[92] 44 U.S.C. 3502(A)(3)(i), 44 U.S.C. 3507(a)(3).

requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

85. This Final Rule approves Reliability Standard PRC–023–2 (Transmission Relay Loadability) which replaces currently effective Reliability Standard PRC–023–1 approved by the Commission in Order No. 733. Rather than creating entirely new requirements regarding the setting of protective relays, the revised Reliability Standard instead modifies and improves the existing Reliability Standard. Thus this Final Rule does not impose entirely new burdens on the effected entities. For example, the currently effective Reliability Standard PRC–023–1 requires transmission owners, generation owners, and distribution providers to each have evidence to show that each of its transmission relays are set according to one of the criteria in criteria R1.1 through R1.13. Similarly, revised Reliability Standard PRC–023–2 requires transmission owners, generation owners, and distribution providers to have evidence that each of its transmission relays is set according to one of the 13 criteria in Requirement R1 but adds that each such entity shall also have evidence that relays set according to criterion 10 do not expose the transformer to fault levels and durations beyond those indicated in the Standard. Thus, the recordkeeping obligations for some Requirements are more specific but not necessarily more expansive than those of currently effective Reliability Standard PRC–023–1. However, revised PRC–023–2 does add new Requirements, each of which has new recordkeeping obligations.

86. Requirement R2 requires each transmission owner, generator owner, and distribution provider to have evidence that its out-of-step blocking elements are set in accordance with the Standard, and Requirements R4 and R5 require those same entities to maintain evidence that they have informed the appropriate parties of their updated lists of certain circuits. Under Requirement R6, planning coordinators are required to execute a test for applicability of the Standard as set forth in Attachment B and retain analyses, calculation summaries, or study reports to evidence execution of the test, whereas under the currently effective PRC–023–1, a test was required but only the results needed to be retained. Because an unspecified test is currently required to be carried out on facilities operated at between 100 kV and 200 kV under currently effective Reliability Standard PRC–023–1, for purposes of this analysis, we assume that there is little additional cost for planning coordinators to implement and document that portion of the test. However, the Requirement R6 of the revised Standard imposes the new burdens of performing the test on sub-100 kV facilities, maintaining appropriate records, and distributing the list of circuits identified by the test to Regional Entities.

87. *Public Reporting Burden:* Our estimate below regarding the number of respondents is based on the NERC compliance registry as of January 26, 2012. According to the NERC compliance registry, there are 337 transmission owners, 858 generation owners, 554 distribution providers, and 81 planning coordinators. However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The net number of entities responding will be approximately 660 entities registered as a transmission owner, a distribution provider, or a generation owner that is also a transmission owner and/or a distribution owner, and 81 planning coordinators.[93] The estimated burden for the requirements in this Order follow:

Changes to FERC–725G data collection	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response[94] (3)		Total annual hours (1 × 2 × 3)
R1 criterion 1.10: TOs, GOs, and DPs must analyze and document criterion 1.10 compliance.	660	1	*Analysis for compliance documents.*	8	5,280
	.....	.....	*Record Retention*	2	1,320
R2: TOs, GOs, and DPs must perform analysis and retain evidence of compliance.	660	1	*Analysis for compliance documents.*	8	5,280
	.....	.....	*Record Retention*	2	1,320
R4 and R5: TOs, GOs, and DPs must distribute updated lists and retain evidence that lists were distributed.	660	1	*Reporting (dist. of list)* ..	10	6,600
	.....	.....	*Record Retention*	10	6,600
R6: PC must perform assessment, distribute list of circuits and retain evidence of testing and distribution[95].	81	1	*Reporting (assessment and dist. of list).*	20	1,620
	.....	.....	*Record Retention*	10	810
Total	.....	.....	.....	.....	28,830

[93] Under its applicability provisions, proposed Reliability Standard applies to specified circuits such that very few, if any, generator owners that are not also a transmission owner and/or a distribution provider will be subject to the Standard.

[94] The burden hours are based on estimates that the Commission has used for similar reporting requirements.

[95] This applies to the portion of R6 that deals with testing for sub-100 kV facilities as described in the text. In addition it includes burden hours associated with adding Regional Entities to the list of entities to receive a list of circuits from the planning coordinator.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements and recordkeeping burden associated with Reliability Standard PRC–023–2.

- *Total Annual Hours for Collection:* (Reporting and Record Retention) = 28,830 hours.
- *Total Estimated Reporting/Analysis Cost* = 18,780 hours @ $120/hour = $2,253,600.
- *Total Estimated Record Retention Cost* = 10,050 hours @ $28/hour = $281,400.
- *Total Estimated Annual Cost (Reporting + Record Retention)*[96] = $2,535,000.
- *Title:* Mandatory Reliability Standards for the Bulk-Power System
- *Action:* FERC 725G, Proposed Modification to FERC–725G.
- *OMB Control No:* 1902–0252.
- *Respondents:* Business or other for profit, and/or not for profit institutions.
- *Frequency of Responses:* On occasion.
- *Necessity of the Information:* This Final Rule approves a revised Reliability Standard that modifies an existing requirement regarding setting protective relays according to specific criteria in order to ensure that the relays reliably detect and protect the electric network from all fault conditions, but do not limit transmission loadability or interfere with system operators' ability to protect system reliability. Reliability Standard PRC–023–2 requires entities to set transmission relays according to specified criteria and to retain evidence of compliance. It also requires planning coordinators to implement a test to determine which sub-200 kV facilities are critical to the reliability of the power system and subjects such facilities to the requirements of the Standard. The revised Reliability Standard requires entities to maintain records subject to review by the Commission and NERC to ensure compliance with the Reliability Standard.
- *Internal review:* The Commission has reviewed the requirements pertaining to the revised Reliability Standard for the Bulk-Power System and determined that the requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific objective support for the burden estimates associated with the information requirements.

88. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gove*, Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this order may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov*. Please reference OMB Control Number 1902–0252 and the docket number of this Order in your submission.

VI. Environmental Analysis

89. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[97] The actions proposed here fall within the categorical exclusion in the Commission's regulations for rules that are clarifying, corrective or procedural, for information gathering, analysis, and dissemination.[98] Accordingly, neither an environmental impact statement nor environmental assessment is required.

VII. Regulatory Flexibility Act Analysis

90. The Regulatory Flexibility Act of 1980 (RFA)[99] generally requires a description and analysis of proposed and final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed order and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[100] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt-hours.[101]

91. Reliability Standard PRC–023–2 modifies currently existing Reliability Standard PRC–023–1 which requires applicable entities to set protective relays according to specific criteria, to communicate about such settings with specified entities, and to conduct assessments to determine the applicability of the Standard to 100–200 kV facilities. The revised Standard modifies PRC–023–1 by (1) increasing communication and documentation requirements, (2) extending the applicability of the Standard to formerly excluded relays, and (3) standardizing the terms of the assessment whose terms were formerly not specified. In addition, PRC–023–2 extends the current requirement that planning coordinators annually assess which 100–200 kV circuits must be brought into compliance with the Standard and will require planning coordinators to carry out the assessment with respect to some sub-100 kV facilities.

92. Comparison of the NERC compliance registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that perhaps as many as 108 transmission owners, 327 distribution providers, 52 generation owners, and 14 planning coordinators qualify as small entities. However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The net number of registered entities that qualify as small entities responding to this rule will be approximately 339 entities registered as a transmission owner, a distribution provider, or a generation owner that is also a transmission owner and/or a distribution provider, and 8 planning coordinators. The Final Rule directly affects each of the small entities. Therefore, FERC has determined that this Final Rule will have an impact on a substantial number of small entities. However, the Commission has determined that the impact on entities affected by the Final Rule will not be significant. The Commission estimates that in order to comply with the Standard's modification of existing requirements each of the small entities registered as planning coordinators will face a cost of $2,680 and each of the remaining small entities (transmission owners, distribution providers, or generation

[96] The hourly reporting cost is based on the estimated cost of an engineer to implement the requirements of the rule. The record retention cost comes from Commission staff research on record retention requirements.

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

[98] 18 CFR 380.4(a)(5).

[99] 5 U.S.C. 601–612.

[100] 13 CFR 121.101.

[101] 13 CFR 121.201, Sector 22, Utilities & n.1.

owners that are also transmission owners and/or distribution providers) will face a cost of $3,512. Accordingly, the Commission determines that the incremental cost of Reliability Standard PRC–023–2 (going from PRC–023–1 to PRC–023–2) is minimal, and should not present a significant operating cost to any of the small entities.

93. Based on this understanding, the Commission certifies that this Reliability Standard will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VIII. Document Availability

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

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

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

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–6758 Filed 3–20–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R09–OAR–2012–0189; FRL–9649–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; Ozone; Nitrogen Dioxide; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: EPA is making technical amendments to the Code of Federal Regulations (CFR) to reflect the final actions published by the Agency on October 7, 2003, April 30, 2004, and May 5, 2010 in connection with the designations and classifications of certain areas in California for the 1971 annual nitrogen dioxide standard and the 1997 eight-hour ozone standard pursuant to the Clean Air Act. The areas that are the subject of these technical amendments include Riverside County, Western Mojave Desert, South Coast Air Basin, Eastern Kern County, and San Diego County.

DATES: These technical amendments are effective on March 21, 2012.

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

SUPPLEMENTARY INFORMATION:

Technical Amendment for California—NO_2 Table in 40 CFR 81.305

In today's action, we are making a technical amendment to correct an erroneous codification of our 2003 boundary change rule with respect to the ''California—NO_2 (1971 Annual Standard)'' table in 40 CFR 81.305.[1] As described in our October 7, 2003 final rule (68 FR at 57821 and 57824) redesignating certain air quality planning area boundaries in southern California, we intended to revise the entry in the table for ''Riverside County (portion within SE. Desert AQMD) County'' to ''Riverside County (Coachella Valley planning area)'' and to revise the entry for ''Riverside County, non-AQMA portion County'' to ''Riverside County (portion not within South Coast Air Basin or Coachella Valley planning area).'' However, the entry for ''Riverside County (Coachella Valley planning area),'' which was to become an entry in the table, is not found in the current version of the ''California—NO_2 (1971 Annual Standard)'' table whereas the entry for ''Riverside County, non-AQMA portion County,'' which was intended to be replaced, remains in the table. In today's action, we are making a technical amendment to ensure that the ''California—NO_2 (1971 Annual Standard)'' table in 40 CFR 81.305 to accurately reflect the intent of our 2003 boundary change action.

Today's technical amendment makes no change to the substance of our October 7, 2003 final rule.

Technical Amendments for California—Ozone (8-Hour Standard) Table in 40 CFR 81.305

With respect to the ''California—Ozone (8-Hour Standard)'' table in 40 CFR 81.305, we are making a number of technical amendments that stem from previous EPA rulemakings. All of the subject areas are located within the State of California.

On April 30, 2004, at 69 FR 23858, we published a final rule announcing and promulgating designations, classifications, and boundaries for areas in the country with respect to the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) in accordance with the requirements of the Clean Air Act (CAA). In our April 30, 2004 final rule, we designated the Western Mojave Desert area as a moderate nonattainment area for the 1997 8-hour ozone National Ambient Air Quality Standard. See 69 FR 23858, at 23884–85 (April 30, 2004). Subsequently, on May 5, 2010, EPA published a final rule granting California's request for reclassification of several areas for the 1997 8-hour ozone standard. See 75 FR 24409 (May 5, 2010). The Western Mojave Desert was not among the areas that were the subject of EPA's May 5, 2010 final rule, but the changes made to the ''California—Ozone (8-Hour Standard)'' table to codify our May 5, 2010 final rule had the inadvertent effect of removing a portion of the definition of the Western Mojave Desert 8-hour ozone nonattainment area from the ''California—Ozone (8-Hour Standard)'' table. In today's action, EPA is making a technical amendment to re-insert the inadvertently removed portion of the definition of the Western Mojave Desert area into the ''California—Ozone (8-Hour Standard)'' table in 40 CFR 81.305.

Second, in codifying the designations in EPA's April 30, 2004 final rule, we inadvertently indented the title of the

[1] The table heading was recently revised to read ''California—NO_2 (1971 Annual Standard)'' in a final rule published on February 17, 2012 at 77 FR 9532, at 9540, effective February 29, 2012. The table heading previously had been ''California-NO_2.''

''Los Angeles-South Coast Air Basin, CA'' in the ''California—Ozone (8-Hour Standard)'' table. Given the format of this table in the CFR, the inadvertent indentation of ''Los Angeles-South Coast Air Basin, CA'' in the ''California—Ozone (8-Hour Standard)'' table aligns the basin with the individual counties or portions thereof that comprise the basin and thus is potentially confusing. We are therefore making a technical amendment in today's action to properly format the title of the basin to show the proper relationship between the basin and the counties (or portions thereof) that comprise the basin.

Third, in our April 30, 2004 final rule, we inadvertently failed to list the Indian Wells Valley area (which is that portion of Kern County that lies in hydrologic unit number 18090205) as ''Unclassifiable/Attainment'' in the California table of designations and classifications for the 8-hour ozone standard. We provided an explanation for distinguishing the Indian Wells Valley area from the rest of eastern Kern County in the background documentation for the April 30, 2004 final rule, but did not include the appropriate listing in the California table. See pages 3–22 to 3–23 in Chapter 3 (''Justifications in Support of EPA's 8-Hour Ozone Designations'') of EPA's report in support of the final designations entitled, ''Technical Support for State and Tribal Air Quality Designations and Classifications'' (April 2004). In today's action, we are making a technical amendment to properly list the Indian Wells Valley portion of eastern Kern County as an ''Unclassifiable/Attainment'' area for the 1997 8-hour ozone standard.

Lastly, in EPA's April 30, 2004 final rule, EPA designated all of San Diego County in California as a nonattainment area for the 8-hour ozone standard but excluded from that nonattainment area a list of areas identified as La Posta Areas #1 and #2, Cuyapaipe Area, Manzanita Area, and Campo Areas #1 and #2. See 69 FR at 23887. We intended to designate the latter areas as ''Unclassifiable/Attainment'' and included our justification for their area designations and rationale for distinguishing them from the surrounding nonattainment area in the Technical Support Document for nationwide 8-hour ozone designations final rule. See pages 3–34 to 3–36 in Chapter 3 (''Justifications in Support of EPA's 8-Hour Ozone Designations'') of EPA's report in support of the final designations entitled, ''Technical Support for State and Tribal Air Quality Designations and Classifications'' (April 2004). However, the entries for these areas were inadvertently omitted from the table codifying designations and classifications for the 8-hour ozone standard within the State of California. In today's action, we are making a technical amendment to properly list the four tribal areas in eastern San Diego County as ''Unclassifiable/Attainment'' areas for the 1997 8-hour ozone standard.

Today's technical amendments make no change to the substance of EPA's April 30, 2004 or May 5, 2010 final rules.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 8, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.305 is amended as follows:

■ a. In the table for ''California—NO_2 (1971 Annual Standard)'' by removing the entry for ''Riverside County, non-AQMA portion County'' and adding an entry for ''Riverside County (Coachella Valley Planning Area)'' in its place;

■ b. In the table for ''California—Ozone (8-Hour Standard)'' by revising the entries for ''Kern County (Eastern Kern), CA,'' ''Kern County (part),'' ''Los Angeles-South Coast Air Basin, CA,'' ''Los Angeles County (part),'' ''Orange County,'' ''Riverside County (part),'' ''San Bernardino County (part),'' ''San Diego, CA,'' and ''San Diego County (part).''

The revisions read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—NO_2

[1971 Annual standard]

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *	*	
Riverside County (Coachella Valley planning area)	.....	X
* * * * *	*	*

CALIFORNIA—OZONE

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* * * * *	*	*	*	
Kern County (Eastern Kern), CA:				
Kern County (part)	.....	Nonattainment	.....	Subpart 1.

CALIFORNIA—OZONE—Continued

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Kern County (with the exception of that portion in Hydrologic Unit #18090205—the Indian Wells Valley) east and south of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to Range 16 West and Range 17 West, San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Grant to the northwest corner of Section 3, Township 11 North, Range 17 West; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of Section 34, Township 32 South, Range 30 East, Mount Diablo Base and Meridian; then north to the northwest corner of Section 35, Township 31 South, Range 30 East; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of Section 18, Township 31 South, Range 31 East; then east to the southeast corner of Section 13, Township 31 South, Range 31 East; then north along the range line common to Range 31 East and Range 32 East, Mount Diablo Base and Meridian, to the northwest corner of Section 6, Township 29 South, Range 32 East; then east to the southwest corner of Section 31, Township 28 South, Range 32 East; then north along the range line common to Range 31 East and Range 32 East to the northwest corner of Section 6, Township 28 South, Range 32 East, then west to the southeast corner of Section 36, Township 27 South, Range 31 East, then north along the range line common to Range 31 East and Range 32 East to the Kern-Tulare County boundary.				
Kern County (part)	.....	Unclassifiable/Attainment		
That portion of Kern County contained with Hydrologic Unit #18090205—Indian Wells Valley.				
* * *	*	*	*	*
Los Angeles—South Coast Air Basin, CA:	.....	Nonattainment	(2)	Subpart 2/Extreme.
Los Angeles County (part)	.....	Nonattainment	(2)	Subpart 2/Extreme.

CALIFORNIA—OZONE—Continued

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Los Angeles County which lies south and west of a line described as follows: Beginning at the Los Angeles-San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian; then north along the range line common to Range 8 West and Range 9 West; then west along the Township line common to Township 4 North and Township 3 North; then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West; then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); then west along the Township line common to Township 7 North and Township 6 North; then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); then west and north along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Orange County	.....	Nonattainment	([2])	Subpart 2/Extreme.
Riverside County (part)	.....	Nonattainment	([2])	Subpart 2/Extreme.

CALIFORNIA—OZONE—Continued

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Riverside County, except that portion of the area defined below that lies within the Morongo Reservation or the Pechanga Reservation [c], which lies to the west of a line described as follows: Beginning at the Riverside-San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; then east along the Township line common to Township 8 South and Township 7 South; then north along the range line common to Range 5 East and Range 4 East; then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; then west along the Township line common to Township 5 South and Township 6 South; then north along the range line common to Range 4 East and Range 3 East; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; then north along the range line common to Range 2 East and Range 3 East; to the Riverside-San Bernardino County line.				
Morongo Reservation [c]	.....	Nonattainment	([2])	Subpart 2/Severe-17.
Pechanga Reservation [c]	.....	Nonattainment	([2])	Subpart 2/Severe-17.
San Bernardino County (part)	.....	Nonattainment	([2])	Subpart 2/Extreme.
That portion of San Bernardino County which lies south and west of a line described as follows: Beginning at the San Bernardino-Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino-Los Angeles County boundary.				
Los Angeles and San Bernardino Counties (Western Mojave Desert), CA	.....	Nonattainment	.....	Subpart 2/Moderate.
Los Angeles County (part)	.....	Nonattainment	.....	Subpart 2/Moderate.

CALIFORNIA—OZONE—Continued

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Los Angeles County which lies north and east of a line described as follows: Beginning at the Los Angeles-San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian; then north along the range line common to Range 8 West and Range 9 West; then west along the Township line common to Township 4 North and Township 3 North; then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West; then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); then west along the Township line common to Township 7 North and Township 6 North; then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); then west and north along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
San Bernardino County (part)	.....	Nonattainment	.....	Subpart 2/Moderate.

CALIFORNIA—OZONE—Continued

[8-Hour standard]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
That portion of San Bernardino County which lies north and east of a line described as follows: Beginning at the San Bernardino-Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino-Los Angeles County boundary; And that portion of San Bernardino County which lies south and west of a line described as follows: latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.				
* * *	*	*	*	*
San Diego County, CA:				
San Diego County (part)	.....	Nonattainment	.....	Subpart 1.
That portion of San Diego County that excludes La Posta Areas #1 and #2,[b] Cuyapaipe Area,[b] Manzanita Area,[b] and Campo Areas #1 and #2.[b]				
San Diego County (part)				
La Posta Areas #1 and #2 [b]	.....	Unclassifiable/Attainment		
Cuyapaipe Area [b]	.....	Unclassifiable/Attainment		
Manzanita Area [b]	.....	Unclassifiable/Attainment		
Campo Areas #1 and #2 [b]	.....	Unclassifiable/Attainment		
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.

[b] The boundaries for these designated areas are based on coordinates of latitude and longitude derived from EPA Region 9's GIS database and are illustrated in a map entitled ''Eastern San Diego County Attainment Areas for the 8-Hour Ozone NAAQS,'' dated March 9, 2004, including an attached set of coordinates. The map and attached set of coordinates are available at EPA's Region 9 Air Division office. The designated areas roughly approximate the boundaries of the reservations for these tribes, but their inclusion in this table is intended for CAA planning purposes only and is not intended to be a Federal determination of the exact boundaries of the reservations. Also, the specific listing of these tribes in this table does not confer, deny, or withdraw Federal recognition of any of the tribes so listed nor any of the tribes not listed.

[c] The use of reservation boundaries for this designation is for purposes of CAA planning only and is not intended to be a Federal determination of the exact boundaries of the reservations. Nor does the specific listing of the Tribes in this table confer, deny, or withdraw Federal recognition of any of the Tribes listed or not listed.

[1] This date is June 15, 2004, unless otherwise noted.

[2] This date is June 4, 2010.

* * * * *

[FR Doc. 2012–6562 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 144, 147, and 158

CMS–9981–F

RIN 0938–AQ95

Student Health Insurance Coverage

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes requirements for student health insurance coverage under the Public Health Service (PHS) Act and the Patient Protection and Affordable Care Act (Affordable Care Act). The final rule defines ''student health insurance coverage'' as a type of individual health insurance coverage, and specifies that certain PHS Act requirements are inapplicable to this type of individual health insurance coverage. This final rule also amends the medical loss ratio and annual limits requirements for student health insurance coverage under the PHS Act.

DATES: *Effective Date.* This rule is effective on April 20, 2012.

Applicability Dates. The amendment to 45 CFR Part 147 applies to student health insurance coverage for policy years beginning on or after July 1, 2012. The amendments to 45 CFR Part 158 apply beginning January 1, 2013, to health insurance issuers offering student health insurance coverage.

FOR FURTHER INFORMATION CONTACT: Robert Imes, (410) 786–1565.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) was enacted on March 30, 2010. We refer to the two statutes collectively as the Affordable Care Act. The Affordable Care Act reorganizes, amends, and adds to the provisions of Part A of Title XXVII of the Public Health Service (PHS) Act relating to group health plans and health insurance issuers in the group and individual markets.

Section 1560(c) of the Affordable Care Act provides that ''nothing in this title (or an amendment made by this title) shall be construed to prohibit an institution of higher education (as such term is defined for purposes of the Higher Education Act of 1965) from offering a student health insurance plan, to the extent that such requirement is otherwise permitted under applicable Federal, State, or local law.''

On February 11, 2011, we published a proposed rule (76 FR 7767) regarding section 1560(c) entitled ''Student Health Insurance Coverage.'' In the preamble of the proposed rule, we explained that we interpreted section 1560(c) to mean that if particular requirements in the Affordable Care Act would have, as a practical matter, the effect of prohibiting an institution of higher education from offering a student health plan otherwise permitted under Federal, State or local law, such requirements would be inapplicable pursuant to section 1560(c). Accordingly, the proposed rule defined ''student health insurance coverage'' and specified that a small number of individual market requirements in the PHS Act and the Affordable Care Act would not apply to student health insurance coverage. We also asked for comments on how other Affordable Care Act requirements should apply in the case of student health insurance coverage. We received approximately one hundred comments in response to the proposed rule. They include comments from institutions of higher education and their associations, students and student organizations, faculty members, consumer organizations, health insurance issuers, and brokers.

II. Provisions of the Proposed Rule

The February 11, 2011 proposed rule included the following:

Definition. The proposed rule defined student health insurance coverage as a type of individual market health insurance coverage offered to students and their dependents under a written agreement between an institution of higher education and an issuer. Student health insurance coverage could not be offered to individuals other than students and their dependents, could not condition eligibility based on health status, and had to satisfy any additional requirements imposed under State law.

Exemptions from the PHS Act. The proposed rule would exempt student health insurance coverage from the guaranteed availability requirement of PHS Act section 2741(e)(1) and the guaranteed renewability requirement of PHS Act section 2742(b)(5). The proposed rule also would provide that student health insurance coverage could not establish an annual dollar limit on coverage lower than $100,000 for policy years beginning prior to September 23, 2012. The proposed rule would apply the generally applicable annual dollar limit requirements for individual health insurance coverage for subsequent policy years.

Student Administrative Health Fees. The proposed rule would clarify that student administrative health fees were not cost-sharing for purposes of PHS Act section 2713, which requires that certain preventive services be covered without cost-sharing. Student administrative health fees were defined as fees charged by institutions of higher education on a periodic basis to provide health care through school clinics, regardless of whether students utilize the clinics or enroll in student health insurance coverage.

Notice. The proposed rule would require that issuers give students a notice informing them of their coverage's exceptions from the specified PHS Act requirements. The notice would have to be prominently displayed in 14-point bold type on the front of the insurance policy or certificate and any other plan materials. Model language was provided.

Applicability. The proposed rule would be applicable to student health insurance coverage for policy years beginning on or after January 1, 2012.

III. Analysis of and Responses to Public Comments

We carefully considered all of the comments in drafting this final rule. The major comments are summarized below with our responses.

A. Definition of Student Health Insurance Coverage (§ 147.145 (a))

Comment: We received several comments concerning the proposed definition of student health insurance coverage in § 147.145(a). An issuer, a college association and a student advocacy group noted that, in addition to individual universities, consortia of universities and State boards of regents sometimes sponsor student health insurance coverage plans. In addition, they noted that student associations have sponsored insurance plans. A broker asked for clarification whether student health insurance coverage could encompass coverage sold to students attending high school. A college association requested clarification on what individuals can be included as dependents under student health insurance coverage. Lastly, an issuer proposed that temporary continuations of coverage following loss of student status be limited to 90 days.

Response: The proposed definition of student health insurance coverage would not prevent consortia of universities or State boards of regents from acting on behalf of an institution of higher education in entering into a written agreement with an issuer to provide student health insurance coverage since those bodies are either a collection of universities or part of the university system. Student associations sponsoring insurance plans are not institutions of higher education under the Higher Education Act of 1965, and therefore such coverage would not be student health coverage within the meaning of the proposed rule. However, depending on their circumstances, student associations may qualify as bona fide associations under § 144.103 which would allow them to be exempt from the current PHS Act guaranteed availability and guaranteed renewability requirements. The proposed definition would not include coverage provided under an agreement between an issuer and a high school, as the definition of an institution of higher education under the Higher Education Act does not include secondary institutions.

As discussed in the proposed rule's preamble, student health insurance plans have flexibility in determining which dependents, if any, are eligible for coverage under their plan terms. Similarly, student health insurance plans would have discretion under the proposed rule to allow temporary continuations of coverage upon events such as the loss of student status. For example, while a 90-day extension would be reasonable to allow a graduating student to transition to other coverage, a very lengthy extension, such as a 12-month extension, would not be consistent with the proposed requirement of § 147.145(a) that eligibility for student health insurance coverage be limited to students and their dependents. We are therefore adopting the proposed definition of student health insurance coverage in the final rule without change.

Comment: Nine colleges and universities urged that we allow student coverage, at least in some instances, to continue to be offered as short-term limited duration coverage. These commenters noted the temporary nature of student coverage, the fact that universities generally were issued a new policy each year, and the cost of compliance with the Affordable Care Act. Further, some universities and issuers asserted that student coverage

was not intended to provide comprehensive coverage and should rather be seen as part of the universities' risk mitigation strategies. A consumer group supported defining student health insurance as individual health insurance and noted the definition's consistency with past CMS statements. A higher education association recommended that any short-term limited duration policies issued to students be required to disclose that they do not comply with Affordable Care Act provisions.

Response: As discussed in the proposed rule's preamble, we understand that in the past many issuers have claimed that student health insurance coverage was short-term limited duration coverage and have not complied with the PHS Act. To that effect, issuers sometimes included coverage terms that were only minutes short of one year and placed disclaimers on the front pages of policies asserting non-renewable and short-term limited duration status. However, in practice, these policies often—(1) Allowed students to renew coverage as long as their schools had chosen to retain the policy (and, in some cases, the issuers cooperated with the universities in automatically renewing students who did not affirmatively opt out); (2) had significant numbers of students keep coverage for longer than one year; and (3) in some cases, even based annual and lifetime dollar limitations and preexisting condition exclusion limitation periods on students' coverage under the policies from the same issuer during prior academic years.

The effective date of this rule is intended to provide issuers and universities that operated with a reasonable belief that their policies were short-term limited duration coverage to come into compliance with the Affordable Care Act and the PHS Act. While there may be instances where short-term limited duration coverage is appropriately sold to students—for instance, foreign students studying for only one semester in the United States or U.S. citizens studying abroad for one summer—the short-term limited duration model does not apply to coverage that a student could have through the same health insurance issuer for one or more years during the course of his or her undergraduate or graduate education. CMS, along with the States, will monitor issuers' compliance with properly classifying student health insurance coverage following the effective date of this rule. Further, we point out that CMS has authority to impose penalties on health insurance issuers for failures to comply with the requirements of the PHS Act.

Comment: In the proposed rule, we specifically requested comments on the prevalence, structure, and State regulation of self-funded student health plans, given that the PHS Act does not provide authority for HHS to regulate such plans. In response, three consumer advocacy groups asked that we affirmatively encourage States to regulate self-funded student health plans to the extent permissible under Federal and State law. One issuer asserted that colleges would self-fund student health plans in response to a determination that insured student health plans fall under the Affordable Care Act, in order to avoid some of the requirements of the Affordable Care Act.

Response: From the comments to the proposed rule, it appears that there are approximately 200,000 students covered through student health plan arrangements that are self-funded through colleges and universities. While some commenters would prefer uniform regulation of all student plans; as stated in the proposed rule's preamble, however, we do not have the authority to regulate self-funded student health plans. The PHS Act and the Affordable Care Act give HHS regulatory authority over health insurance issuers in the group and individual markets and over non-Federal governmental group health plans, but self-funded student health plans do not fit into these categories. The proposed rule acknowledged that because self-funded student health plans are neither health insurance coverage nor group health plans, as those terms are defined in the PHS Act, HHS has no authority to regulate them, including extending Affordable Care Act policies to them. As explained in the proposed rule, these self-funded student health plans may be regulated by the States.

B. Exemptions From the Public Health Service Act (§ 147.145(b))

Comment: Nine issuers and four universities were concerned that eliminating annual and lifetime dollar limits would result in dramatic premium hikes for student plans and that many students will not be able to afford insurance. As a result, some commenters asserted that this elimination would cause universities to stop sponsoring student health insurance plans. An issuer opined that smaller schools would not have sufficiently large enrollments that could generate the premiums necessary to cover the risk exposure from unlimited maximums on plan dollar limits. These commenters proposed alternatives such as a slower phase-in of the annual limits rules, a permanent exception from these rules, and a waiver program under which universities could request exceptions from the generally-applicable rules.

Conversely, seven commenters, including some universities and consumer interest groups, supported the elimination of annual and lifetime dollar limits on student health insurance plans without a phase-in. Two commenters noted that while few students even come close to meeting these limits, the uncovered medical expenses could be catastrophic for those that do.

Response: In recognition of the considerable increase from $100,000 to $2 million in one year and in response to these comments, we have modified the proposed rule to the following schedule for restrictions on annual dollar limits—(1) annual limits of no less than $100,000 for policy years beginning on or after July 1, 2012 but before September 23, 2012; (2) annual limits of no less than $500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014; and (3) consistent with section 2711, no annual dollar limits for policy years beginning on or after January 1, 2014. The $500,000 annual dollar limit requirement for policy years beginning on or after September 23, 2012 provides student health insurance coverage a more gradual transition to full compliance with PHS Act section 2711 in 2014 but also protects students from catastrophic claims except in extreme cases. This schedule ensures persons with student health insurance coverage will be more fully protected from catastrophic claims within a few years, while allowing any costs associated with this important protection to be incorporated gradually. We point out that the student policies likely to see premium increases from this requirement are those policies that currently leave students with very significant financial exposure in the event of illness or accident.

Comment: Commenters, including universities, brokers, and issuers, generally recommended that preventive service coverage be provided at student health centers, unless referrals were needed to other providers. Industry and university commenters noted that student health insurance coverage benefits typically coordinate with services offered at the student health center and that this coordination eliminates duplication of benefits and makes student plans more affordable. Industry commenters noted that student health fees, separate from the student

health insurance coverage premiums, often cover access to certain preventive services from campus providers for both students enrolled in student health insurance coverage and other students who may have other or no coverage.

Response: Student health insurance coverage must include the preventive services specified under PHS Act section 2713 and the implementing regulations (45 CFR § 147.140). However, PHS Act section 2713 and the implementing regulations do not prevent student health insurance coverage from coordinating with student health centers to ensure the provision of these services. For example, an issuer can arrange for a student health center to serve as its in-network provider where students could receive preventive services without cost-sharing. This final rule also retains the clarification that student administrative health fees are not cost-sharing under section 2713 of the PHS Act. Student administrative health fees are those that are charged to all students enrolled at a college or university, regardless of whether a student enrolls in student health coverage or utilizes any services offered by the clinic, which gives all students access to a student health clinic's services and supports a number of services and activities that foster a healthier campus community.

Comment: Most commenters asserted that it would be inappropriate to apply section 2719A, which allows choice of certain health care professionals, to student health insurance coverage because of the unique nature of the student health system environment. More than two dozen commenters, including industry, university and consumer interest groups, noted the need to preserve the student health centers' role in providing care to students. Commenters emphasized the fact that student health insurance coverage's benefits are customized to take into account the services available from campus providers. Commenters also noted that campus providers serve as gatekeepers for care and as medical homes. Conversely, one consumer group asserted that it was not necessary to grant an exception from section 2719A to student health insurance coverage because students already are incentivized to use the geographically closest providers. Additionally, a consumer advocacy group noted that students would also need adequate access to health care when away from campus.

Response: The proposed rule does not prevent a student health insurance plan from designating providers at a student health center as its in-network providers and allowing students to choose from among those providers for purposes of satisfying section 2719A, provided that the centers have sufficient provider capacity and range of services available to support this designation. We believe that this provides an adequate incentive for students to obtain health care at the student health clinic while they are on campus, while also providing them with choice of providers when away from campus. We also note that student health centers vary in capacity and design, and some are not equipped to provide emergency services. Therefore, the final rule does not modify the proposed rule to grant student health insurance coverage exceptions from the provider choice requirements of section 2719A.

Comment: Commenters offered various approaches concerning how grandfather status should apply to student health insurance coverage. A university proposed that grandfather status apply to student health insurance coverage in the same manner that it applies to other individual health insurance coverage. Other commenters including issuers and brokers asserted that special treatment regarding grandfather status was advisable because issuers and universities were not able to predict the direction of this rule in advance and because the effective date of this rule as proposed (that is, policy years beginning on or after January 1, 2012) is much later than the Affordable Care Act's general date (March 23, 2010) for determining grandfather status. Commenters requested accommodations such as—(1) assessing grandfather status based on the student plan in place for the academic year 2011–2012; (2) setting grandfather status based on whether a university had the same or a similar policy within the parameters of the grandfather rule, not on a student-by-student basis, as a straight-forward application of the individual market rules would dictate; and (3) allowing issuers and universities a limited opportunity to revoke benefit changes that otherwise would trigger loss of grandfather status.

Response: While we understand the unique issues regarding grandfather status of student health insurance coverage, we do not have the legal discretion to alter the generally applicable grandfather rules. Grandfathering rules apply to health insurance issuers and plans across all markets. The rule defines student health insurance coverage to be a form of individual market coverage, and as such, grandfather status is determined as to the coverage in which each individual student was enrolled on March 23, 2010. Any coverage in which an individual student is newly enrolled after March 23, 2010 is non-grandfathered.

Comment: In response to the NPRM, a public health group, a women's rights organization, a student organization from a religiously-affiliated university, and an individual student commented on the importance of student health insurance coverage including benefits for contraception. The student organization and the individual student specifically noted that their schools' plans excluded coverage for contraceptive methods.

Subsequent to the NPRM on student health insurance coverage, on August 3, 2011, CMS, along with the Department of Labor and the Department of the Treasury (the Departments), published interim final rules (IFR) with request for comments (76 FR 46621) amending the Interim Final Rules Relating to Coverage of Preventive Services, codified at 45 CFR § 147.130. The August 3, 2011 amended IFR provided the Health Resources and Services Administration (HRSA) authority to exempt group health plans established or maintained by certain religious employers (and group health insurance coverage provided in connection with those group health plans) from any requirement to cover contraceptives required as a result of any HRSA guidelines.

In response to the August 3, 2011 amended IFR, the Departments received comments from a council of religiously-affiliated schools and from numerous religious-affiliated colleges and universities requesting that, among other suggestions, the exemption be broadened to include plans that meet the definition of a church plan under section 414(e) of the Internal Revenue Code and also to include student health insurance plans facilitated by religiously-affiliated colleges and universities. Conversely, the Departments received comments from women's advocacy organizations and from a constitutional rights organization requesting that the exemption either be stricken from the IFR or at least narrowed.

Response: With respect to certain non-profit institutions of higher education with religious objections to covering contraceptive services whose student health insurance plans are not grandfathered health plans, if the college or university and its student health insurance plan satisfy the terms applicable to an employer and its group health plan (and group health insurance coverage provided in connection with

that group health plan) under the Guidance released on February 10, 2012, establishing a temporary one-year enforcement safe harbor for group health plans established or maintained by certain non-profit, non-exempt employers with religious objections to covering contraceptive services (and group health insurance coverage provided in connection with those group health plans),[1] the college or university and the issuer of the student health insurance coverage will also be subject to the temporary one-year enforcement safe harbor, and contraceptive benefits will not have to be provided in its student health insurance plan until policy years beginning on or after August 1, 2013. Satisfaction of such terms includes sending the requisite notice to the students enrolled in the student health insurance plan and the institution of higher education maintaining on file the requisite self-certification.

Before the end of the temporary enforcement safe harbor, the Departments will work with stakeholders to develop alternative ways of providing contraceptive coverage without cost-sharing to students of non-profit religious institutions of higher education with religious objections to such coverage. Specifically, the Departments plan to initiate rulemaking to require issuers to offer student health insurance plans without contraceptive coverage through such an institution and simultaneously to offer contraceptive coverage without cost-sharing directly to the student health insurance plan enrollees (and their dependents). Under this approach, the Department also will require that, in this circumstance, there be no charge for the contraceptive coverage. Actuaries, economists and experts have found that coverage of contraceptives is at least cost neutral when taking into account all costs and benefits in the health plan.

C. Notice (§ 147.145(d))

Comment: While commenters uniformly supported a notice requirement concerning how student health insurance coverage differs from other individual market coverage, they had various recommendations concerning the notice's content and appearance. Some consumer groups agreed with the proposed rule's specific approach. Other commenters, including provider associations, consumer advocacy groups and issuers, submitted a range of proposed changes to the notice, including that it—(1) Use terms likely to be understood by enrollees, such as using ''new health reform law'' in place of ''PHS Act''; (2) provide contact information for State or local consumer assistance services; (3) clearly list exceptions from the PHS Act and the Affordable Care Act in a bulleted fashion; (4) be limited to one sentence in length; (5) use a conspicuous font and display; (6) permit font and display to conform more to the style of the document into which it is incorporated; (7) be provided in languages other than English; and (8) be allowed to be posted on schools' intranets. One consumer group suggested that notice regarding the special rules on guaranteed availability and renewability are unnecessary. In addition, two commenters recommended that the notice requirement sunset when the annual dollar limit requirement for student health insurance becomes consistent with that for all other individual health insurance coverage.

Response: While we retain the proposal that a notice should be provided to a student and any dependents describing how their coverage differs from other individual market coverage, and that the disclosure should be provided in the insurance policy or certificate and any other written materials for the coverage (for example, enrollment information), we include some modifications in the final rule in response to comments. We note that the proposed rule set out a model notice, with the intent of allowing health insurance issuers flexibility to create their own notice, provided that it met certain criteria.

In response to recommendations from commenters, the final rule modifies the content of the notice requirement, as well as simplifies the model notice. The content criteria was modified by removing the notice regarding guaranteed availability and guaranteed renewability, leaving only the content to inform students if the policy does not meet the annual limits restrictions. Additionally, the revised model notice in the final rule uses the term ''health care reform law,'' given that this phrase may be more understandable to consumers. Required language was also added advising students that they may be eligible for coverage under their parents' employer group health plan or a parent's individual market coverage if they are under the age of 26. This is important because coverage under a parent's employer or a parent's individual market plan may contain all of the protections of the Affordable Care Act, including adherence to the annual dollar limits requirements. In addition, we clarify that the notice must be provided in the insurance policy or certificate and in any other plan materials summarizing the terms of the coverage (such as a summary description document). Finally, the final rule sunsets the notice requirement when the annual limits requirement is consistent with other individual health insurance coverage.

D. Applicability (§ 147.145(e))

Comment: One consumer advocacy group recommended that January 1, 2012 be the latest date for student health insurance coverage to comply with the individual market requirements. This commenter expressed concern that by establishing policy years beginning on or after January 1, 2012 as the effective date for the rule, most students will have to wait until the 2012–2013 school year to benefit from the rule. A related concern of the commenter was that this effective date allows issuers to increase premiums and collect as much profit as possible before the Federal MLR requirements take effect.

One issuer urged HHS to issue a final rule no later than August 1, 2011 or otherwise delay the effective date so that issuers have adequate time to prepare for compliance. The commenter explained that negotiations for and sales of 2012–2013 academic year policies will occur in the Fall of 2011.

Response: We recognize the concerns of issuers regarding timing, but we had to ensure that the final rule is consistent with other policies. We believe that the timing of this final rule provides sufficient time for issuers to comply with the new provisions for the 2012–2013 academic year.

Comment: Issuers and brokers raised several general issues concerning the applicability of the PHS Act and the Affordable Care Act to foreign students studying in the United States. They asserted that plans for inbound foreign students have unique administrative cost structures, benefit designs, and medical utilization patterns, which differ substantially from plans for domestic students. These commenters suggested that, because of these differences, schools should be allowed to offer separate plans for international students that are subject to different requirements than domestic health plans. One commenter asked that we exempt health plans for students who are not United States citizens from the

[1] ''Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under Section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code'', February 10, 2012, which can be found at: *http://cciio.cms.gov/resources/files/Files2/02102012/20120210-Preventive-Services-Bulletin.pdf.*

PHS Act and the Affordable Care Act. In contrast, a consumer group and a school interest group urged HHS to subject international student plans to the same rules as all other individual market coverage.

Response: Health insurance coverage issued in a State, as that term is defined by the PHS Act and the Affordable Care Act, must comply with the applicable provisions of such Acts, without regard to the individuals being insured. However, as previously discussed, there may be circumstances where student coverage appropriately may still be sold on a short-term limited duration basis to foreign students, and thus the issuer would not have to comply with the PHS Act and the Affordable Care Act.

Comment: Issuers noted that the State Department's Bureau of Educational and Cultural Affairs requires students on J–1 Exchange Visitor visas to maintain health insurance coverage that includes medical benefits of at least $50,000 per accident or illness, includes a deductible of not more than $500 per accident or illness, and meets other requirements (22 CFR 62.14). One commenter requested that we ensure that our final rule and 22 CFR 62.14 do not conflict.

Response: We reviewed the requirements under 22 CFR 62.14 and believe that issuers will be able to comply both with those rules and this final rule.

Comment: Commenters offered a range of comments on the rule's interaction with State laws. A State insurance department requested a clarification that States could impose more stringent standards on student health insurance coverage than those under this rule. The State insurance department offered an example of a State requiring more detailed disclosures. One issuer requested this rule preempt State laws imposing additional standards on student health insurance coverage. On the other hand, several universities submitted a form letter urging that student health insurance coverage be subject only to State laws. A broker asserted that most States regulate student health insurance coverage as a form of blanket or group health insurance and urged that CMS allow States to continue to regulate student health insurance coverage in that fashion. Finally, several consumers expressed concern that student health insurance coverage would not be subject to rate review under PHS Act section 2794, as added by Affordable Care Act section 1003.

Response: As discussed in the preamble to the proposed rule, the PHS Act only preempts State standards and requirements to the extent that they prevent the application of a PHS Act requirement. (PHS Act sections 2724 and 2762). States may impose additional requirements on student health insurance (for example, additional disclosure requirements) and States may continue to regulate student health insurance coverage as a form of group or blanket health insurance, provided these standards do not prevent the application of the relevant individual market provisions of the PHS Act.

Section 1560(c) permits limited exemptions for student health insurance coverage from those generally applicable Affordable Care Act requirements that, as a practical matter, would prohibit the offering of student health insurance coverage. Section 1560(c) does not allow CMS to except student health insurance coverage from compliance with all Federal requirements. Further, many commenters pointed out the inadequacy of many current student health insurance plans, which suggests that compliance solely with State laws has failed to ensure that students had access to comprehensive coverage in the past.

Issuers must comply with the Federal rate review process in 45 CFR Part 154 for non-grandfathered health insurance coverage that is included under a State's definition of individual market coverage or small group market coverage.

E. Issuer Use of Premium Revenue: Reporting and Rebate Requirements (Part 158)

Comment: While the proposed rule did not include a specific proposal as to how Federal medical loss ratio (MLR) requirements in PHS Act section 2718 would apply to student health insurance coverage, we specifically requested comments on this issue. Section 2718 provides for the calculation of an issuer's MLR based on the percentage of premium revenue that is spent on health care claims and quality improvement, and directs that rebates be paid if this amount does not meet the minimum standard. We specifically invited comments on whether to make an adjustment to the MLR methodology to reflect the ''special circumstances'' of student health coverage, as allowed under PHS Act section 2718(c). Pursuant to our request in the proposed rule, we received several comments on the Federal MLR requirements as they relate to student health insurance coverage.

One university and student advocates strongly supported applying Federal MLR requirements to student health insurance coverage in the same manner as they apply to individual market insurance generally. This would mean using the standard methodology for calculating the MLR and applying the 80 percent standard for individual market insurance to the MLR produced by this standard methodology.

A majority of the brokers, agents, TPAs and issuers, however, asserted that applying the Federal MLR requirements to student health coverage without any special circumstances adjustment would be inappropriate and would force issuers to leave the student health insurance market. These commenters asserted that it would be difficult for student coverage to meet the Federal MLR requirements because of the unique operational and administrative nature of such plans. Most issuers stated that if the standard method for calculating the Federal MLR were applied, their MLRs would be between 65 percent and 82 percent. One issuer commented that only large issuers would be able to fold student insurance into their overall individual market blocks of business and continue to operate at the required Federal MLR standard if no adjustment were made to the methodology for calculating the MLR.

Specific examples of the unique administrative costs cited by several commenters include—(1) The transient nature of the student population, leading to high turnover; (2) more frequent enrollment periods; (3) the level of plan design customization required by different schools; (4) the operation and administration of student waiver programs; and (5) special billing practices related to student health centers. Additionally, one issuer asserted that college students' unfamiliarity with the health care system increases the cost of administrative expenses for student health plans.

Several issuers also provided specific recommendations to address the application of the Federal MLR requirements. A majority of these commenters proposed developing a special MLR methodology for student coverage. Two issuers recommended that student coverage in effect should be held to no higher than a 70 percent or 75 percent MLR. Several commenters suggested that student plans should be aggregated nationally as their own pool, and a few requested that the MLR reporting year should be based on an academic year or a policy year because this is how student plans are sold. One issuer specifically noted that it does not sell other individual health insurance coverage and, therefore, would not have any other individual market business to aggregate with the student experience.

Another issuer had specific comments regarding when rebates should be due, and who should receive them.

Lastly, two commenters including an educational association recommended that HHS research, either independently or through an independent organization, whether student health plans have unique administrative expenses that warrant special treatment.

Response: We considered the comments and have reviewed additional data that supports the claim that student health plans have special circumstances specifically relating to their administrative cost structures. Accordingly, this final rule amends 45 CFR Part 158 by expressly stating that issuers of student health insurance coverage are subject to the individual market reporting and rebate requirements of the MLR rule. While some commenters requested modifying the Federal MLR percentage standard for student plans, HHS does not have the authority to change the MLR percentage standard for plans. HHS does have authority under PHS Act section 2718(c), however, ''to take into account the special circumstances of smaller plans, different types of plans, and newer plans'' in determining the methodology for calculating an issuer's MLR. This amendment to Part 158 exercises this authority by recognizing the special circumstances of student plans for purposes of the application of the Federal MLR requirements. The amendment to Part 158 provides that the experience for student coverage is to be reported separately from other individual market coverage. Further, given that student health insurance coverage is provided a separate pool, apart from other individual market coverage, the amendment provides for national aggregation of student health insurance coverage.[2] In addition, by taking into account the special circumstances of student health insurance coverage and helping to ensure continued access to student health insurance coverage, this amendment to Part 158 comports with section 1560(c) of the Affordable Care Act, which provides that nothing in Title I of the Affordable Care Act (or any amendments) be construed to prohibit universities from offering student health insurance plans.

Also in response to comments from issuers, universities and student advocates and data from issuers and the NAIC, this amendment to Part 158 provides that the calculation of incurred claims and quality improving activities is to be multiplied by 1.15 in 2013. HHS has determined that this phased-in adjustment to the numerator for student health insurance coverage for the MLR requirements is sufficient to account for the special circumstances of student health plans, specifically their unique administrative costs. As mentioned above, issuers of student health insurance coverage commented that, based on current operations and unique costs associated with student coverage, they currently meet a 70 percent to 75 percent MLR standard and, therefore, would need an adjustment to meet the 80 percent MLR standard and place them on a glide path to compliance in 2014. The student health plan-specific MLR methodology is in effect for MLR reporting year 2013, and no special treatment is provided in MLR reporting year 2014 and beyond. As mentioned above, issuers provided many examples of the unique administrative expenses in the student market. While some of the expenses are inherent in the nature of student coverage (such as, high enrollee turnover and manual claims processing for student clinics), there are other administrative costs where issuers can potentially gain efficiencies in their operations (such as, marketing and plan customization). The phase-in of the MLR requirements is intended to provide issuers additional time to become more efficient in their operations and meet the individual market MLR requirement of 80 percent. We believe that this policy is responsive to the concerns of commenters, while still maintaining the protections under the Affordable Care Act. The rule also provides that the MLR reporting year for student coverage will be on a calendar year basis, beginning January 1, 2013. We maintained the calendar year MLR reporting structure for student coverage because, under Part 158, issuers currently report other individual market coverage on a calendar year basis. In addition, issuers of student health insurance coverage will be subject to the rebate provisions in Part 158, consistent with other individual market coverage. Since student health insurance coverage is individual market coverage, the rebates will be distributed directly to the student in the same manner as rebates from other individual market coverage. Lastly, the amendment to Part 158 includes conforming changes clarifying how life-years and credibility adjustments are applied to the student market.

F. Provisions of the Public Health Service Act Effective in 2014

Comment: Pursuant to our request in the proposed rule for comments on the applicability of other Affordable Care Act provisions, we received a large number of comments on the interaction between student health insurance coverage and various Affordable Care Act reforms effective in 2014.

Five commenters argued that PHS Act section 2702 and 2703, the 2014 guaranteed availability and renewability provisions, should not apply to student health insurance coverage, consistent with the proposed rule's exemption from PHS Act section 2741 and 2742, the current HIPAA guaranteed availability and renewability requirements. One commenter further pointed out the need to have flexibility to limit guaranteed availability to open enrollment periods.

Three universities and a consumer advocacy group expressed concern that universities would stop sponsoring student health insurance due to coverage being available through the Affordable Insurance Exchanges. One university asserted students are better served purchasing coverage while enrolling for classes, while another university expressed concern that provider networks could be inadequate for students with coverage through an out-of-state Exchange. Four commenters requested that the subsidies available through the Affordable Insurance Exchanges be available for use with student health insurance coverage and self-funded student plans. On the other hand, three commenters opposed the offering of student health insurance coverage through the Affordable Insurance Exchanges, arguing that this would interfere with the administration of colleges' mandatory insurance requirements and that, in any event, most students' family income levels would disqualify them for subsidies.

Several commenters requested that student health insurance coverage and self-funded student health plans be specifically recognized as minimum essential coverage. Two commenters suggested that self-funded student health plans be required to meet the same coverage requirements as student health insurance coverage in order to be deemed minimum essential coverage.

Lastly, two commenters proposed that student health insurance coverage continue to have its experience separately pooled, notwithstanding the single risk pool requirement that otherwise goes into effect for the individual market in 2014, and one commenter proposed that student health

[2] Because student health insurance plan data will be aggregated nationally, a single 80 percent MLR standard will apply in determining rebates, even if some of the aggregated data come from States with adjusted individual market percentages.

insurance coverage be deemed large group coverage and therefore exempt from the essential health benefits package requirements.

Response: We considered the comments concerning those Affordable Care Act provisions that become effective in 2014 and have decided to address these issues with respect to student coverage in conjunction with final regulations concerning the Affordable Insurance Exchanges, the market requirements of the PHS Act, the definition of minimum essential coverage, tax credits for premium assistance, and other 2014 issues.

As noted, the proposed rule included exemptions for student health plans from the current guaranteed issue and renewability requirements of PHS Act sections 2741 and 2742 for policy years beginning on or after July 1, 2012.

IV. Provisions of the Final Regulations

For the most part, this final rule incorporates the provisions of the proposed rule. The provisions of this final rule that differ from the proposed rule are:

- *Annual limits.* We modified the phase-in schedule so that student health insurance coverage cannot have annual dollar limits on essential health benefits less than $500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014.
- *Notice Requirement.* We streamlined the content of the notice requirement by removing notice of the exemption regarding guaranteed availability and guaranteed renewability and simplified the model notice by using terms more easily understood by students and their dependents. Required language was also added advising students that they may be eligible for coverage under their parents' employer or individual market coverage if they are under the age of 26. In addition, we added a sunset provision to the notice in 2014 for when the annual limits requirements become consistent with other individual health insurance coverage.
- *Medical Loss Ratio.* We amended 45 CFR Part 158 by expressly stating that issuers of student health insurance coverage are subject to the reporting and rebate requirements of the MLR rule. However, as allowed by PHS Act section 2718(b)(1)(A)(ii), adjustments to the MLR numerators are provided for MLR reporting year 2013 due to their unique circumstances. In addition, we added specific provisions to § 158.120 providing that student coverage will be aggregated nationally as its own pool rather than on a State by State basis, and its experience will be reported separate from other policies. Lastly, the rule includes conforming changes regarding how credibility adjustments are applied to the student health insurance market.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for 45 CFR 147.145(d), which contains information collection requirements (ICRs). Section 147.145(d)(1) requires issuers of student health insurance coverage to provide notice to enrollees that the policy does not meet the minimum annual limits requirement of the Affordable Care Act. In addition, the final regulation requires that the disclosure must be prominently displayed in clear, conspicuous 14-point bold type. Additionally, the final regulation provides model language that issuers of student health insurance coverage can use in order to be in compliance with the notice requirement. The model language is provided in 45 CFR 147.145(d)(2).

In order to provide the notices, the issuers of student health insurance coverage will need to review the model language or draft their own language, incorporate the plan or issuer's name into the model notice (or a notice that is similar to the model), and print the notice in any plan or policy documents that are regularly sent to student enrollees.

Minor changes in the notice requirement from the proposed rule create no additional burden beyond that calculated in the proposed rule. The final rule modifies the content of the notice requirement, as well as simplifies the model notice. The content was modified by removing the notice regarding guaranteed availability and guaranteed renewability and by using the term ''health care reform law.'' Required language was also added advising students that they may be eligible for coverage under their parents' employer or individual market coverage if they are under the age of 26. In this final rule, we are adopting the burden estimate in the student health insurance coverage proposed rule. This burden estimate encompasses the entire notice process which includes assembly of the notice. It is estimated that approximately 75 student health insurance coverage issuers will have to provide such notice.[3] We estimate that it will take approximately 2 minutes per student enrollee or approximately 1,000 hours per student health insurance issuer to prepare and mail the notices to students. Including hourly wage and printing and mailing costs, we estimate the annual cost burden will be $40,840 per affected issuer for a total cost of $3,063,000. In some cases, actual burden per notice (for example, postage) may be lower because we expect that many issuers will insert the model language into the existing plan materials that they were already intending to send to enrollees each year.

[3] This estimate is based on data from the 2009 National Association of Insurance Commissioners (NAIC) Annual Accident and Health Policy Experience Exhibit and the American Council on Education (ACE). The 2009 NAIC filings show that there are 58 health insurance issuers offering student health coverage; however this data does not include managed care plans in California, and may include some issuers offering K–12 student accidental health coverage. In addition, data from the American Council on Education suggests that there are several smaller plans offering student health plans.

TABLE 1—ANNUAL REPORTING, RECORDKEEPING AND DISCLOSURE BURDEN

Regulation section(s)	OMB Control No.	Respondents	Responses	Burden per response (hours)	Total annual burden (hours)	Hourly labor cost of reporting ($)	Total labor cost of reporting ($)	Total capital/ maintenance costs ($)	Total cost ($)
§ 147.145	0938—New	75	2,250,000	.0333	75,000	26.14	3,063,000	0	3,063,000
Total		75	2,250,000		75,000				3,063,000

For purposes of MLR and rebate reporting under Part 158, this final rule generally conforms the requirements for issuers of student plans to the requirements for the individual market under the MLR interim final regulation. One exception is that health insurance issuers that sell student plans will report the experience separately from other coverage. In addition, such experience will be aggregated on a national basis. Because the MLR interim final rule accounted for health insurance issuers for individual market coverage reporting on an annual basis, we are not imposing any additional requirements for health insurance issuers. In fact, as a result of the national aggregation of these plans, the burden on health insurance issuers of complying with this final rule will decrease.

We have submitted an information collection request to OMB for review and approval of the information collection requirements contained in this final rule. The requirements are not effective until approved by OMB and assigned a valid OMB control number.

VI. Regulatory Impact Analysis

In accordance with the provisions of Executive Order 12866, this rule was reviewed by the Office of Management and Budget.

A. Summary

As stated earlier in this preamble, this final rule is designed to address several issues that have arisen regarding the applicability of the Affordable Care Act to student health insurance coverage, including how this coverage is categorized under the PHS Act. Specifically, the provisions in this final rule clarify which protections of the PHS Act and the Affordable Care Act apply to student health insurance coverage, and to what extent students and their dependents enrolled in these plans have the benefit of these consumer protection provisions. This final rule defines student health insurance coverage as a type of individual health insurance coverage and specifies certain PHS Act and Affordable Care Act provisions as inapplicable to this type of individual health insurance coverage. These provisions are generally effective for student health insurance policy years beginning on or after July 1, 2012.

CMS has crafted this rule to implement the protections intended by Congress in the most economically efficient manner possible. We have examined the effects of this rule as required by Executive Order 12866 (58 FR 51735, September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)). In accordance with OMB Circular A–4, CMS has quantified the benefits, costs and transfers where possible, and has also provided a qualitative discussion of some of the benefits, costs and transfers that may stem from this final rule.

B. Executive Orders 13563 and 12866

Executive Order 12866 (58 FR 51735) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 (76 FR 3821, January 21, 2011) is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a final rule—(1) Having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the OMB.

As discussed below, we have concluded that this final rule would likely not have economic impacts of $100 million or more in any one year or otherwise meet the definition of an ''economically significant regulation'' under Executive Order 12866. Nevertheless, CMS has opted to provide an assessment of the potential costs, benefits, and transfers associated with this final rule. This assessment is based primarily on the estimated administrative costs to issuers associated with providing the required notifications to student health plan enrollees. As discussed below, we believe that this final rule will have a minimal effect on premiums.

1. Need for Regulatory Action

In order to address several issues that have arisen regarding the applicability of the Affordable Care Act to student health insurance coverage, including how this coverage is categorized under the PHS Act, this final rule specifies that student health insurance coverage will be defined as a type of individual health insurance coverage and, with the exception of certain specific provisions, be subject to the individual market provisions of the PHS Act and the Affordable Care Act. As discussed elsewhere in the preamble, in clarifying the general applicability of the PHS Act and the Affordable Care Act to student health insurance coverage, this final rule also specifies that a limited number of provisions of the PHS Act and the Affordable Care Act are inapplicable to student health insurance coverage. Section 1560(c) of the Affordable Care Act provides that ''[N]othing in this title (or an amendment made by this title)

shall be construed to prohibit an institution of higher education (as such term is defined for purposes of the Higher Education Act of 1965) from offering a student health insurance plan, to the extent that such requirement is otherwise permitted under applicable Federal, State, or local law.'' CMS interprets this provision of the Affordable Care Act to mean that if particular requirements added by the Affordable Care Act would have, as a practical matter, the effect of prohibiting an institution of higher education from offering a student health plan otherwise permitted under Federal, State or local law, such requirements would be inapplicable pursuant to the rule of construction in section 1560(c). As discussed elsewhere in the preamble, based on data provided by stakeholders representing colleges and universities and students, CMS has determined that if student health insurance coverage were required to comply with certain provisions of the Affordable Care Act, this would be the functional equivalent of ''prohibiting'' the educational institutions from making such coverage available to students. Therefore, this final rule clarifies that student administrative health fees are not cost-sharing requirements under section 2713 of the PHS Act; and provides for a transition period for issuers of student health insurance coverage to comply with the restricted annual dollar limits requirements and methodology for calculating the MLR under the Affordable Care Act. The final rule also announces a temporary one-year enforcement safe harbor with respect to certain non-profit colleges and universities with religious objections to covering contraceptive services. CMS believes that the clarifications that are included in this final rule are necessary to facilitate the offering of student health insurance plans, consistent with the requirements of section 1560(c) of the Affordable Care Act.

2. Summary of Impacts

In accordance with OMB Circular A–4, Table 2 below depicts an accounting statement summarizing CMS's assessment of the benefits, costs, and transfers associated with this regulatory action. CMS has limited the period covered by the regulatory impact analysis (RIA) to 2012–2013. Estimates are not provided for subsequent years because there will be significant changes in the marketplace in 2014 related to the offering of new individual and small group plans through the Affordable Insurance Exchanges. Additionally, because this final rule clarifies that student health insurance coverage is subject to the provisions in the Affordable Care Act, including how these plans are categorized under the PHS Act, the RIA does not estimate the overall effect of imposing the Affordable Care Act provisions on these plans. Instead, the RIA focuses on the modifications to the applicability of individual market requirements that would have a potential impact during the years 2012 to 2013. That is, providing for a transition period for issuers of student health insurance coverage to comply with the restricted annual dollar limits policy of section 2711 of the PHS Act and the MLR calculation methodology of section 2718 of the PHS Act, and announcing a temporary one-year enforcement safe harbor with respect to certain non-profit colleges and universities with religious objections to covering contraceptive services. These modifications are designed consistent with section 1560(c) of the Affordable Care Act. Because some final rule provisions are modified from the proposed rule, the RIA has been revised to reflect these changes.

CMS anticipates that the provisions of this final rule will help ensure that institutions of higher education can maintain the offering of student health insurance coverage by clarifying the inapplicability of certain requirements of the PHS Act and Affordable Care Act that would prohibit the offering of such coverage. In accordance with Executive Order 12866, CMS believes that the benefits of this regulatory action justify the costs.

TABLE 2—ACCOUNTING TABLE

Benefits:
Qualitative:
* Continued coverage, access to preventive services and other Affordable Care Act patient protections, and continuity of care for students.
* Increased transparency relating to benefits offered in student health insurance coverage.

Costs and Transfers:	Estimate	Year dollar	Discount rate percent	Period covered
Annualized Monetized ($millions/year)	3.1	2011	7	2012–2013
	3.1	2011	3	2012–2013

Annual costs related to providing notifications to enrollees.

Qualitative:
* Reduced rate of premium growth for student health insurance coverage from 2012 through 2013 than would have occurred under immediate compliance with the restricted annual dollar limit requirements.
* Increased out-of-pocket costs for a small number of enrollees.
* Reduced rebate receipts for a small number of enrollees.

3. Estimated Number of Affected Entities

Comprehensive sources of data concerning the number of persons covered by student health insurance plans and the benefit structure of those plans are not readily available. Additionally, available survey data do not adequately capture this population due to small sample sizes and the difficulty of differentiating student health insurance coverage from other individual market coverage. However, we were able to develop some estimates based on a Government Accountability Office (GAO) report and data provided by the American Council on Education (ACE).

a. Estimated Number of Plans Offering Student Health Insurance Coverage

There were 4,409 degree-granting institutions in 2009, including two-year and four-year institutions.[4] The GAO found that 57 percent of colleges and

[4] U.S. Department of Education, National Center for Education Statistics. (2010). *Digest of Education Statistics, 2009 Table 265. http://nces.ed.gov/programs/digest/d09/tables/dt09_265.asp.*

universities offered student insurance plans from 2007 to 2008,[5] suggesting that approximately 2,500 colleges and universities offered such an insurance plan. According to industry sources, approximately 1,500 to 2,000 institutions offer student health plans, and the vast majority of these plans are insured (rather than self-funded) plans.[6]

In a survey of colleges with student health plans, GAO found that all but 4 percent established some maximum benefit amount during the 2007 to 2008 academic year. Most (68 percent of plans) defined the maximum in terms of per condition per lifetime. Approximately 24 percent of the plans defined an annual limit (including plans with a per year or per condition per year limit).[7]

Additionally, as discussed earlier in the Collection of Information Requirements section, CMS estimates that there are approximately 75 health insurance issuers that offer student health insurance coverage that is provided to eligible students and their dependents through written agreements that are negotiated with the abovementioned colleges and universities that offer such coverage.

b. Estimated Number of Individuals Enrolled in Student Health Insurance Coverage

The GAO has estimated the percentage of college students aged 18 through 23 years old who are insured through non-employer-sponsored private health insurance programs, including student health insurance programs. GAO found that 7 percent of college students aged 18 through 23 were covered by non-employer-sponsored private health insurance programs, including student health insurance programs.[8] However, almost one-half of all college students are not in this age group.

The National Center for Education statistics (NCES) has projected that there will be 19.0 million college students in 2012, including both undergraduate and graduate, approximately one-half of whom will be in the 18–23 age range.[9] Based on the previous GAO findings, a reasonable estimate of the total number of persons with student health insurance is approximately 1.3 million (approximately 7 percent of the estimated 19.0 million total college students). A separate source of information estimates that the five largest carriers offering student health insurance account for approximately 1.2 to 1.5 million undergraduate and graduate enrollees; in addition, industry sources estimate that approximately 200,000 students are covered through student health plan arrangements that are self-funded through colleges and universities, and a relatively small number by insurers beyond the five largest carriers.[10] By comparison, 2009 data from the National Association of Insurance Commissioners' (NAIC) Accident and Health (A&H) Policy Experience Exhibit suggest that health insurance issuers offered college student policies with approximately 1.1 million enrollees (based on estimated member years, including dependents).[11] There is clearly some uncertainty about the number of people enrolled in student health insurance coverage, but it appears likely that there are between 1.1 million and 1.5 million enrollees.

Table 3 presents the estimated distribution of persons covered by student health insurance according to the annual limits of their policies, based on two different data sources. Regardless of which data source is used, the estimated number of students affected by this rule is small. The first data source represents the distribution of annual limits in the individual market, as presented in Table 3.3 of the interim final rule relating to section 2711 of the Affordable Care Act, regarding lifetime and annual dollar limits on benefits (75 FR 37188, June 28, 2010). Because that table did not use the annual limits thresholds relevant to this rule, the estimated number of persons in each cell was prorated. Because the Affordable Care Act prohibits group health plans and health insurance issuers offering group or individual health insurance coverage from establishing lifetime dollar limits, for purposes of this analysis we assume that the plans with such limits (for example, 71.9 percent of the 199 plans in the GAO survey) have no annual limit. Another 4.0 percent of plans have had no limit of any type. Of the plans with per condition per year limits (13.6 percent), none had limits exceeding $100,000. The distribution of the remaining 10.6 percent of plans was estimated based on three statistics reported in the GAO report.[12]

The second data source represents the findings from the 2008 GAO report. According to the GAO's analysis, only 24 percent of student health plans had an annual limit of any sort. Although the GAO found that most student health insurance coverage included lifetime benefit limits during the 2007 to 2008 academic year (for example, per condition per lifetime), such limits are prohibited under current law and hence are not relevant to this analysis.

A commenter expressed concerns about the data in Table 3, that it was inconsistent with the finding from the GAO study that annual limits ranged from $15,000 to $250,000, with the median being $50,000. We would like to clarify that this statement applies to only the plans that had annual limits. The preceding paragraphs explain how the data from the GAO study was used to estimate the distribution in Table 3. In the GAO study, only 24 percent of the plans had annual limits, 71.9 percent of the plans had lifetime limits but no annual limit and another 4 percent had no annual or lifetime limits. As explained previously, for the purpose of this analysis, plans with lifetime limits only were treated as having no annual limits.

The GAO estimate suggests that approximately 300,000 students would potentially be affected by the rule to allow student health insurance coverage to have annual dollar limits on essential health benefits lower than the $750,000 that would be required in the absence of this rule.

[5] Government Accountability Office, ''Health Insurance: Most College Students Are Covered through Employer-Sponsored Plans, and Some Colleges and States Are Taking Steps to Increase Coverage,'' March 2008, GAO–08–389, p. 17.

[6] It is estimated that approximately 200,000 students (less than 1 percent of the market) are enrolled in coverage offered through self-funded health plans. As discussed earlier in the preamble, these self-funded student plans are not subject to the requirements of the PHS Act because they are neither health insurance coverage nor group health plans, as those terms are defined in the PHS Act.

[7] Government Accountability Office, March 2008, pp. 24, 27.

[8] Government Accountability Office, March 2008, p. 10.

[9] U.S. Department of Education, National Center for Education Statistics. (2009), *Digest of Education Statistics,* 2008, *Table 190. http://nces.ed.gov/fastfacts/display.asp?id=98.*

[10] Based on information compiled by the American Council on Education, primarily from the American College Health Association and the health insurance industry, September 2010.

[11] This represents data for 32 health insurance issuers (for example, licensed entities with unique NAIC company codes) that reported earned premiums and enrollment for student business in the individual or group markets on the NAIC Accident & Health (A&H) Policy Experience Exhibit for 2009, and excludes experience for companies regulated by the California Department of Managed Health Care. These issuers represent a subset of the 58 total issuers who reported any kind of student business on the NAIC A&H Policy Experience Exhibit for that year. CMS estimates that 16 issuers whose average premium per enrollee was approximately $200 or less were primarily reporting data for K–12 student accidental health coverage, which is not subject to the provisions of this rule. CMS also excluded 10 issuers that did not report valid premium and/or enrollment data for student business from this analysis. In cases where data for member years were unavailable for certain issuers, CMS used data that were reported for covered lives or number of policies/certificates as a proxy.

[12] These four percentages do not sum to 100 percent due to rounding.

TABLE 3—ESTIMATED NUMBER OF PERSONS WITH STUDENT HEALTH INSURANCE COVERAGE SUBJECTED TO ANNUAL LIMITS, BY DATA SOURCE

Annual limit	CMS estimated distribution for all plans offered in the individual market		GAO distribution for student health plans with annual limits, 2007–2008	
	Percent	Number (in thousands)	Percent	Number (in thousands)
Less Than $100,000	0.2	3	21.6	281
$100,000–$499,999	1.4	18	2.5	33
$500,000–$1,999,999	13.6	177	0.0	0
$2,000,000 or Higher (including no annual limit)	84.8	1,102	75.9	986
Total	100.0	1,300	100.0	1,300

Note: The estimated number of persons in each cell has been prorated.
Sources: The CMS distribution was derived from CMS, 75 FR 37188, Table 3.3; the GAO distribution was derived from GAO, March 2008, GAO–08–389, pp. 24, 27.

Given that provisions of this final rule would be applicable for policy years beginning on or after July 1, 2012, and assuming that most students enrolling in student health insurance coverage do so at the beginning of the fall semester, we believe that this final rule is not likely to impact a significant number of students until late summer of 2012, at which point approximately 280,000 enrollees will see their annual limits increase to no less than $100,000 on essential benefits (for student health insurance coverage policy years beginning on or after July 1, 2012, but before September 23, 2012), according to the GAO-based results.

Because this final rule includes a phased transition to the restricted annual dollar limits thresholds that are required under the Affordable Care Act, some students that would have otherwise experienced increases in their annual dollar limits for policy years beginning before September 23, 2012 under current law will not experience those increases. This includes an estimated 33,000 persons with coverage offering annual limits between $100,000 and $499,999. In the late summer of 2013, approximately 314,000 persons enrolled in coverage with annual dollar limits below $500,000 will experience an increase in their annual dollar limits (to no less than $500,000 for essential health benefits). Consistent with the provisions of the Affordable Care Act, no non-grandfathered student health insurance coverage will be allowed to have annual dollar limits for policy years beginning on or after January 1, 2014. These estimates are different from the proposed rule, which had different annual dollar limit thresholds.

The final rule also specifies a phased-in transition to the methodology for MLR calculation, authorized by section 2718 of the PHS Act. Section 2718(b) of the PHS Act requires issuers to provide an annual rebate to each enrollee if the ratio of the amount of premium revenue expended on reimbursement for clinical services and activities that improve quality is less than the applicable minimum standard and also specifies how the rebate is to be calculated. For the MLR reporting year 2013, the total of incurred claims and expenditures for activities that improve health care quality is multiplied by a factor of 1.15 for student health insurance coverage. Limited data for student business in the individual and group market is available for 29 health insurance issuers in the 2009 NAIC Accident and Health (A&H) Policy Experience Exhibit.[13] Of these, 10 issuers had less than 1,000 life-years [14] each and thus, as provided by 45 CFR 158.230(c)(3) and (d), would be presumed to meet or exceed the 80 percent MLR standard. For the remaining 19 issuers, the estimated unadjusted MLRs for student health insurance plans range from approximately 12 percent to 125 percent. Of these, only 3 issuers have sufficient numbers of enrollees to have fully credible experience. The remaining 16 issuers would receive a credibility adjustment, or boost, to their MLR to take into account the fact that their experience is not large enough to be fully credible. In the absence of data required for calculating the adjusted MLRs, the unadjusted MLR has been used to estimate the impact of the transitional phase in. Table 4 presents the estimated total rebates and the number of issuers and enrollees affected under the provisions in this final rule and under the methodology used to calculate an issuer's MLR without any adjustment for the special circumstances of student health insurance coverage or credibility. It is estimated that 14 issuers will be required to pay approximately $53,000,000 in rebates if the special circumstances of student health insurance coverage are not taken into account. Rebates owed by individual issuers range from $34,000 to over $33 million. High rebate amounts could affect the viability of some of the affected issuers and cause them to withdraw from the market, thereby reducing access to student health insurance coverage. If the total of incurred claims and expenditures for activities that improve health care quality are multiplied by a factor of 1.15, then it is estimated that 7 issuers will not meet the MLR requirements and will be required to pay approximately $7,000,000 in rebates. This is a high range estimate and once all the adjustments consistent with the provisions of section 2718 of the Affordable Care Act are applied, the number of issuers affected and the amount of rebates will likely be reduced. It is also possible that issuers will undertake quality improvement activities and operational changes and efficiencies that will further increase

[13] This represents data for 29 health insurance issuers (e.g., licensed entities with unique NAIC company codes) that reported earned premiums and enrollment for student business in the individual or group markets on the NAIC Accident & Health (A&H) Policy Experience Exhibit for 2009, and excludes experience for companies regulated by the California Department of Managed Health Care. These issuers represent a subset of the 58 total issuers who reported any kind of student business on the NAIC A&H Policy Experience Exhibit for that year. The Department estimates that 16 issuers whose average premium per enrollee was approximately $200 or less were primarily reporting data for K–12 student accidental health coverage, which is not subject to the provisions of this rule.

The Department also excluded 10 issuers that did not report valid premium and/or enrollment data for student business, and 2 issuers that reported anomalous combinations of premiums and claims (e.g., zero premiums and positive claims or negative claims and positive premiums) from this analysis. In cases where data for member years were unavailable for certain issuers, the Department used data that were reported for covered lives or number of policies/certificates as a proxy.

[14] Life-years are the total number of months of coverage for enrollees whose premiums and claims experience is included in the data reported, divided by 12.

their MLRs and reduce the rebate amounts.

TABLE 4—ESTIMATED NUMBER OF ISSUERS OF STUDENT HEALTH INSURANCE COVERAGE AFFECTED BY PHASED TRANSITION OF MEDICAL LOSS RATIO CALCULATION METHODOLOGY

MLR calculation methodology (MLR requirement—80%)	Number of affected issuers	Total rebate amount
MLR calculated without any multiplier	14	$53,460,000
MLR calculated with a multiplier of 1.15	7	7,115,000

While the final rule also announces a temporary one-year enforcement safe harbor with respect to certain non-profit institutions of higher education with religious objections to covering contraceptive services we have insufficient information with which to estimate its effect.

4. Anticipated Benefits, Costs and Transfers

As discussed earlier, because this final rule clarifies that student health insurance coverage policies are subject to the provisions in the Affordable Care Act, the RIA does not estimate the overall effect of imposing the Affordable Care Act provisions on these plans. Therefore, the discussion of anticipated benefits, costs and transfers focuses on the impacts associated with the clarification in this final rule that a limited number of requirements of the PHS Act and the Affordable Care Act are inapplicable to student health insurance coverage, in order to facilitate the offering of student health insurance plans, consistent with section 1560(c) of the Affordable Care Act.

a. Benefits

The final rule defines student health insurance coverage as a type of individual health insurance coverage and specifies certain PHS Act and Affordable Care Act provisions as inapplicable to this type of individual health insurance coverage. One such provision of this rule is to provide for a transition period for issuers of student health insurance coverage to comply with the restricted annual dollar limits requirements under the Affordable Care Act. For example, student health insurance coverage will be allowed to impose an annual dollar limit of no less than $100,000 on essential health benefits for policy years beginning on or after July 1, 2012, but prior to September 23, 2012 and $500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014.

Another provision of this rule is to provide for a transition period for issuers of student health insurance coverage to comply with the MLR requirements of the Affordable Care Act. For example, issuers will be allowed to calculate their MLRs by applying a multiplier of 1.15 to the total of incurred claims and expenditures for activities that improve health care quality for the 2013 MLR reporting year. Aside from these adjustments to the annual dollar limits and MLR requirements, students enrolled in student health insurance coverage will benefit from the other Affordable Care Act individual market protections, including the prohibition against rescissions, the prohibition against lifetime dollar limits, the dependents under 26 coverage requirements, preventive services and the patients' bill of rights.

While we cannot quantify them at this time, we believe there would be economic benefits to this rule resulting from improved coverage and access to health services for students because in the absence of the provisions in this rule, it is likely that there would be some reductions in student health insurance availability—for example, due to the more restricted annual dollar limits and MLR methodology requirements that otherwise would have applied in these years.

One rationale for the provision of a transition period for issuers of student health insurance coverage to comply with the restricted annual dollar limits requirements is that many student plans currently have annual limits substantially lower than the $1.25 million requirement that will be in effect for plan years beginning on or after September 23, 2011. Concerns have been expressed that some institutions of higher education would not be able to offer student health insurance coverage if the annual dollar limits were immediately increased by those amounts. Similarly, many student plans currently have unadjusted MLRs that are significantly lower than the 80 percent requirement. According to issuers of student health insurance coverage, these plans have significantly higher administrative costs due to factors such as high rates of manual claims processing, low persistency rates, multiple enrollment periods in a year and varied network and referral requirements. If the issuers are required to comply with the MLR methodologies applicable to traditional health insurance immediately, it might lead to reduced access to student health plans. While some students have access to dependent coverage through their parents' health insurance plans up to age 26, this may not be an option for older students and students whose parents do not have coverage.[15] Some students may be able to find coverage in the medically underwritten individual market in the absence of a student health plan, and others may be able to access the Pre-existing Condition Insurance Program if they meet other eligibility criteria. However, in the absence of the provisions of this final rule, it is likely that some affected students would not be able to find affordable alternative coverage and become uninsured. To the extent that the transition period for issuers of student health insurance coverage to comply with the annual dollar limits and MLR calculation methodology applicable to other types of individual market coverage results in institutions of higher education continuing to offer coverage, benefits are realized. Students who otherwise might have been uninsured will have continued access to coverage.

Several other provisions in this final rule will also help colleges and universities to continue offering student health insurance coverage by maintaining current industry practices—including the temporary one-year enforcement safe harbor with respect to certain non-profit institutions of higher education with religious objections to covering contraceptive services, clarifications relating to the inapplicability of the current guaranteed availability and renewability requirements in the PHS Act (in order to allow student health insurance

[15] Andrews, Michelle, ''Health-Care Overhaul Offers Insurance Benefits to Young Adults,'' *The Washington Post,* May 25, 2010, accessed at *http://www.washingtonpost.com/wp-dyn/content/article/2010/05/24/AR2010052403141.html.*

coverage to be limited to eligible students and their dependents), and the clarification that student administrative health fees are not cost-sharing requirements under section 2713 of the PHS Act. Additionally, the notice requirements in this final rule will provide increased transparency relating to the benefits that are offered in student health insurance coverage. This will assist students in making the best selection among their available coverage options.

b. Costs and Transfers

In addition, as discussed earlier in the preamble, for plan years beginning after September 23, 2011, the minimum annual limit under the Affordable Care Act is $1.25 million. This level is higher than many of the current annual dollar limits for student health plans. The required 80 percent MLR is also higher than the MLRs currently observed for student health plans. If the higher annual dollar limits and MLR methodology requirements are applied immediately, without adjustment, to student health insurance coverage benefit designs, and issuers are not able to adjust their operations quickly enough, it could require large premium increases or high rebate payments that could effectively ''prohibit an institution of higher education * * * from offering a student health insurance plan.'' (Affordable Care Act section 1560(c)).

However, at the same time, a small number of student enrollees are likely to face higher out-of-pocket costs than they would have faced if there were no transition period for issuers of student health insurance coverage to comply with the restricted annual dollar limits. Thus, there is a small transfer from this group which would have had higher out-of-pocket costs to the population of students purchasing student plans through lower premiums. Similarly, a small number of enrollees will not receive rebate payments that they would have received if there was no transition period for calculating the components of the MLR. Thus, there is a transfer from this group to the issuers of student health plans. In addition, a small number of enrollees will be affected by the temporary enforcement safe harbor with respect to contraceptive services.

Finally, CMS estimates that there will be some administrative costs to issuers associated with the notice requirements. As discussed in the Collection of Information Requirements section, we estimate that approximately 75 student health insurance issuers will have to provide notices to students and any dependents indicating that the coverage does not meet all of the requirements of the Affordable Care Act. We estimate that it will take approximately 2 minutes per student enrollee or approximately 1,000 hours per student health insurance issuer to prepare and mail the notices to student enrollees. In other words, it would take a team of ten individuals 2½ weeks to prepare and mail the notices. Including hourly wage and printing and mailing costs, we estimate the annual cost burden will be $40,840 per affected issuer, for a total cost of $3,063,000. We believe that these cost estimates represent the upper limit, as most issuers are likely to insert the model notice language into the existing plan documents that they distribute to their enrollees, thus reducing their estimated costs.

C. Regulatory Alternatives

Under the Executive Order, CMS is required to consider alternatives to issuing rules and alternative regulatory approaches. CMS considered the two regulatory alternatives below.

1. Require Student Health Insurance Coverage To Be Offered Through a Bona Fide Association

CMS considered requiring student health insurance coverage to meet the definition of a bona fide association, as that term is defined at 45 CFR 144.103, in order to be exempt from guaranteed availability and guaranteed renewability requirements under current law provisions before 2014. This approach would have required issuers of student health insurance coverage to comply with all of the individual market requirements of the PHS Act and the Affordable Care Act, except for current guaranteed availability and guaranteed renewability provisions. However, the approach would have been cost-prohibitive on some institutions of higher education, causing them to drop coverage since student health insurance coverage today rarely is offered through associations (that is, student associations). In addition, associations affiliated with newly-established institutions of higher education would have been unable to satisfy the requirement that a bona fide association be in existence for five years.

2. Change the Definition of Short-Term Limited Duration Coverage

CMS also considered modifying the definition of short-term limited-duration insurance in 45 CFR 144.103 to make it more difficult for student health insurance coverage to qualify as such (for example, shorten the time limit from 12 months to 6 months). However, this change would have had broader implications for the health insurance market because there are currently health insurance policies being offered in the general market that meet the current definition of short-term limited duration insurance. As indicated earlier, these products serve as stop-gap coverage for individuals who need health coverage for short periods of time. To change the definition of short-term limited duration insurance would have implications for this type of coverage.

CMS believes that the option adopted for this final rule (defining student health insurance coverage as individual health insurance coverage and limiting the applicability of the PHS Act and the Affordable Care Act through its authority under Affordable Care Act section 1560(c)) strikes the best balance of extending certain protections of the Affordable Care Act to students and their dependents enrolled in the student health insurance plans while preserving the availability and affordability of such coverage.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a rule to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as—(1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a nonprofit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000 (States and individuals are not included in the definition of ''small entity''). CMS uses as its measure of significant economic impact on a substantial number of small entities a change in revenues of more than 3 percent to 5 percent.

As discussed in the Web Portal interim final rule (75 FR 24481), we examined the health insurance industry in depth in the Regulatory Impact Analysis we prepared for the final rule on establishment of the Medicare Advantage program (69 FR 46866, August 3, 2004). In that analysis we determined that there were few if any insurance firms underwriting comprehensive health insurance policies (in contrast, for example, to travel insurance policies or dental discount policies) that fell below the size thresholds for ''small'' business established by the SBA (currently $7 million in annual receipts for health insurers, based on North American

Industry Classification System Code 524114).[16]

Additionally, as discussed in the Medical Loss Ratio interim final rule (75 FR 74918, December 1, 2010, as modified by technical corrections (75 FR 82277, December 30, 2010)), CMS used a data set created from 2009 National Association of Insurance Commissioners (NAIC) Health and Life Blank annual financial statement data to develop an updated estimate of the number of small entities that offer comprehensive major medical coverage in the individual and group markets. For purposes of that analysis, CMS used total A&H earned premiums as a proxy for annual receipts. CMS estimated that there were 28 small entities with less than $7 million in A&H earned premiums offering individual or group comprehensive major medical coverage; however, this estimate may overstate the actual number of small health insurance issuers offering such coverage, since it does not include receipts from these companies' other lines of business.

As discussed earlier in this regulatory impact analysis, comprehensive sources of data concerning the student health insurance market are not readily available. However, for purposes of this regulatory flexibility analysis, CMS has used data for issuers who reported offering student coverage on the 2009 NAIC Accident & Health Policy Experience exhibit as a proxy for estimating the potential number of small issuers that could be affected by the provisions in this final rule. Based on these data, CMS estimates that there are 4 small entities with less than $7 million in A&H earned premiums that offer student health insurance coverage that is the subject of this final rule. These small entities account for 13 percent of the estimated 32 total issuers who reported offering such coverage.[17]

CMS estimates that 100 percent of these small issuers are subsidiaries of larger carriers, and 100 percent also offer other types of A&H coverage. On average, CMS estimates that student health insurance coverage in the group market accounts for approximately 29 percent of total A&H earned premiums for these small issuers. Additionally, CMS estimates that the annual cost burden for these small entities relating to the notice requirements in this final rule will be $40,840 per issuer (accounting for 2.3 percent of their total A&H earned premiums). As discussed earlier, CMS believes that these estimates overstate the number of small entities that will be affected by the requirements in this rule, as well as the relative impact of these requirements on these entities because CMS has based its analysis on issuers' total A&H earned premiums (rather than their total annual receipts). Therefore, the Secretary certifies that this final rule will not have a significant impact on a substantial number of small entities.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a final rule may have a significant economic impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. This final rule would not affect small rural hospitals. Therefore, the Secretary has determined that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995 requires that agencies assess anticipated costs and benefits before issuing any final rule that includes a Federal mandate that could result in expenditure in any one year by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2011, that threshold level was approximately $136 million.

UMRA does not address the total cost of a final rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from—(1) imposing enforceable duties on State, local, or tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, State, local, or tribal governments under entitlement programs.

This final rule includes no mandates on State, local, or tribal governments. Under the final rule, issuers will be required to provide important Affordable Care Act and PHS Act protections for students enrolled in student health insurance coverage. Further, the estimated annual costs associated with the provisions of this final rule are approximately $40,840 per affected entity (or approximately $3,063,000 per year across all affected entities). Thus, this final rule does not impose an unfunded mandate on State, local or tribal governments or the private sector. However, consistent with policy embodied in UMRA, this final rule has been designed to be the least burdensome alternative for State, local and tribal governments, and the private sector while achieving the objectives of the Affordable Care Act.

F. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. In CMS' view, while the requirements specified in this final rule would not impose substantial direct costs on State and local governments, this final rule has federalism implications due to direct effects on the distribution of power and responsibilities among the State and Federal governments relating to the rule of student health insurance coverage.

As discussed earlier in the preamble, some States do not regulate student health insurance as individual health insurance coverage, but rather as a type of association ''blanket coverage'' or as non-employer group coverage. Under this final rule, student health insurance coverage will be defined as a type of individual health insurance coverage, and will therefore be subject to the individual market provisions of the PHS Act and the Affordable Care Act, with the exception of certain specific provisions that are identified in the final rule. States would continue to apply State laws regarding student health insurance coverage. However, if any State law or requirement prevents the application of a Federal standard, then that particular State law or requirement would be preempted. Additionally, State requirements that are more stringent than the Federal requirements would be not be preempted by this final rule. Accordingly, States have significant latitude to impose requirements with respect to student health insurance coverage that are more restrictive than the Federal law.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have federalism implications or limit the policymaking discretion of the

[16] ''Table of Size Standards Matched To North American Industry Classification System Codes,'' effective November 5, 2010, U.S. Small Business Administration, available at *http://www.sba.gov*.

[17] As discussed earlier in this regulatory impact analysis, these 32 health insurance issuers are licensed entities with unique NAIC company codes that reported earned premiums and enrollment for student business in the individual and group markets on the NAIC Accident & Health Policy Experience Exhibit in 2009, and exclude companies regulated by the California Department of Managed Health Care. This represents a subset of the 58 total issuers who reported any kind of student business on the NAIC A&H Policy Experience Exhibit for that year (including some that CMS estimates are primarily offering K–12 student accident health coverage that is not subject to the provisions of this final rule).

States, CMS has engaged in efforts to consult with and work cooperatively with affected States, including consulting with State insurance officials on an individual basis.

Throughout the process of developing this final rule, CMS has attempted to balance the States' interests in regulating health insurance issuers, and Congress' intent to provide uniform protections to consumers in every State. By doing so, it is CMS' view that it has complied with the requirements of Executive Order 13132. Under the requirements set forth in section 8(a) of Executive Order 13132, and by the signatures affixed to this rule, HHS certifies that the CMS Center for Consumer Information and Insurance Oversight has complied with the requirements of Executive Order 13132 for the attached final rule in a meaningful and timely manner.

G. Congressional Review Act

This final rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), which specifies that before a rule can take effect, the Federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information, and has been transmitted to Congress and the Comptroller General for review.

List of Subjects

45 CFR Part 144

Health care, Health insurance, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

45 CFR Part 158

Administrative practice and procedure, Claims, Health care, Health insurance, Health plans, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR Subtitle A, Subchapter B as set forth below:

PART 144—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

■ 1. The authority citation for part 144 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act, 42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92.

■ 2. Section 144.103 is amended by:

■ a. Revising the introductory text.

■ b. Adding the definition of ''student health insurance coverage'' in alphabetical order.

The revision and addition read as follows:

§ 144.103 Definitions.

For purposes of parts 146 (group market), 147 (health reform requirements for the group and individual markets), 148 (individual market), and 150 (enforcement) of this subchapter, the following definitions apply unless otherwise provided:

* * * * *

Student health insurance coverage has the meaning given the term in § 147.145.

* * * * *

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 3. The authority citation for part 147 continues to read as follows:

Authority: Sections 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 4. Add § 147.145 to read as follows:

§ 147.145 Student health insurance coverage.

(a) *Definition.* Student health insurance coverage is a type of individual health insurance coverage (as defined in § 144.103 of this subchapter) that is provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students enrolled in that institution of higher education and their dependents, that meets the following conditions:

(1) Does not make health insurance coverage available other than in connection with enrollment as a student (or as a dependent of a student) in the institution of higher education.

(2) Does not condition eligibility for the health insurance coverage on any health status-related factor (as defined in § 146.121(a) of this subchapter) relating to a student (or a dependent of a student).

(3) Meets any additional requirement that may be imposed under State law.

(b) *Exemptions from the Public Health Service Act.* (1) *Guaranteed availability and guaranteed renewability.* For purposes of sections 2741(e)(1) and 2742(b)(5) of the Public Health Service Act, student health insurance coverage is deemed to be available only through a bona fide association.

(2) *Annual limits.* (i) Notwithstanding the annual dollar limits requirements of § 147.126, for policy years beginning before September 23, 2012, a health insurance issuer offering student health insurance coverage may not establish an annual dollar limit on essential health benefits that is lower than $100,000.

(ii) Notwithstanding the annual dollar limits requirements of § 147.126, for policy years beginning on or after September 23, 2012, but before January 1, 2014, a health insurance issuer offering student health insurance coverage may not establish an annual dollar limit on essential health benefits that is lower than $500,000.

(iii) For policy years beginning on or after January 1, 2014, a health insurance issuer offering student health insurance coverage must comply with the annual dollar limits requirements in § 147.126.

(c) *Student administrative health fees.* (1) *Definition.* A student administrative health fee is a fee charged by the institution of higher education on a periodic basis to students of the institution of higher education to offset the cost of providing health care through health clinics regardless of whether the students utilize the health clinics or enroll in student health insurance coverage.

(2) *Preventive services.* Notwithstanding the requirements under section 2713 of the Public Health Service Act and its implementing regulations, student administrative health fees as defined in paragraph (c)(1) of this section are not considered cost-sharing requirements with respect to specified recommended preventive services.

(d) *Notice.* (1) *Requirements.* (i) A health insurance issuer that provides student health insurance coverage, and does not meet the annual dollar limits requirements under section 2711 of the Public Health Service Act, must provide a notice informing students that the policy does not meet the minimum annual limits requirements under section 2711 of the Public Health Service Act. The notice must include the dollar amount of the annual limit along with a description of the plan benefits to which the limit applies for the student health insurance coverage.

(ii) The notice must state that the student may be eligible for coverage as a dependent in a group health plan of a parent's employer or under the parent's individual market coverage if the student is under the age of 26.

(iii) The notice must be prominently displayed in clear, conspicuous 14-point bold type on the front of the insurance policy or certificate and in any other plan materials summarizing the terms of the coverage (such as a summary description document).

(iv) The notice must be provided for policy years beginning before January 1, 2014.

(2) *Model language.* The following model language, or substantially similar language, can be used to satisfy the notice requirement of this paragraph (d): ''Your student health insurance coverage, offered by [name of health insurance issuer], may not meet the minimum standards required by the health care reform law for the restrictions on annual dollar limits. The annual dollar limits ensure that consumers have sufficient access to medical benefits throughout the annual term of the policy. Restrictions for annual dollar limits for group and individual health insurance coverage are $1.25 million for policy years before September 23, 2012; and $2 million for policy years beginning on or after September 23, 2012 but before January 1, 2014. Restrictions for annual dollar limits for student health insurance coverage are $100,000 for policy years before September 23, 2012, and $500,000 for policy years beginning on or after September 23, 2012, but before January 1, 2014. Your student health insurance coverage put an annual limit of: [Dollar amount] on [which covered benefits—notice should describe all annual limits that apply]. If you have any questions or concerns about this notice, contact [provide contact information for the health insurance issuer]. Be advised that you may be eligible for coverage under a group health plan of a parent's employer or under a parent's individual health insurance policy if you are under the age of 26. Contact the plan administrator of the parent's employer plan or the parent's individual health insurance issuer for more information.''

(e) *Applicability.* The provisions of this section apply for policy years beginning on or after July 1, 2012.

PART 158—ISSUER USE OF PREMIUM REVENUE: REPORTING AND REBATE REQUIREMENTS

■ 5. The authority citation for part 158 continues to read as follows:

Authority: Section 2718 of the Public Health Service Act (42 USC 300gg–18), as amended.

■ 6. Section 158.103 is amended by adding the definitions of ''student administrative health fee,'' ''student health insurance coverage,'' and ''student market'' in alphabetical order, to read as follows:

§ 158.103 Definitions.

For the purposes of this part, the following definitions apply unless specified otherwise.

* * * * *

Student administrative health fee has the meaning given the term in § 147.145 of this subchapter.

Student health insurance coverage has the meaning given the term in § 147.145 of this subchapter.

Student market means the market for student health insurance coverage.

* * * * *

■ 7. Section 158.120 is amended by adding paragraph (d)(5) to read as follows:

§ 158.120 Aggregate reporting.

* * * * *

(d) * * *

(5) An issuer in the student market must aggregate and report the experience from these policies on a national basis, separately from other policies.

■ 8. Section 158.140 is amended by adding paragraph (b)(3)(iv) to read as follows:

§ 158.140 Reimbursement for clinical services provided to enrollees.

* * * * *

(b) * * *

(3) * * *

(iv) Amounts paid to a provider for services that do not represent reimbursement for covered services provided to an enrollee and are directly covered by a student administrative health fee.

* * * * *

■ 9. Section 158.220 is amended:

■ a. In paragraph (b) introductory text by removing the reference ''paragraph (c)'' and adding in its place the reference ''paragraphs (c) and (d).''

■ b. Adding paragraph (d).

The addition reads as follows:

§ 158.220 Aggregation of data in calculating an issuer's medical loss ratio.

* * * * *

(d) *Requirements for MLR reporting years 2013 and 2014 for the student market only.*

(1) For the 2013 MLR reporting year, an issuer's MLR is calculated using the data reported under this part for the 2013 MLR reporting year only.

(2) For the 2014 MLR reporting year—

(i) If an issuer's experience for the 2014 MLR reporting year is fully credible, as defined in § 158.230 of this subpart, an issuer's MLR is calculated using the data reported under this part for the 2014 MLR reporting year.

(ii) If an issuer's experience for the 2014 MLR reporting year is partially credible or non-credible, as defined in § 158.230 of this subpart, an issuer's MLR is calculated using the data reported under this part for the 2013 MLR reporting year and the 2014 MLR reporting year.

■ 10. Section 158.221 is amended by adding paragraph (b)(5) to read as follows:

§ 158.221 Formula for calculating an issuer's medical loss ratio.

* * * * *

(b) * * *

(5) The numerator of the MLR for policies that are reported separately under § 158.120(d)(5) of this part must be the amount specified in paragraph (b) of this section, except that for the 2013 MLR reporting year the total of the incurred claims and expenditures for activities that improve health care quality is then multiplied by a factor of 1.15.

* * * * *

■ 11. Section 158.231 is amended by adding paragraphs (d) and (e) to read as follows:

§ 158.231 Life-years used to determine credible experience.

* * * * *

(d) For the 2013 MLR reporting year for the student market only, the life-years used to determine credibility are the life-years for the 2013 MLR reporting year only.

(e) For the 2014 MLR reporting year for the student market only—

(1) If an issuer's experience for the 2014 MLR reporting year is fully credible, the life-years used to determine credibility are the life-years for the 2014 MLR reporting year only;

(2) If an issuer's experience for the 2014 MLR reporting year only is partially credible or non-credible, the life-years used to determine credibility are the life-years for the 2013 MLR reporting year plus the life-years for the 2014 MLR reporting year.

■ 12. Section 158.232 is amended by adding paragraph (e) to read as follows:

§ 158.232 Calculating the credibility adjustment.

* * * * *

(e) *No credibility adjustment.* Beginning with the 2015 MLR reporting year for the student market only, the credibility adjustment for an MLR based on partially credible experience is zero

if both of the following conditions are met:

(1) The current MLR reporting year and each of the two previous MLR reporting years included experience of at least 1,000 life-years; and

(2) Without applying any credibility adjustment, the issuer's MLR for the current MLR reporting year and each of the two previous MLR reporting years were below the applicable MLR standard for each year as established under § 158.210 in this subpart.

Dated: October 11, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 3, 2011.

Kathleen Sebelius,

Secretary.

[FR Doc. 2012–6359 Filed 3–16–12; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 05–211; FCC 12–12]

Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission removes two modifications to its competitive bidding rules pursuant to a mandate by the U.S. Court of Appeals for the Third Circuit.

DATES: Effective March 21, 2012.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auctions and Spectrum Access Division: Audrey Bashkin at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of an *Order* released on February 1, 2012. The complete text of the *Order,* including an attachment and related Commission documents, is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The *Order* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, Web site *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, FCC 12–12. The *Order* and related documents also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions,* or by using the search function for WT Docket No. 05–211 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://www.fcc.gov/cgb/ecfs/.*

I. Background

1. In *Council Tree Communications, Inc.* v. *FCC,* 619 F.3d 235 (3d Cir. 2010), *cert. denied,* 131 S. Ct. 1784 (2011), the U.S. Court of Appeals for the Third Circuit vacated two modifications the Federal Communications Commission (Commission) had made in 2006 to its competitive bidding rules for designated entities on the ground that the Commission had failed to provide the public an adequate opportunity for notice and comment. The Commission removes the two modifications in accordance with the Third Circuit's mandate.

2. The Third Circuit held that the Commission's impermissible material relationship rule in 47 CFR 1.2110(b)(3)(iv)(A) and its extension of the unjust enrichment period from five years to ten years in 47 CFR 1.2111(d)(2) had been adopted without the notice and opportunity for comment required by the Administrative Procedure Act. The Court thus vacated the impermissible material relationship rule and ordered reinstatement of the Commission's previous five year unjust enrichment payment schedule. The Court also denied Council Tree's petition for review with respect to the attributable-material-relationship rule articulated in 47 CFR 1.2110(b)(1) and (b)(3)(iv)(B).

II. Discussion

3. The *Order* conforms Part 1 of the Commission's rules to the Court's mandate by amending 47 CFR 1.2110 to remove paragraph (b)(3)(iv)(A) and 47 CFR 1.2111 by removing paragraph (d)(2)(i) as no longer applicable and reinstating the previous version of the payment schedule in 47 CFR 1.2111(d)(2). The *Order* also conforms other Part 1 rules, as necessary, to remove several references to impermissible material relationships.

4. The Commission finds that notice and comment are unnecessary for these rule amendments under 5 U.S.C. Section 553(b), because this is a ministerial order issued at the direction of the United States Court of Appeals for the Third Circuit.

III. Congressional Review Act

5. The Commission will send a copy of the *Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedures, Auctions, Licensing, Telecommunications.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(j), 160, 201, 225, 303, and 309.

■ 2. Section 1.2110 is amended by removing paragraph (b)(3)(iv)(A) and redesignating paragraphs (b)(3)(iv)(B) and (C) as paragraphs (b)(3)(iv)(A) and (B) and by revising newly redesignated paragraph (b)(3)(iv)(B) and revising paragraph (j) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) * * *

(3) * * *

(iv) * * *

(B) *Grandfathering (1) Licensees.* An attributable material relationship shall not disqualify a licensee for previously awarded benefits before April 25, 2006, based on spectrum lease or resale (including wholesale) arrangements entered into before April 25, 2006.

(2) Applicants. An attributable material relationship shall not disqualify an applicant seeking eligibility in an application for a license, authorization, assignment, or transfer of control or for partitioning or disaggregation filed before April 25, 2006, based on spectrum lease or resale (including wholesale) arrangements entered into before April 25, 2006. Any applicant seeking eligibility in an application for a license, authorization, assignment, or transfer of control or for partitioning or disaggregation filed after April 25, 2006, or in an application to participate in an auction in which bidding begins on or after June 5, 2006, need not attribute the material

relationship(s) of those entities that are its affiliates based solely on paragraph (c)(5)(i)(C) of this section if those affiliates entered into such material relationship(s) before April 25, 2006, and are subject to a contractual prohibition preventing them from contributing to the applicant's total financing.

* * * * *

(j) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long form applications all agreements that affect designated entity status such as partnership agreements, shareholder agreements, management agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and all other agreements including oral agreements, establishing as applicable, *de facto* or *de jure* control of the entity or the presence or absence of attributable material relationships. Designated entities also must provide the date(s) on which they entered into of the agreements listed. In addition, designated entities must file with their long-form applications a copy of each such agreement. In order to enable the Commission to audit designated entity eligibility on an ongoing basis, designated entities that are awarded eligibility must, for the term of the license, maintain at their facilities or with their designated agents the lists, summaries, dates and copies of agreements required to be identified and provided to the Commission pursuant to this paragraph and to § 1.2114.

* * * * *

■ 3. Section 1.2111 is revised by removing paragraph (d)(2)(i) and redesignating paragraphs (d)(2)(ii) and (iii) as paragraphs (d)(2)(i) and (ii) and by revising them to read as follows:

§ 1.2111 Assignment or transfer of control: unjust enrichment.

* * * * *

(d) * * *

(2) *Payment schedule.* (i) The amount of payments made pursuant to paragraph (d)(1) of this section will be reduced over time as follows:

(A) A transfer in the first two years of the license term will result in a forfeiture of 100 percent of the value of the bidding credit (or in the case of very small businesses transferring to small businesses, 100 percent of the difference between the bidding credit received by the former and the bidding credit for which the latter is eligible);

(B) A transfer in year 3 of the license term will result in a forfeiture of 75 percent of the value of the bidding credit;

(C) A transfer in year 4 of the license term will result in a forfeiture of 50 percent of the value of the bidding credit;

(D) A transfer in year 5 of the license term will result in a forfeiture of 25 percent of the value of the bidding credit; and

(E) For a transfer in year 6 or thereafter, there will be no payment.

(ii) These payments will have to be paid to the United States Treasury as a condition of approval of the assignment, transfer, ownership change or reportable eligibility event (see § 1.2114).

* * * * *

■ 4. Section 1.2112 is amended by revising paragraphs (b)(1)(iii) and (b)(2)(iii) to read as follows:

§ 1.2112 Ownership disclosure requirements for applications.

* * * * *

(b) * * *

(1) * * *

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* or *de jure* control or the presence or absence of attributable material relationships. Such agreements and instruments include articles of incorporation and by-laws, partnership agreements, shareholder agreements, voting or other trust agreements, management agreements, franchise agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and any other relevant agreements (including letters of intent), oral or written;

* * * * *

(2) * * *

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* or *de jure* control or the presence or absence of attributable material relationships. Such agreements and instruments include articles of incorporation and by-laws, partnership agreements, shareholder agreements, voting or other trust agreements, management agreements, franchise agreements, spectrum leasing arrangements, spectrum resale (including wholesale) arrangements, and any other relevant agreements (including letters of intent), oral or written;

* * * * *

[FR Doc. 2012–6946 Filed 3–20–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191, 192, 193 and 195

[Docket No. PHMSA–2012–0001]

Pipeline Safety: Implementation of the National Registry of Pipeline and Liquefied Natural Gas Operators

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Issuance of Advisory Bulletin.

SUMMARY: This notice advises owners and operators of pipeline facilities of PHMSA's plan for implementing the national registry of pipeline and liquefied natural gas operators. This notice provides updates to the information contained in a PHMSA Advisory Bulletin published on January 13, 2012 (77 FR 2126).

FOR FURTHER INFORMATION CONTACT: Jamerson Pender, Information Resources Manager, 202–366–0218 or by email at *Jamerson.Pender@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On November 26, 2010, PHMSA published a final rule in the **Federal Register** (75 FR 72878) titled: ''Pipeline Safety: Updates to Pipeline and Liquefied Natural Gas Reporting Requirements.'' That final rule added two new sections, 49 CFR 191.22 and 195.64, to the pipeline safety regulations that concerned the establishment of a national registry of pipeline and liquefied natural gas (LNG) operators. New operators use the national registry to obtain an Operator Identification (OPID) Number and existing operators use it to notify PHMSA of certain actions, including company name changes, certain construction activities, and project planning.

The national pipeline operator registry became effective on January 1, 2012. In compliance with the Paperwork Reduction Act requirements, PHMSA issued a 60-day **Federal Register** notice on December 13, 2010 (75 FR 77694), and a 30-day **Federal Register** notice on

November 10, 2011 (76 FR 70217). The purpose of these notices was to gather and respond to comments on the actual forms used to collect information for the national pipeline operator registry.

PHMSA is issuing this advisory bulletin to clarify the implementation of the national pipeline operator registry.

II. Advisory Bulletin (ADB–2012–04)

To: Owners and Operators of Pipeline and LNG Facilities.

Subject: Implementation of the National Registry of Pipeline and LNG Operators.

Advisory: This notice advises owners and operators of pipeline facilities of PHMSA's plan for implementing the national registry of pipeline and LNG operators. This notice provides updates to the information contained in a PHMSA Advisory Bulletin on the same subject published on January 13, 2012 (77 FR 2126).

OPID Assignment Requests—§§ 191.22(a) and 195.64(a)

From January 1, 2012, to January 27, 2012, PHMSA collected fillable pdf versions of OPID Assignment Request (Form F 1000.1). Starting January 27, 2012, the Online Data Reporting System (ODES) is used by entities requesting a new OPID. PHMSA is entering the pdf versions of OPID Assignment Request forms into ODES and will notify requestors when the OPID has been established.

While subject to the pipeline safety regulations, operators of master meter systems or petroleum gas systems that serve fewer than 100 customers from a single source are not required to file annual reports (see 49 CFR 191.11(b)). There were several thousand master meter system operators and several hundred small liquefied petroleum gas (LPG) operators who fell within the scope of this exception as of December 31, 2011.

While also subject to the requirements of 49 CFR 191.22, PHMSA previously determined that the operators of these systems would not be required to obtain an OPID. Instead, PHMSA agreed to create OPIDs for these operators based on the existing data in the agency's files. That is currently underway and will be completed by May 1, 2012.

In light of this experience, PHMSA has decided that master meter and small LPG operators established after December 31, 2011, will be required to obtain an OPID in accordance with 49 CFR 191.22. On May 1, 2012, PHMSA will modify ODES to allow these master meter and small LPG operators to request an OPID. *The requirement to request an OPID continues to not apply to master meter and small LPG operators in existence prior to December 31, 2011.*

Notifications—§§ 191.22(c) and 195.64(c)

On January 1, 2012, PHMSA began collecting fillable pdf versions of Notifications (Form F 1000.2). Starting March 27, 2012, operators will be able to submit notifications online through ODES, and PHMSA will enter all of the pdf versions of the notifications into ODES shortly thereafter.

Hazardous liquid pipeline operators are advised to disregard the notification requirement in § 195.64(c)(1)(iii). That provision requires notification for construction of any new pipeline facility without regard to cost. Section 195.64(c)(1)(i) also requires notification for construction of a new pipeline facility, but only for those projects with a cost of $10 million or more. PHMSA only wants notification of hazardous liquid pipeline facility construction projects with a cost of $10 million or more and plans to remove § 195.64(c)(1)(iii) in a future rulemaking.

OPID Validation—§§ 191.22(b) and 195.64(b)

On March 27, 2012, operators will be able to complete the validation process online. PHMSA requests that all OPIDs issued prior to January 1, 2012, complete the validation process. As with OPID Assignment Requests, master meter and small LPG operators in existence prior to December 31, 2011, are not required to complete the validation process. Based on the delayed availability of the on-line validation process, PHMSA is extending the regulatory deadline for validation from June 30, 2012, to September 30, 2012. PHMSA recommends that operators submit calendar year 2011 annual reports at least five working days prior to completing the validation process.

Further details on how to submit reports to PHMSA are available at *http://opsweb.phmsa.dot.gov.* Questions should be directed to the Office of Pipeline Safety operator helpline at 202–366–8075.

Issued in Washington, DC, on March 9, 2012.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2012–6860 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110707371–2136–02]

RIN 0648–BB28

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Final rule; interim specifications; request for comment.

SUMMARY: NMFS is implementing final 2012 specifications and management measures for Atlantic mackerel (mackerel), and 2012–2014 specifications for *Illex* and longfin squid, and interim final 2012 specifications and management measures for butterfish. This is the first year that the specifications are being set for Atlantic mackerel and butterfish under the provisions of the Mid-Atlantic Fishery Management Council's (Council) Annual Catch Limit and Accountability Measure Omnibus Amendment. This action also adjusts the closure threshold for the commercial mackerel fishery to 95 percent (from 90 percent), and allows the use of jigging gear to target longfin squid if the longfin squid fishery is closed due to the butterfish mortality cap. Finally, this rule makes minor corrections in existing regulatory text to clarify the intent of the regulations. These specifications and management measures promote the utilization and conservation of the Atlantic Mackerel, Squid, and Butterfish (MSB) resource.

DATES: This rule is effective on April 20, 2012. Public comments on the interim final butterfish specifications must be received no later than 5 p.m., eastern standard time, on April 20, 2012.

ADDRESSES: You may submit comments on the butterfish specifications, identified by NOAA–NMFS–2011–0245, by any one of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NMFS–NOAA–2011–0245 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the

''Submit a Comment'' icon on the right of that line.

• *Fax:* (978) 281–9135, Attn: Comments on 2012 Butterfish Specifications, NMFS–NOAA–2011–0245

• *Mail and hand delivery:* Daniel S. Morris, Acting Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on 2012 Interim Butterfish Specifications, NOAA–NMFS–2011–0245.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. 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.

Copies of the 2012 specifications document, including the Environmental Assessment (EA), is available from Daniel S. Morris, Acting Northeast Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. This document is also accessible via the Internet at *http://www.nero.noaa.gov.* NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from: Daniel S. Morris, Acting Regional Administrator, National Marine Fisheries Service, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2276, or via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Specifications, as referred to in this rule, are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specification process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Council's process for establishing specifications relies on provisions within the Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Act.

In developing these specifications, the Council considered the recommendations made by its Monitoring Committee and Scientific and Statistical Committee (SSC). Generally, the SSC recommends to the Council acceptable biological catch (ABC) levels that take into account scientific uncertainty regarding stock status and biological reference points, and the Council relies on that ABC recommendation to set other specifications. Here, in addition to specifications for each of the MSB species, the Council recommended adjusting the mackerel closure threshold, and adjusting gear requirements for the butterfish and longfin squid fisheries. The Council made its specification recommendations at its June 14–16, 2011, meeting in Port Jefferson, NY, and submitted these draft recommendations, along with the required analyses, for agency review on August 9, 2011, with final submission on September 15, 2011. A proposed rule for 2012 MSB specifications and management measures was published on October 26, 2011 (76 FR 66260), and the public comment period for the proposed rule ended on November 25, 2011. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

The structure of specifications for the mackerel and butterfish fisheries was revised by the Council's recently finalized regulations implementing its Annual Catch Limit and Accountability Measure Omnibus Amendment (Omnibus Amendment; 76 FR 60606, September 29, 2011), which established annual catch limit (ACL) and accountability measure (AM) provisions for all of the Council's FMPs. The ACL/AM requirements do not apply to the squid species because they have a life cycle of less than 1 year. Following the specification of ABC, the revised regulations at § 648.22 require the specification of ACLs, which, if exceeded, require payback deductions from the subsequent year's catch limit. In order to reduce the chance of ACL overages, and the associated paybacks when ACLs are exceeded, the regulations also require NMFS to specify annual catch targets (ACTs) to provide a buffer for management uncertainty. Several specifications, including domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign fishing (TALFF), and joint venture processing for mackerel (JVP), were previously required in the implementing regulations for the FMP, and were unchanged by the Omnibus Amendment.

For mackerel, the Omnibus Amendment and Amendment 11 to the MSB FMP (76 FR 68642; November 7, 2011) created distinct allocations for the commercial and recreational mackerel fisheries. The revised mackerel regulations require the specification of ACTs for both the commercial and recreational mackerel fisheries. For butterfish, the regulations also require specification of the mortality cap on the longfin squid fishery.

The regulations governing specifications for *Illex* and longfin squid are largely unchanged from previous fishing years. For both squid species, regulations at § 648.22 require the specification of ABC, initial optimum yield (IOY), DAH, and DAP.

The Mid-Atlantic Research Set-Aside (RSA) Program allows research projects to be funded through the sale of fish that has been set aside from the total annual quota. The RSA may vary between 0 and 3 percent of the overall quota for each species. The Council has recommended that up to 3 percent of the total ACL for mackerel and butterfish, and up to 3 percent of the IOY for *Illex* and longfin squid, may be set aside to fund projects selected under the 2012 Mid-Atlantic RSA. NMFS awarded portions of available butterfish and longfin squid RSA to support several projects; there were no RSA awards of mackerel and *Illex.* The award amounts are included in the specification descriptions for butterfish and longfin squid below. Descriptions of the selected projects were published in the proposed rule (76 FR 66260) and are not repeated here.

TABLE 1—FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR MACKEREL AND BUTTERFISH FOR THE 2012 FISHING YEAR, AND FOR ILLEX AND LONGFIN SQUID FOR THE 2012–2014 FISHING YEARS

Specifications	Mackerel	Butterfish	*Illex*	Longfin
OFL	Unknown	Unknown	Unknown	Unknown.
ABC	43,781	1,811	24,000	23,400.
ACL	43,781	1,811	N/A	N/A.
Commercial ACT	34,907	1,630	N/A	N/A.
Recreational ACT/RHL	2,443	N/A	N/A	N/A.
IOY	N/A	N/A	22,915	22,220.
DAH/DAP	33,821	485	22,915	22,220.
JVP	0	N/A	N/A	N/A.
TALFF	0	0	N/A	N/A.
RSA	N/A	15	N/A	225.

Final 2012 Specifications and Management Measures for Mackerel

This action specifies the mackerel U.S. ABC at 43,781 mt, based on the formula U.S. ABC = T − C. T, or total annual catch, is the yield associated with a fishing mortality rate (F) that is equal to the target fishing mortality rate. C is the estimated catch of mackerel in Canadian waters (36,219 mt) for the 2012 fishing year. The Transboundary Resources Assessment Committee (TRAC) could not establish biomass reference points or a target F at its March 2010 mackerel stock status assessment, and recommended that total annual catches not exceed the average total landings (80,000 mt) from 2006–2008 until new information is available. Thus, 80,000 mt minus 36,219 mt results in the 2012 U.S. ABC of 43,781 mt. The ACL for the mackerel fishery is set equal to the U.S. ABC.

Consistent with MSB Amendment 11, this action allocates 6.2 percent of the ACL (2,714 mt) to the recreational mackerel fishery. The recreational ACT of 2,443 mt (90 percent of 2,714 mt) is reduced from the recreational allocation to account for low precision and time lag of recreational catch estimates, as well as lack of recreational discard estimates. The recreational ACT is equal to the Recreational Harvest Limit (RHL), which is the effective cap on recreational catch.

The commercial mackerel fishery is allocated 93.8 percent of the U.S. ABC (41,067 mt, the portion of the ACL that was not allocated to the recreational fishery). The commercial ACT of 34,907 mt (85 percent of 41,067) reduces the commercial allocation to address uncertainty in estimated 2012 Canadian landings, uncertainty in discard estimates, and possible misreporting. The commercial ACT is further reduced by a discard rate of 3.11 percent (mean plus one standard deviation of discards from 1999–2008), to arrive at a DAH of 33,821 mt. The DAH is the effective cap on commercial catch, as it has been in past specifications.

This action maintains joint venture processing (JVP) allocation at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, the Council recommended a JVP greater than zero because it believed U.S. processors lacked the ability to process the total amount of mackerel that U.S. harvesters could land. However, for the past 8 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of mackerel.

While a surplus existed between ABC and the mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustments of the specifications in recent years. Based on analysis of the state of global mackerel markets and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP resulting in zero TALFF will yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, NMFS is specifying DAH at a level that can be fully harvested by the domestic fleet (33,821 mt). TALFF is therefore not specified in order to support the U.S. mackerel industry.

Finally, this action provides that the commercial fishery be closed at 95 percent of the DAH. The current closure threshold of 90 percent of the DAH was designed to accommodate misreporting in the commercial fishery, and the lack of a distinct allocation for the recreational fishery. A 95-percent closure threshold is considered sufficient to prevent overages, given that a recreational allocation is now required by the FMP.

Final 2012–2014 Specifications and Management Measures for Illex Squid and Longfin Squid

Illex Squid

This action specifies the *Illex* ABC at 24,000 mt for the 2012–2014 fishing years, subject to annual review. The ABC is reduced by a discard rate of 4.52 percent (the mean plus one standard deviation of the most recent 10 years of observed discards) to account for discards of *Illex* that result from the operation of commercial fisheries, which results in an IOY, DAH, and DAP of 22,915 mt for the 2012–2014 fishing years. The FMP does not authorize the specification of JVP and TALFF for the *Illex* fishery because of the domestic fishing industry's capacity to harvest and to process the OY from this fishery.

Longfin Squid

This action specifies a longfin squid ABC of 23,400 mt for the 2012–2014 fishing years, subject to annual review. The ABC is reduced by a discard rate of 4.08 percent (mean plus one standard deviation of the most recent 10 years of observed discards) to account for discards of longfin squid that result from the operation of commercial fisheries, and 226 mt is set aside for RSA, resulting in an IOY, DAH, and DAP of 22,219 mt for the 2012–2014 fishing years. The FMP does not authorize the specification of JVP and TALFF for the longfin squid fishery because of the domestic industry's capacity to harvest and process the OY for this fishery.

Distribution of the Longfin DAH

As was done in all fishing years since 2007, the 2012–2014 longfin DAH is allocated into trimesters, according to percentages specified in the FMP, as follows:

TABLE 3—TRIMESTER ALLOCATION OF LONGFIN QUOTA FOR 2012–2014

Trimester	Percent	Metric tons
I (Jan–Apr)	43	9,555
II (May–Aug)	17	3,777
III (Sep–Dec)	40	8,888
Total	100	22,220

Longfin Squid Jigging Provision

This action will allow Longfin Squid/Butterfish moratorium permit holders to possess longfin squid in excess of the 2,500-lb (0.93-mt) possession limit during any closures of the longfin squid fishery resulting from the butterfish mortality cap, provided that all trawl gear is stowed and not available for immediate use, in accordance with § 648.23(b). The butterfish mortality cap was designed to limit butterfish bycatch in the longfin squid trawl fishery, and jigging for squid is not expected to result in substantial butterfish bycatch.

Interim Final 2012 Specifications and Management Measures for Butterfish

Compared to 2011, the butterfish specifications in the proposed rule would have increased the butterfish ABC by 100 percent (to 3,622 mt), and would have resulted in a 117-percent increase in the butterfish DAH (1,087 mt), and a 70-percent increase in the butterfish mortality cap on the longfin squid fishery (2,445 mt). A public comment on the proposed rule submitted by the Herring Alliance, an environmental group that represents 42 Northeast Coast organizations concerned about the status of the Atlantic Coast's forage fish, accurately pointed out that the proposed increase to the butterfish ABC is prohibited by the Council's risk policy at § 648.21(d), which states: ''If an overfishing level (OFL) cannot be determined from the stock assessment, or if a proxy is not provided by the SSC during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified.''

This provision only applies to species, such as butterfish, that are subject to the ACL/AM requirements implemented through the Council's Omnibus Amendment, and for which NMFS seeks to raise the ABC. Therefore the commenter's objections to the proposed butterfish ABC do not apply to the specification for mackerel, which does not reflect an increased ABC, nor does it apply to *Illex* or longfin squid, neither of which is subject ACL/AM requirements because they have life cycles of less than one year. In response to this comment, NMFS is implementing status quo specifications in an interim final rule, and will allow 30 days for public comments.

Accordingly, this action specifies the 2012 butterfish ABC and ACL at 1,811 mt, and the ACT at 1,630 mt (reduced 10-percent from ACL). Butterfish TALFF is only specified to address bycatch by foreign fleets targeting mackerel TALFF. Because there is no mackerel TALFF, butterfish TALFF is also set at zero. This action allocates just under 70 percent of the ACT to cover butterfish discards, and 15 mt of butterfish RSA to cover discards related to allocated longfin squid RSA, which results in a DAH/DAP for butterfish of 485 mt. The butterfish mortality cap on the longfin squid fishery is specified at 1,436 mt. These specifications are consistent with the regulatory structure implemented in the Council's Omnibus Amendment, and include the same ABC and mortality cap implemented for the 2011 fishing year.

TABLE 2—TRIMESTER ALLOCATION OF BUTTERFISH MORTALITY CAP ON THE LONGFIN SQUID FISHERY FOR 2012

Trimester	Percent	Metric tons
I (Jan–Apr)	65	933.4
II (May–Aug)	3.3	47.4
III (Sep–Dec)	31.7	455.2
Total	100	1,436

While the proposed rule contained a provision to require a 3-inch (7.62 cm) minimum mesh size for vessels possessing 2,000 lb (907.2 kg) or more of butterfish in order to allow some portion of butterfish discards to be landed, the interim final rule instead maintains the status quo (3-inch (7.62 cm) minimum mesh required to possess 1,000 lb (453.6 kg) or more of butterfish).

Comments and Responses

NMFS received four comments on the proposed specifications: One on behalf of Seafreeze, Ltd.; one from the Garden State Seafood Association (GSSA); one from Lund's Fisheries Incorporated (Lund's Fisheries); and one from the Herring Alliance. Several issues not relevant to the specifications were raised by various commenters; only the comments relevant to the proposed specifications are addressed below.

General

Comment 1: The Herring Alliance commented that NMFS should implement annual specifications, rather than 3-year specifications, for all stocks in the MSB fisheries until biological reference points can be determined.

Response: This action implements annual specifications for mackerel and butterfish, and 2012–2014 specifications for *Illex* squid and longfin squid. The FMP allows for specifications to be set for up to 3 years for any of the MSB species. The Council has not recommended 3-year specifications for any of the MSB species in previous years, but did so this year for *Illex* and longfin squid. Though OFLs are not available for either squid species, the SSC determined that the best available information on these fisheries suggests that maintaining catches at the recommended levels in future years should not have a negative impact on the stock. In addition, substantial new information is unlikely to be available for the squid species in the intervening years because neither squid species is on the assessment schedule for 2012, 2013 or 2014. Setting the squid specifications for 3 years streamlines the regulatory process because the Council will not need to take action in the event that the SSC's and Council's squid specifications recommendations remain the same for upcoming years, but in no way binds the Council to maintain the recommendations. Though specifications for the squid species are being implemented for 3 years, the SSC must still evaluate the performance of the squid specifications each year, and the Council may propose any necessary adjustments through annual specifications.

Mackerel

Comment 2: GSSA and Lund's Fisheries support the proposed U.S. ABC of 43,781 mt, but were disappointed that the process of setting the U.S. ABC does not provide a mechanism to increase the U.S. ABC if Canadian catches are smaller than predicted. Lund's Fisheries suggested that Canadian underages should be added to the U.S. ABC as an in-season adjustment.

Response: The addition of a mechanism to increase the U.S. ABC if Canadian catches are smaller than predicted represents a significant change to the commercial quota system for mackerel. This type of mechanism would have to be considered through the Council process in order to allow for full development and justification for the adjustment, economic and biological analysis, and public comment. If the Council were to consider such a mechanism in the future, it could only be implemented through a framework adjustment or an amendment to the

FMP, rather than through the specifications process. This is because the regulations governing the specifications process do not allow for adjustments to the commercial quota system. The Council would therefore have to consider such a mechanism in a future action.

Comment 3: GSSA and Lund's Fisheries support the proposed recreational allocation, and the application of a 10-percent management buffer to this allocation, but believed that a discard rate should have been applied to the recreational allocation.

Response: As noted in the comment and in the proposed rule, reliable discard estimates for the recreational fishery are not available. From 2004–2010, the Marine Recreational Fisheries Statistical Survey (MRFSS) estimated that recreational landings averaged 900 mt, and that 9.2 percent of that mackerel was ''released alive.'' Based on release mortality rates for other Mid-Atlantic species, the EA provides a conservative assumption that 30 percent of released mackerel die. If the recreational ACT of 2,443 mt is fully attained, NMFS estimates that 247 mt of mackerel will be released, and 74 mt of that mackerel will die after release. A 10-percent buffer is more than three times the estimated potential dead discards. Given the past performance of the recreational fishery, and the 10-percent buffer, NMFS believes that the potential for discards is adequately accounted for. As improvements to recreational data collection continue to be implemented, the MSB Monitoring Committee will re-examine the recreational ACT and consider whether discards should be accounted for in an explicit deduction.

Comment 4: GSSA, Lund's Fisheries, and the Herring Alliance oppose the 15-percent uncertainty buffer between the commercial allocation (93.8 percent of ABC) and the commercial ACT, which was proposed to account for uncertainty in estimated 2012 Canadian landings, uncertainty in discard estimates, and possible misreporting. GSSA noted that it was unclear whether the buffer was applied due to scientific or management uncertainty. GSSA and Lund's Fisheries expressed their view that this buffer is unnecessary, given that neither the U.S. quota nor the projected Canadian landings have been exceeded in recent years. Lund's Fisheries suggested that the commercial ACT should have been set equal to the commercial ACL (zero buffer). Conversely, the Herring Alliance asserted that uncertainty in the status of the mackerel stock supports a buffer of 25 percent or greater.

Response: The buffer between ACL and ACT is intended to address management uncertainty, which is the ability of managers to constrain catch to a target and the uncertainty in quantifying the true catch. NMFS supported the Council's recommendation for a 15-percent buffer between the ACL and ACT because of the uncertainty surrounding expected Canadian mackerel catch, which can vary significantly from year to year. When applied to past years, the method Council staff used to estimate 2012 Canadian catch sometimes underestimated Canadian catch by as much as 21,000 mt, and sometimes overestimated Canadian catch by as much as 25,000 mt. The additional buffer helps reduce the likelihood that a severe underestimate of Canadian catch will result in landings in excess of the stockwide ABC. The Herring Alliance suggested that a larger buffer was needed because of uncertainty in the status of the mackerel stock. Uncertainty in stock status is scientific uncertainty, which was addressed by the SSC during its deliberation regarding specification of the stockwide mackerel ABC. Given recent performance of the fishery, NMFS determined that a 15-percent buffer between the commercial ACL and ACT is appropriate to prevent overages of both the U.S. ABC, and to provide additional protection for the possible event that 2012 Canadian catch has been underestimated.

Butterfish

Comment 5: GSSA and Lund's Fisheries support the proposed specifications for butterfish.

Response: As noted in the preamble, NMFS cannot implement the proposed specifications because increasing the butterfish ABC violates the Council's risk policy. The status quo specifications are detailed above.

Comment 6: GSSA remains concerned that the ABC for butterfish is too low and does not consider the high recruitment possibilities for this stock. They expressed concern that continued low estimates may cause serious management problems for fisheries that incidentally catch butterfish.

Response: GSSA's concern appears to be in reference to the butterfish mortality cap on the longfin squid fishery. Because the 2011 cap did not result in a closure of the longfin squid fishery during the 2011 fishing year, NMFS does not have reason to believe the status quo butterfish mortality cap will necessarily result in a closure of the longfin squid fishery due to the harvest of the mortality cap for the 2012 fishing year.

Comment 7: The Herring Alliance recommended that NMFS disapprove the butterfish specifications. It argued that the butterfish specifications violate National Standards 1 and 2 for because: Increases to the butterfish ABC will not ensure that overfishing does not occur; increases to the ABC for butterfish without an OFL or OFL proxy violates the regulations implementing the Council's Omnibus Amendment; the basis upon which the butterfish cap was increased is not supported by scientific analyses; and a 10-percent buffer between ABC and ACT is insufficient to account for management uncertainty for the butterfish fishery.

Response: The butterfish specifications have been adjusted to address the concern that the Council's original ABC recommendation violates the regulations implementing the Omnibus Amendment. This interim final rule implements the status quo ABC of 1,811 mt.

NMFS does not agree with the Herring Alliance's assertion that a 10-percent buffer between ABC and ACT is insufficient to account for management uncertainty in the butterfish fishery. Though management uncertainty is a concern for the butterfish fishery, the FMP has a number of mechanisms to mitigate uncertainties beyond the 10-percent buffer between ABC and ACT. The specifications include an explicit deduction to account for discards in other fisheries. In addition, the butterfish mortality cap, which will be in its second year of operation in 2012, is designed to cap butterfish catch in the longfin squid fishery—the single largest source of fishing mortality for the butterfish stock. The cap acts as an accountability measure to control butterfish catch (landings and discards) in the longfin squid fishery, and can result in a closure of the longfin squid fishery if it is exceeded. Finally, NMFS also closes the directed butterfish fishery when 80 percent of the DAH has been attained. Though this level was exceeded in the 2010 and 2011 fishing years, the increased DAH should reduce the likelihood of an overage in the 2012 fishing year.

Comment 8: The Herring Alliance commented that the role of butterfish as forage should have been taken into account when setting specifications. It noted that marine predators switch prey depending on relative abundance and distribution of forage species. The Herring Alliance concluded that, because the status of stocks such as Atlantic herring, Atlantic mackerel, Atlantic menhaden, river herring and

shad species may be compromised, precautionary protection may be warranted.

Response: The impact of natural mortality on the butterfish stock, which includes predation, is taken into account during the butterfish assessment process, and is addressed during the specification of the ABC. The assessment does not consider potential future changes in butterfish predation because information is not available on future trends in forage.

Comment 9: A scientist commented on behalf of Seafreeze, Ltd., without submitting any information, that NMFS did not use all available scientific information in the assessment, and therefore that butterfish specifications neither protect the species nor provide for sufficient fishing opportunity.

Response: The commenter did not provide any evidence that indicates that the butterfish assessment used to set these specifications does not constitute the best available scientific information.

Longfin and Illex Squid

Comment 10: GSSA and Lund's Fisheries support the proposed specifications for longfin squid and *Illex* squid for the 2012–2014 fishing years.

Response: NMFS is implementing the specifications as proposed.

Comment 11: Lund's Fisheries requested that the timing of the *Illex* gear exemption should include the month of October due to availability of the *Illex* resource that can occur during that month.

Response: This rulemaking only clarifies the regulatory text for the exemption. An extension of the exemption to include the month of October is a change to the regulations that would have to be considered by the Council in a future action such as a framework adjustment or an amendment to the FMP.

Comment 12: GSSA and Lund's Fisheries do not support the jigging exemption until language detailing trawl gear stowage can be developed.

Response: The gear stowage provisions that appear at § 648.23(b) define how trawl gear should be properly stowed below the deck, on-deck, or on-reel to show that it is not available for immediate use.

Comment 13: The Herring Alliance commented that NMFS should direct the Council to establish OY for *Illex* squid. They noted that the Council cannot appropriately adjust the *Illex* quota for economic, social, or ecological factors because it failed to identify OY.

Response: Previous iterations of the Atlantic mackerel, squid and butterfish FMP specify the framework for establishing OY for *Illex.* The maximum OY is set not to exceed the catch associated with a fishing mortality rate of Fmsy. This is assessment driven, and a lower amount may be set if warranted by the assessment. The regulations at § 648.22 contemplate that the ABC will be set annually at the maximum OY or a lower amount if the potential yield from the fishery is less than this level. Since maximum OY cannot be specified due to the lack of reference points for the fishery, an ABC of 24,000 mt was selected, since it is a level of yield that has been supported by the fishery since 2000. The regulations allow the ABC to be modified annually based upon economic and social factors. However, the Council modified the ABC simply by deducting estimated discards to arrive at the DAH of 22,915 mt. In essence, the OY for *Illex,* is the ABC, as modified by the deduction of discards to specify DAH and RSA.

RSA

Comment 14: GSSA and Lund's Fisheries support setting aside 3 percent of the mackerel and butterfish ACLs, and 3 percent of the longfin squid and *Illex* IOYs to fund research. They also support the three preliminarily approved projects, since the inshore information gathered in the projects should add to existing information about distribution of key commercial species.

Response: NFMS issues 497,527 lb (225 mt) of longfin squid and 33,069 lb (15 mt) of butterfish for the RSA proposals detailed in the proposed rule.

Changes From the Proposed Rule

There are no changes from the proposed rule to the mackerel, longfin squid, or *Illex* squid specifications or management measures. Instead of the butterfish specifications and management measures put forward in the proposed rule, this interim final rule implements status quo butterfish specifications and management measures.

Classification

The Administrator, Northeast Region, NMFS, determined that these specifications are necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fisheries and that they are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Council prepared an EA for the 2012 specifications, and the NOAA Assistant Administrator for Fisheries concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866 (E.O. 12866).

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA, included in the preamble of this final rule, in support of the 2012 specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summaries in the IRFA, a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

Statement of Need for This Action

This action implements 2012 specifications for mackerel and butterfish, and 2012–2014 specifications for *Illex* and longfin squid. It also modifies the closure threshold for the commercial mackerel fishery, adjusts the gear requirements for the butterfish fishery, and allows for the use of jigs to capture longfin squid, should the longfin squid fishery be closed due to reaching the butterfish mortality cap. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to the proposed and final rules and are not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

There were no issues related to the IRFA raised in public comments.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2011, the numbers of potential fishing vessels in the 2012 fisheries are as follows: 351 longfin squid/butterfish moratorium permits; 76 *Illex* moratorium permits; 2,201 mackerel permits; 1,904 incidental squid/butterfish permits; and 831 MSB party/charter permits. Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) fisheries have been defined by the Small Business

Administration as firms with gross revenues of up to $4.0 and $6.5 million, respectively. There are no large entities participating in this fishery, as that term is defined in section 601 of the RFA. Therefore, there are no disproportionate economic impacts on small entities. Many vessels participate in more than one of these fisheries; therefore, permit numbers are not additive.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, there are no Federal rules that duplicate, overlap, or conflict with this final rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impacts on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

Actions Implemented With the Final Rule

The recently finalized Omnibus Amendment, which applies to mackerel and butterfish, changes the structure of specifications compared to that used in past years. In order to facilitate comparison of alternatives, the discussions of mackerel and butterfish specifications below will focus on the effective limit on directed harvest, regardless of the terminology used for the specification. The specifications and terminology for *Illex* and longfin squid are unchanged from those used in 2011.

The mackerel commercial DAH specified in this action (33,821 mt) represents a reduction from status quo (2011 DAH = 46,779 mt). Despite the reduction, the DAH is above recent U.S. landings; mackerel landings for 2008–2010 averaged 18,830 mt. Thus, the reduction does not pose a constraint to vessels relative to the landings in recent years. In 2011, there was a soft allocation of 15,000 mt of the mackerel DAH for the recreational mackerel fishery. The Omnibus Amendment and MSB Amendment 11 requires NMFS to establish an explicit allocation for the recreational fishery, and this action specifies a Recreational ACT/RHL of 2,443 mt. Because recreational harvest from 2008–2010 averaged 738 mt, it does not appear that the new, explicit allocation for the recreational fishery will constrain recreational harvest. Overall, this action is not expected to result in any reductions in revenues for vessels that participate in either the commercial or recreational mackerel fisheries.

The adjustment to the mackerel closure threshold, which requires the closure of the commercial mackerel fishery at 95 percent of the DAH, is a preventative measure intended to ensure that the commercial catch limit is not exceeded. The economic burden on fishery participants associated with this measure is expected to be negligible.

The butterfish DAH specified in this action (500 mt) is the same as status quo. The DAH has been fully attained during the 2010 and 2011 fishing years.

The *Illex* IOY (22,915 mt) specified in this action represents a slight decrease compared to status quo (23,328 mt). Though annual *Illex* landings have totaled over ⅔ of the IOY in the past 3 years (15,900 mt for 2008, 18,419 mt for 2009, and 15,825 for 2010), the landings were lower than the level being proposed. Thus, implementing this action should not result in a reduction in revenue or a constraint on expansion of the fishery in 2012.

The longfin squid IOY (22,445 mt) represents an increase from the status quo (20,000 mt). Because longfin squid landings from 2008–2010 averaged 9,182 mt, the specified IOY provides an opportunity to increase landings, though if recent trends of low landings continue, there may be no increase in landings despite the increase in the allocation. No reductions in revenues for the longfin squid fishery are expected as a result of this proposed action.

As discussed in the FRFA for MSB Amendment 10, the butterfish mortality cap has a potential for economic impact on fishery participants. The longfin squid fishery will close during Trimesters I and III if the butterfish mortality cap is reached. If the longfin squid fishery is closed in response to butterfish catch before the entire longfin squid quota is harvested, then a loss in revenue is possible. The potential for longfin squid revenue loss depends upon the size of the butterfish mortality cap. This interim final rule maintains the 2012 butterfish mortality cap at the level that was specified for 2011 (1,436 mt). The 2011 butterfish mortality cap did not result in a closure of the longfin squid fishery in Trimester I. At the end of Trimester III, just over 40 percent of the butterfish mortality cap was left unharvested, and the cap did not result in a closure of the longfin squid fishery during the 2011 fishing year. Given that the status quo cap did not constrain the longfin squid fishery in 2011, additional revenue losses are not expected as a result of this interim final action.

The jigging measure will allow Longfin Squid/Butterfish moratorium permit holders to possess longfin squid in excess of the possession limit during any closures of the longfin squid fishery resulting from the butterfish mortality cap. Jigging for longfin squid has been shown to be commercially infeasible. However, because butterfish bycatch in jig gear is expected to be very minimal, it seems reasonable to allow jig fishing for squid. If attempts to use jig gear for commercial longfin squid fishing are successful, the use of this gear could help mitigate economic impacts on fishery participants if the longfin squid fishery is closed due to reaching the mortality cap.

Alternatives to the Actions in the Final Rule for Mackerel, Longfin Squid, and *Illex* Squid

The Council analysis evaluated four alternatives to the specifications for mackerel. The first (status quo) and second non-selected alternatives were based on the specifications structure that existed prior to the implementation of the Omnibus Amendment, and were not selected because they no longer comply with the MSB FMP. The other alternatives differed in their specification of the stockwide ABC (80,000 mt in the preferred alternative). The same amount of expected Canadian catch (36,219 mt) was subtracted from the stockwide ABC in each alternative. The third alternative (least restrictive) would have set the U.S. ABC and ACL at 63,781 mt (100,000 mt stockwide ABC minus 36,219 mt Canadian catch), the Commercial ACT at 50,853 mt, the DAH and DAP at 49,271 mt, and the Recreational ACT at 3,559 mt. The fourth alternative (most restrictive) would have set the U.S. ABC and ACL at 23,781 mt (60,000 mt stockwide ABC minus 36,219 mt Canadian catch), the Commercial ACT at 18,961 mt, the DAH and DAP at 18,371 mt, and the Recreational ACT at 1,327 mt. These two alternatives were not selected because they were all inconsistent with the ABC recommended by the SSC.

The status quo closure threshold for the commercial mackerel fishery (90 percent) was considered overly precautionary when compared to the selected closure threshold (95 percent). The status quo closure threshold, which was designed in part because there was no distinct allocation for the

recreational mackerel fishery, is no longer considered appropriate.

Three alternatives to the preferred action were considered for *Illex,* but were not selected by the Council. All alternatives would have established specifications for the 2012–2014 fishing years. The first alternative (status quo), shared the same 24,000-mt ABC as the proposed action. However, a discard rate of 2.8 percent was deducted to reach an IOY, DAH, and DAP at 23,328 mt rather than the 22,915 mt specified in this proposed action. The Council did not select the status quo alternative because it found the updated discard rate of 4.52 percent to be a more appropriate representation of discards in the *Illex* fishery. The second alternative (least restrictive) would have set ABC at 30,000 mt, and IOY, DAH, and DAP at 28,644 mt (ABC reduced by 4.52 percent for discards). This alternative was not selected because the higher specifications were inconsistent with the results of the most recent stock assessment. The third alternative (most restrictive) would have set ABC at 18,000 mt, and IOY, DAH, and DAP at 17,186 mt (ABC reduced by 4.52 percent for discards). The Council considered this alternative unnecessarily restrictive.

There were three alternatives to the selected action evaluated for longfin squid. All alternatives would have established specifications for the 2012–2014 fishing years. The first alternative (status quo) would have set the ABC at 24,000 mt, and the IOY, DAH and DAP at 20,000 mt. The second alternative (least restrictive) would have set the ABC at 29,250 mt, and the IOY, DAH, and DAP at 28,057 mt (ABC reduced by 4.08 percent for discards). The third alternative (most restrictive) would have set the ABC at 17,550 mt, and the IOY, DAH and DAP at 16,834 mt (ABC reduced by 4.08 percent for discards). These three alternatives were not selected because they were all inconsistent with the ABC recommended by the SSC.

The alternatives for longfin squid RSA would have allowed up to 1.65 percent (status quo) or up to 3 percent (preferred) of the longfin squid IOY to be used to fund research projects for the 2012–2014 fishing years. In 2011, butterfish RSA was only awarded to cover butterfish discards by vessels fishing for longfin squid RSA. The small amount of butterfish RSA available in 2011 (15 mt, or 3 percent of 500 mt butterfish DAH) was only sufficient to cover discards for an amount of longfin squid RSA equal to 1.65 percent of the IOY. The recommended increase in the 2012 butterfish quota will allow for enough butterfish RSA (3 percent of the 1,087 mt butterfish DAH) to accommodate discards for longfin squid RSA equal to 3 percent of the IOY.

For the jigging exemption, the status quo alternative prevents Longfin squid/Butterfish moratorium permit holders from possessing or landing over 2,500 lb (1.13 mt) of longfin squid if the directed fishery is closed because of the butterfish mortality cap. The preferred alternative would allow such vessel to possess and land over 2,500 lb (1.13 mt) if using jigging gear. If the use of jigs for commercial longfin squid fishery proves successful, the preferred alternative may help reduce the economic impacts of closures of the longfin squid fishery resulting from the butterfish mortality cap.

Alternatives to the Actions in the Interim Final Rule for Butterfish

There were six alternatives to the preferred action for butterfish that were not selected. The first (status quo) and second non-selected were based on the specifications structure that existed prior to the implementation of the Omnibus Amendment, and were not selected because they no longer comply with the MSB FMP. The third alternative (Council preferred) would have set ABC and ACL at 3,622 mt, the ACT at 3,260 mt, the DAH and DAP at 1,087 mt, and the butterfish mortality cap at 2,445 mt. The fourth alternative (least restrictive) would have set the ABC and ACL at 4,528 mt, the ACT at 4,075 mt, the DAH and DAP at 1,358 mt, and the butterfish mortality cap at 3,056 mt. The fourth alternative would have set the ABC and ACL at 2,717 mt, the ACT at 2,445 mt, the DAH and DAP at 815 mt, and the butterfish mortality cap at 1,834 mt. These three alternatives were not selected because they would increase the butterfish ABC, which is prohibited by the Council's risk policy. The final non-selected alternative would have set ABC and ACL at 1,811 mt, the ACT at 1,630 mt, the DAH and DAP at 543 mt, and the butterfish mortality cap at 1,222 mt. This alternative was not selected because it is inconsistent with status quo.

There were two alternatives regarding the adjustment to the butterfish gear requirement. The status quo alternative (preferred) requires vessels possessing 1,000 lb (0.45 mt) or more of butterfish to fish with a 3-inch (76-mm) minimum codend mesh. The alternative in the proposed rule (3-inch (76-mm) mesh to possess 2,000 lb (0.9 mt)) could create some additional revenue in the form of butterfish landings for vessels using mesh sizes smaller than 3 inches (76 mm). The higher possession limit was contemplated in light of the proposed increases to the butterfish specifications, and is no longer appropriate if the status quo butterfish specifications are implemented.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 13, 2012

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, remove the definition for ''*Loligo,*'' revise the definition of ''Squid,'' and add the definition for ''Longfin squid'' in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

Longfin squid means *Doryteuthis (Amerigo) pealeii* (formerly *Loligo pealeii*).

* * * * *

Squid means longfin squid (*Doryteuthis (Amerigo) pealeii,* formerly *Loligo pealeii*) or *Illex illecebrosus.*

* * * * *

■ 3. In § 648.23, paragraph (a) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* Vessels subject to the mesh restrictions in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that specified in paragraphs (a)(1) and (a)(2) of this section.

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing 1,000 lb (0.45 mt) or more of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (76 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(2) *Longfin squid fishery.* Owners or operators of otter trawl vessels possessing longfin squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2⅛ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless they are fishing consistent with exceptions specified in paragraph (b) of this section.

(i) *Net obstruction or constriction.* Owners or operators of otter trawl vessels fishing for and/or possessing longfin squid shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 2⅛ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure. ''Top of the regulated portion of the net'' means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing longfin squid may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish mortality cap, described in § 648.26(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed as specified in paragraph (b) of this section.

(3) *Illex fishery.* Seaward of the following coordinates, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August, in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in paragraph (b) of this section, any net, or any piece of net, with a mesh size less than 1⅞ inches (48 mm) diamond mesh in Trimester II, and 2⅛ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraph (a)(2) of this section.

Point	N. lat.	W. long.
M1	43°58.0′	67°22.0′
M2	43°50.0′	68°35.0′
M3	43°30.0′	69°40.0′
M4	43°20.0′	70°00.0′
M5	42°45.0′	70°10.0′
M6	42°13.0′	69°55.0′
M7	41°00.0′	69°00.0′
M8	41°45.0′	68°15.0′
M9	42°10.0′	67°10.0′
M10	41°18.6′	66°24.8′
M11	40°55.5′	66°38.0′
M12	40°45.5′	68°00.0′
M13	40°37.0′	68°00.0′
M14	40°30.0′	69°00.0′
M15	40°22.7′	69°00.0′
M16	40°18.7′	69°40.0′
M17	40°21.0′	71°03.0′
M18	39°41.0′	72°32.0′
M19	38°47.0′	73°11.0′
M20	38°04.0′	74°06.0′
M21	37°08.0′	74°46.0′
M22	36°00.0′	74°52.0′
M23	35°45.0′	74°53.0′
M24	35°28.0′	74°52.0′

* * * * *

■ 4. In § 648.24, paragraph (b)(1) is revised to read as follows:

§ 648.24 Fishery closures and accountability measures.

* * * * *

(b) * * *

(1) *Mackerel commercial sector EEZ closure.* NMFS shall close the commercial mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the mackerel DAH is harvested, if such a closure is necessary to prevent the DAH from being exceeded. The closure of the commercial fishery shall be in effect for the remainder of that fishing year, with incidental catches allowed as specified in § 648.26. When the Regional Administrator projects that the DAH for mackerel will be landed, NMFS shall close the commercial mackerel fishery in the EEZ, and the incidental catches specified for mackerel in § 648.26 will be prohibited.

* * * * *

§§ 648.4, 648.13, 648.14, 648.22, 648.24, 648.26, 648.27, and 648.124 [Amended]

5. In the table below, for each section in the left column, remove the text from whenever it appears throughout the section and add the text indicated in the right column.

Section	Remove	Add	Frequency
§ 648.4(a)(5)(i)	*Loligo*	longfin	1
§ 648.4(a)(5)(i)(A)	*Loligo*	longfin	2
§ 648.4(a)(5)(i)(L)(ii)	*Loligo*	longfin	1
§ 648.4(a)(10)(iv)(C)(*1*)(*i*)	*Loligo*	longfin	1
§ 648.4(a)(10)(iv)(C)(*1*)(*ii*)	*Loligo*	longfin	1
§ 648.13(a)	*Loligo*	longfin squid	2
§ 648.14(g)(1)(ii)(B)	*Loligo*	longfin squid	2
§ 648.14(g)(2)(ii)	*Loligo*	longfin	2
§ 648.14(g)(2)(iii)(A)	*Loligo*	longfin squid	1
§ 648.14(o)(1)(vi)	*Loligo*	longfin	1
§ 648.22(a)(2)	*Loligo*	longfin squid	1
§ 648.22(a)(4)	*Loligo*	longfin	1
§ 648.22(a)(5)	*Loligo*	longfin	1
§ 648.22(b)(1)	*Loligo*	longfin	1
§ 648.22(b)(1)(i)(A)	*Loligo*	longfin squid	1
§ 648.22(b)(3)(v)	*Loligo*	longfin squid	1
§ 648.22(c)(1)(i)	*Loligo*	longfin squid	1
§ 648.22(f)	*Loligo*	longfin	1
§ 648.22(f)(1)	*Loligo*	longfin	1

Section	Remove	Add	Frequency
§ 648.24(a)	*Loligo*	longfin squid	4
§ 648.24(c)(3)	*Loligo*	longfin squid	2
§ 648.26(b)	*Loligo*	longfin squid	7
§ 648.27 (section heading)	*Loligo*	longfin squid	1
§ 648.27(a)	*Loligo*	longfin squid	1
§ 648.27(b)	*Loligo*	longfin squid	5
§ 648.27(c)	*Loligo*	longfin squid	3
§ 648.27(d)	*Loligo*	longfin squid	2
§ 648.124(a)(2)	*Loligo*	longfin	1
§ 648.124(b)(2)	*Loligo*	longfin	1

[FR Doc. 2012–6456 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XB102

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2012 total allowable catch of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 17, 2012, through 1200 hrs, A.l.t., August 25, 2012.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2012 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 17,221 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the B season pollock allowance by 106 mt to reflect the total overharvest of the A seasonal apportionment in Statistical Area 620. Therefore, the revised B season allowance of the pollock TAC in Statistical Area 620 is 17,115 mt (17,221 mt minus 106 mt)

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2012 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 17,000 mt and is setting aside the remaining 115 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 15, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 16, 2012.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–6814 Filed 3–16–12; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XB100

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2012 total allowable catch (TAC) of pollock in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 17, 2012, through 2400 hrs, A.l.t., December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the

GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 TAC of pollock in the West Yakutat District of the GOA is 3,244 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2012 TAC of pollock in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,200 mt and is setting aside the remaining 44 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 15, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 16, 2012.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–6816 Filed 3–16–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 55
Wednesday, March 21, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket Nos. PRM–50–101; NRC–2011–0189]

Petition for Rulemaking Submitted by the Natural Resources Defense Council, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; consideration in the rulemaking process.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) will consider the issues raised in the petition for rulemaking (PRM), PRM–50–101, submitted by the Natural Resources Defense Council, Inc. (NRDC or the petitioner), in the rulemaking process. The petitioner requests that the NRC amend its regulations to require each operating and new reactor licensee to establish station blackout (SBO) mitigation strategies and resources. The NRC determined that the issues raised in the PRM are appropriate for consideration and will consider them in the planned ''Station Blackout'' rulemaking.

DATES: The docket for the petition for rulemaking, PRM–50–101, is closed on March 21, 2012.

ADDRESSES: Further NRC action on the issues raised by this petition will be accessible on the Federal rulemaking Web site, *http://www.regulations.gov,* by searching on Docket ID NRC–2011–0299, which is the rulemaking docket for the planned SBO rulemaking.

You can access publicly available documents related to the petition 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.*

- *Federal Rulemaking Web Site:* Supporting materials related to this petition can be found at *http://www.regulations.gov* by searching on the Docket IDs for PRM–50–101 and the planned SBO rulemaking, NRC–2011–0189 and NRC–2011–0299, respectively. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Tim Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1462; email: *Timothy.Reed@nrc.gov;* or Scott Sloan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1619; email: *Scott.Sloan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

The Petition

On September 20, 2011, the NRC published a notice of receipt (76 FR 58165) of six PRMs filed by the NRDC, including PRM–50–101. The petitioner solely and specifically cited the ''Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident'' (Fukushima Task Force Report, ADAMS Accession No. ML111861807), dated July 12, 2011, as the rationale for the PRMs. For PRM–50–101, the petitioner cites Section 4.2.1, pages 32–39, of the Fukushima Task Force Report, regarding the enhancement of the ability of nuclear power plants to deal with the effect of prolonged SBO conditions at single and multiunit sites without damage to the nuclear fuel in the reactor or spent fuel pool and without the loss of reactor coolant system or primary containment integrity. At the time of receipt of the PRMs, the Commission was still in the process of reviewing the Fukushima Task Force Report, and the NRC did not institute a public comment period for the PRMs.

In PRM–50–101, the petitioner requests the NRC to institute a rulemaking proceeding applicable to nuclear facilities licensed under Title 10 of the Code of Federal Regulations (10 CFR) parts 50, 52, and other applicable regulations to revise 10 CFR 50.63 to require each operating and new reactor licensee to (1) establish a minimum coping time of 8 hours for a loss of all alternating current (AC) power, (2) establish the equipment, procedures, and training necessary to implement an ''extended loss of all AC'' coping time of 72 hours for core and spent fuel cooling and for reactor coolant system and primary containment integrity as needed, and (3) preplan and prestage offsite resources to support uninterrupted core and spent fuel pool cooling and reactor cooling and reactor coolant system and containment integrity as needed, including the ability to deliver the equipment to the site in the time period allowed for extending coping, under conditions involving significant degradation of offsite transportation infrastructure associated with significant natural disasters.

Reasons for Consideration

The Commission has established a process for addressing a number of the recommendations in the Fukushima Task Force Report, and the NRC determined that the issues raised in PRM–50–101 are appropriate for consideration and will consider them in the planned SBO rulemaking based on Section 4.2.1 of the Fukushima Task Force Report (Recommendation 4.1). The public will have the opportunity to provide comments on the issues raised by the petitioner in PRM–50–101 as part of the SBO rulemaking. The NRC will consider the issues raised by the remaining NRDC PRMs through the process the Commission establishes for addressing the remaining recommendations in the Fukushima Task Force Report. This PRM docket is closed.

Dated at Rockville, Maryland, this 12th day of March 2012.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Executive Director for Operations.

[FR Doc. 2012–6843 Filed 3–20–12; 8:45 am]

BILLING CODE 7590–01–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, Treasury (''OCC'').

ACTION: Proposed rule; extension of comment period.

SUMMARY: On January 24, 2012, the OCC published in the **Federal Register** a notice of proposed rulemaking (NPRM) to implement section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The 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 and comply with certain reporting and disclosure requirements.

To allow parties more time to consider the impact of the proposed rule, and so that the comment period on the proposed rule will run concurrently with the comment period for a comparable rule proposed by the Board of Governors of the Federal Reserve System (Board), the OCC has determined that an extension of the comment period until April 30, 2012 is appropriate. This action will allow interested persons additional time to analyze the proposed rule and prepare their comments.

DATES: Comments on the proposed rule must be received on or before April 30, 2012.

ADDRESSES: You may submit comments by any of the methods identified in the proposed rule. Please submit your comments using only one method.

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: On January 24, 2012, the OCC published a proposed rule in the **Federal Register** (proposed rule) [1] to implement stress testing requirements in section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[2] Section 165(i) requires certain financial companies, including national banks and Federal savings associations, with total consolidated assets in excess of $10 billion to conduct annual stress tests pursuant to regulations prescribed by their respective Federal primary financial regulatory agencies. The Federal primary financial regulatory agency is required to define ''stress test,'' establish methodologies for the conduct of the stress test that must include at least three different sets of conditions (baseline, adverse, and severely adverse), establish the form and content of the report that institutions are required to submit, and require the institution to publish a summary of the results of the institutional stress tests.[3]

In recognition of the complexities of the rulemaking and the variety of considerations involved in its impact and implementation, the OCC requested that commenters respond to numerous questions. The proposed rule stated that the public comment period would close on March 26, 2012.[4]

The OCC believes that it is important to allow interested parties more time to consider the impact of the proposed rule and respond to the questions asked in the NPRM. Additionally, the OCC believes that the comment period for the proposed rule should run concurrently with a similar rule by the Board of Governors of the Federal Reserve System (Board). The Board published its proposed rule implementing the stress testing requirements of section 165(i) of the Dodd-Frank Act on January 5, 2012 with the comment period closing on March 31, 2012.[5] The Board recently extended the comment period until April 30.[6] Section 165(i)(2)(C) directs each Federal primary financial regulatory agency to issue ''consistent and comparable'' regulations to implement the Act's annual stress testing requirements.[7] Moreover, as noted in the preambles to the proposed rules, the Federal banking agencies generally intend to coordinate the development of the scenarios that will be used for annual stress tests performed pursuant to each agency's regulations.[8] Therefore, the OCC believes that the Annual Stress Test proposed rule should be considered as part of a coordinated effort by the Federal banking agencies to implement the annual stress testing requirements of the Dodd-Frank Act. For these reasons, the OCC is extending the deadline for submitting comments on the proposed rule from March 26, 2012 to April 30, 2012.

Dated: March 15, 2012.

John Walsh,

Acting Comptroller of the Currency.

[FR Doc. 2012–6811 Filed 3–20–12; 8:45 am]

BILLING CODE P

[1] *See* 77 FR 3408 (Jan. 24, 2012).

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

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

[4] *See* 77 FR 3408 (Jan. 24, 2012).

[5] *See* 77 FR 594 (Jan. 5, 2012).

[6] *See* 77 FR 13513 (March 7, 2012).

[7] 12 U.S.C. 5365(i)(2)(C).

[8] *See* 77 FR 3408, 3412 (Jan. 24, 2012); 77 FR 594, 632 (Jan. 5, 2012); 77 FR 3166, 3168 (Jan. 23, 2012).

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AD91

Annual Stress Test

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On January 23, 2012, the FDIC published in the **Federal Register** a notice of proposed rulemaking for public comment to implement the requirements in Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') [1] by requiring state nonmember banks and state savings associations supervised by the Corporation with total consolidated assets of more than $10 billion to conduct annual stress tests.

Due to the scope and complexity of the rulemaking, the FDIC has determined that an extension of the comment period until April 30, 2012, is appropriate. This action will allow interested persons additional time to analyze the proposed rules and to prepare their comments.

DATES: Comments on the proposed rule must be received on or before April 30, 2012.

ADDRESSES: You may submit comments by any of the methods identified in the

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

proposed rule.[2] Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: George French, Deputy Director, Policy, (202) 898–3929, Robert Burns, Associate Director, Mid-Tier Bank Branch, (202) 898–3905, or Karl R. Reitz, Senior Capital Markets Specialist, (202) 898–6775, Division of Risk Management and Supervision; Mark G. Flanigan, Counsel, (202) 898–7426, or Ryan K. Clougherty, Senior Attorney, (202) 898–3843, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On January 23, 2012, the proposed rule was published in the **Federal Register**.[3] The proposed rule implements section 165(i)(2) of the Dodd-Frank Act which requires the Corporation to issue regulations that require FDIC-insured state nonmember banks and FDIC-insured state-chartered savings associations with total consolidated assets of more than $10 billion (''covered banks'') to conduct annual stress tests (''bank-run stress tests''). The proposed rule defines the term ''stress test'' for purposes of the regulations; establishes methodologies for the conduct of the stress tests; establishes the form and content of a required report on the stress tests that banks must submit to the Corporation; and requires covered banks to publish a summary of the results of the required stress tests.

In recognition of the complexities of the rulemaking and the variety of considerations involved in its impact and implementation, the FDIC requested that commenters respond to questions in the proposed rule. The proposed rule stated that the public comment period would close on March 23, 2012.[4]

The FDIC has received requests from the public for an extension of the comment period. The FDIC believes that it is important to allow parties more time to consider the impact of the proposed rule, and that such an extension will facilitate further public comment on the proposed rule. Therefore, the FDIC is extending the deadline for submitting comments on the proposed rule from March 23, 2012, to April 30, 2012.

Dated at Washington, DC, this 16th day of March 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–6799 Filed 3–20–12; 8:45 am]

BILLING CODE 6714–01–P

[2] *See* 77 FR 3166 (January 23, 2012).

[3] *See id.*

[4] *See id.*

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 612, 619, 620 and 630

RIN 3052–AC41

Compensation, Retirement Programs, and Related Benefits

AGENCY: Farm Credit Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Farm Credit Administration (FCA, us, we, or our) published a proposed rule to amend our regulations related to Farm Credit System (System) bank and association disclosures to shareholders and investors. The proposed rule would require enhanced reporting of senior officer compensation and retirement programs and reporting to shareholders of significant events that occur between annual reporting periods. The proposed rule would also identify the minimum responsibilities a compensation committee must perform and require that System banks and associations provide for a nonbinding, advisory vote on senior officer compensation. To allow interested parties additional time to submit comments, we are extending the comment period on the proposed rule from March 23, 2012 to April 16, 2012.

DATES: Comments on the proposed rule must be submitted on or before April 16, 2012.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we no longer accept comments submitted by fax. Regardless of the method you use, please do not submit your comments multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send an email to *reg-comm@fca.gov*.
- *FCA Web site: http://www.fca.gov*. Select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Submitting a Comment.''
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Gary K. Van Meter, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia or on our Web site at *http://www.fca.gov*. Once you are in the Web site, select ''Public Commenters,'' then ''Public Comments,'' and follow the directions for ''Reading Submitted Public Comments.'' We will show your comments as submitted, including any supporting data provided, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Deborah Wilson, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or

Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: On January 23, 2012, the FCA published a proposed rule in the **Federal Register** seeking public comment on proposed changes to senior officer compensation disclosures and related topics. *See* 77 FR 3172. The comment period is scheduled to close on March 23, 2012. The FCA received several letters in response to the proposed rule requesting we extend the comment period by 60 days. Many of the commenters explained that the proposed rule was published while System institutions were fully engaged in completion of their annual reports. The commenters emphasized that System institutions have significant interest in the proposed rule and were, therefore, requesting more time to evaluate and comment in a thoughtful and coordinated manner.

The FCA supports public involvement and participation in its regulatory process and invites all interested parties to review and comment on our proposed rule. We balanced the request for more time against the fact that most of the issues in the proposed rule were previously subject to a 120-day comment period under an Advance Notice of Proposed Rulemaking (75 FR 70619, November 18, 2010). We also considered that a related proposed rule on the System Audit Committee (77 FR 8179, February 14, 2012) has a comment period closing April 16. As a result, we are extending the comment period 24 days instead of the requested 60 days to coincide with the related proposed rule.

Dated: March 15, 2012.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2012–6806 Filed 3–20–12; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0270; Directorate Identifier 2011–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.27 Mark 050 airplanes, and Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by reports of loose nuts on contactors in the electrical power center (EPC), and in some cases, burned contactors. This proposed AD would require inspecting and, if necessary, adjusting, the torque values of nuts on circuit breakers, contactors and terminal blocks of the EPC and battery relay panel. This proposed AD would also require inspecting to determine if certain parts are installed, and installing the parts if necessary. We are proposing this AD to detect and correct loose nuts, which could result in arcing and potentially an onboard fire, possibly resulting in damage to the airplane and injury to occupants or maintenance personnel.

DATES: We must receive comments on this proposed AD by May 7, 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 comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; email *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0270; Directorate Identifier 2011–NM–113–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0083, dated May 12, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> In December 1989, Fokker issued Service Bulletin (SB) SBF50–24–A013 and SBF100–24–A011 (both Alert Bulletins) to instruct operators to inspect and adjust several torque values of bus bars and contactors in the EPC. The Civil Aviation Authority of The Netherlands (CAA–NL, formerly RLD) issued AD (BLA) 89–159 and BLA 89–157 respectively (both now at issue 2), to require operators of the affected aeroplanes to comply with the instructions of these SBs.
>
> Since those ADs were issued, several operators have reported finding loose nuts on contactors in the EPC of Fokker 50/60 aeroplanes in post-SBF50–24–A013 configuration and on Fokker 70/100 aeroplanes in post-SBF100–24–A011 configuration. In some cases, the findings included damaged (burned) contactors.
>
> This condition, if not detected and corrected, could lead to arcing and, in combination with other factors, to an onboard fire, possibly resulting in damage to the aeroplane and injury to occupants or maintenance personnel.
>
> For the reasons described above, this [EASA] AD requires a one-time [torque check] inspection and, depending on findings, adjustment of the torque values of nuts on circuit breakers, contactors and terminal blocks [of the EPC and battery relay panel].

The required actions include doing a general visual inspection to determine if either the lock washer, flat washer and nut, or locking nut and flat washer, are installed; and installing a new lock washer or self-locking nut, if necessary; and applying torque inspection lacquer. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletins SBF50–24–032, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F50–072 (for Model F.27 Mark 050 airplanes), and SBF100–24–043, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–141 (for Model F.28 Mark 0070 and 0100 airplanes), both dated February 10, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified

of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

This AD differs from the MCAI and/or service information as follows: The MCAI specifies certain concurrent requirements. This AD does not include those requirements because the actions are already required by FAA AD 98–03–18, Amendment 39–10310 (63 FR 6066, February 6, 1998); and FAA AD 2009–18–05, Amendment 39–16001 (74 FR 43625, August 27, 2009).

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 6 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,550, or $425 per product.

In addition, we estimate that any necessary follow-on actions would take about 4 work-hours and require parts costing $25, for a cost of $365 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2012–0270; Directorate Identifier 2011–NM–113–AD.

(a) Comments Due Date

We must receive comments by May 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Fokker Services B.V. Model F.27 Mark 050 airplanes, and Model F.28 Mark 0070 and 0100 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 24: Electric power.

(e) Reason

This AD was prompted by reports of loose nuts on contactors in the electrical power center (EPC), and in some cases, burned contactors. We are issuing this AD to detect and correct loose nuts, which could result in arcing and potentially an onboard fire, possibly resulting in damage to the airplane and injury to occupants or maintenance personnel.

(f) Compliance

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

(g) Actions

Within 24 months after the effective date of this AD, do the actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Do a torque check of the nuts and circuit breakers, contactors, and terminal blocks of the EPC and battery relay panel, as applicable, and do all applicable adjustments of the torque values, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–24–032, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F50–072 (for Model F.27 Mark 050 airplanes); or SBF100–24–043, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–141 (for Model F.28 Mark 0070 and 0100 airplanes; both dated February 10, 2011. Do all applicable adjustments before further flight.

(2) Do a general visual inspection of the contacts and nuts on circuit breakers, contactors, and terminal blocks of the electrical power center (EPC) and battery relay panel to determine if either the lock washer, flat washer and nut, or locking nut and flat washer are installed, and do all applicable installations; in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–24–032, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F50–072 (for Model F.27 Mark 050 airplanes); or SBF100–24–043, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–141 (for Model F.28 Mark 0070 and 0100 airplanes; both dated February 10, 2011. Do all applicable installations before further flight.

(3) Before further flight after accomplishing any check required by paragraph (g)(1) of this AD or any inspection required by paragraph (g)(2) of this AD: Apply torque inspection lacquer, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF50–24–032, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F50–072 (for Model F.27 Mark 050 airplanes); or SBF100–24–043, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–141 (for Model F.28 Mark 0070 and 0100 airplanes; both dated February 10, 2011.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International

Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

Refer to MCAI EASA Airworthiness Directive 2011–0083, dated May 12, 2011, and the service information specified in paragraphs (i)(1) and (i)(2) of this AD, for related information.

(1) Fokker Service Bulletin SBF50–24–032, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F50–072, dated February 10, 2011.

(2) Fokker Service Bulletin SBF100–24–043, including Fokker Manual Change Notification—Maintenance Documentation MCNM–F100–141, dated February 10, 2011.

Issued in Renton, Washington, on March 9, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6804 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0271; Directorate Identifier 2011–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–100, DHC–8–200, and DHC–8–300 series airplanes. This proposed AD was prompted by reports of hydraulic accumulator screw cap or end cap failure. This proposed AD would require replacing the affected parking brake accumulator. We are proposing this AD to prevent failure of the parking brake accumulator screw caps or end caps, which could result in loss of the number 2 hydraulic system and damage to airplane structures, and could potentially have an adverse effect on the controllability of the airplane.

DATES: We must receive comments on this proposed AD by May 7, 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 comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q–Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0271; Directorate Identifier 2011–NM–196–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2011–29, dated August 2, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Seven cases of on-ground hydraulic accumulator screw cap or end cap failure have been experienced on CL–600–2B19 (CRJ) aeroplanes, resulting in loss of the associated hydraulic system and high-energy impact damage to adjacent systems and structure. To date, the lowest number of flight cycles accumulated at the time of failure has been 6991.
>
> Although there have been no failures to date on any DHC–8 aeroplanes, similar accumulators to those installed on the CL–600–2B19, Part Numbers (P/N)0860162001 and 0860162002 (Parking Brake Accumulator), are installed on the aeroplanes listed in the Applicability section of this [TCCA] directive.
>
> A detailed analysis of the systems and structure in the potential line of trajectory of a failed screw cap/end cap for the accumulator has been conducted. It has identified that the worst-case scenarios would be the loss of number 2 hydraulic system, and damage to aeroplane structures.
>
> This [TCCA] directive gives instructions to determine the part number and serial number of the existing parking brake accumulator, and where applicable, replace the accumulator.

Failure of the parking brake accumulator screw caps and/or end caps could result in loss of the number 2 hydraulic system, and damage to airplane structures, and could potentially have an adverse effect on the controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 8–32–170, dated February 25, 2011; and Service Bulletin 8–32–172, dated March 15, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 129 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $21,930, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $1,625, for a cost of $1,880 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2012–0271; Directorate Identifier 2011–NM–196–AD.

(a) Comments Due Date

We must receive comments by May 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–101, –102, –103, –106, –201, –202, –301, –311 and, –315 airplanes, certificated in any category, serial numbers 003 and subsequent.

(d) Subject

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

(e) Reason

This AD was prompted by reports of hydraulic accumulator screw cap or end cap failure. We are issuing this AD to prevent failure of the parking brake accumulator screw caps or end caps, which could result in loss of the number 2 hydraulic system and damage to airplane structures, and could potentially have an adverse effect on the controllability of the airplane.

(f) Compliance

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

(g) Inspection and Replacement

Within 2,000 flight hours or 12 months after the effective date of this AD, whichever comes first: Inspect to determine the part number (P/N) and serial number of the parking brake hydraulic accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–170, dated February 25, 2011. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the parking brake hydraulic accumulator can be conclusively determined from that review.

(1) For accumulators not having P/N 0860162001 or 0860162002: No further action is required by this paragraph.

(2) For accumulators having P/N 0860162001 or 0860162002: Before further flight, do the applicable actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) If the serial number is listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011: No further action is required by this paragraph.

(ii) If the serial number is not listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011: Within 2,000 flight hours or 12 months after the effective date of this AD, whichever comes first, replace the accumulator with a new non-suspect accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–32–172, dated March 15, 2011.

(h) Parts Installation

As of the effective date of this AD, no person may install a parking brake accumulator, P/N 0860162001 or 0860162002 with a serial number that is not listed in the table in paragraph 3.B.(2) of Bombardier Service Bulletin 8–32–170, dated February 25, 2011, on any airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–29, dated August 2, 2011; and the service information identified in paragraphs (j)(1) and (j)(2) of this AD; for related information.

(1) Bombardier Service Bulletin 8–32–170, dated February 25, 2011.

(2) Bombardier Service Bulletin 8–32–172, dated March 15, 2011.

Issued in Renton, Washington, on March 9, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6805 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0293; Directorate Identifier 2012–NM–034–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. This proposed AD was prompted by reports of a bleed air leak from the high pressure ducts which was not immediately detected by the bleed leak detection system. This proposed AD would require installing new sensing elements in the main landing gear wheel well and the overwing area, protective blankets on the upper surface of the wing box and fuel tubes, and protective shields on the rudder quadrant support-beam in the aft equipment compartment. We are proposing this AD to prevent an undetected bleed air leak which can cause loss of rudder control, can lead to degradation of structural integrity, and could be a potential heat source that can lead to fuel being ignited.

DATES: We must receive comments on this proposed AD by May 7, 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 comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0293; Directorate Identifier 2012–NM–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–06, dated January 26, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> There have been multiple events reported where a bleed air leak from the high pressure ducts was not immediately detected by the Bleed Leak Detection System (BLDS).
>
> An investigation revealed that if a bleed air leak develops due to a cracked or ruptured duct, the duct shroud may not channel sufficient bleed air to the sensing loop elements to enable an automatic shutdown of the bleed air system. The inability to detect a bleed air leak could result in the rudder quadrant bracket, pressure floor, pressure floor beam, fuel vent boot or fuel tubes being exposed to high temperatures. This could potentially lead to the loss of rudder control, degrade the structural integrity of primary structure or fuel ignition.
>
> This [Canadian] Airworthiness Directive (AD) mandates the installation of newly designed sensing elements in the main landing gear wheel well and the overwing area, protective blankets on the upper surface of the wing box and fuel tubes, as well as

protective shields on the rudder quadrant support-beam in the aft equipment compartment.

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

Relevant Service Information

Bombardier, Inc. has issued the service bulletins below.

- Bombardier Service Bulletin 670BA–36–014, Revision A, dated October 11, 2011.
- Bombardier Service Bulletin 670BA–36–016, Revision A, dated October 11, 2011.

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

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 409 products of U.S. registry. We also estimate that it would take about 78 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $21,353 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,445,047, or $27,983 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2012–0293; Directorate Identifier 2012–NM–034–AD.

(a) Comments Due Date

We must receive comments by May 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes specified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10003 through 10331 inclusive.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15279 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 36: Pneumatic.

(e) Reason

This AD was prompted by reports of a bleed air leak from the high pressure ducts which was not immediately detected by the bleed leak detection system. We are issuing this AD to prevent an undetected bleed air leak which can cause loss of rudder control, can lead to degradation of structural integrity, and could be a potential heat source that can lead to fuel being ignited.

(f) Compliance

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

(g) Install Protective Shields

For Model CL–600–2C10 airplanes having serial numbers 10003 through 10326 inclusive, and Model CL–600–2D15 and CL–600–2D24 airplanes having serial numbers 15001 through 15267 inclusive: Within 6,600 flight hours or 24 months after the effective date of this AD, whichever occurs first, install protective shields on the rudder quadrant support-beam in the aft equipment compartment, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–36–014, Revision A, dated October 11, 2011.

(h) Install Protective Blankets and Sensing Elements

For Model CL–600–2C10 airplanes having serial numbers 10003 through 10331 inclusive and Models CL–600–2D15 and CL–600–2D24 airplanes having serial numbers 15001 through 15279 inclusive: Within 6,600 flight hours or 24 months after the effective date of this AD, whichever occurs first, install protective blankets on the upper surface of the wing box and fuel components, and install new sensing elements in the wheel well of the main landing gear and the overwing area, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–36–016, Revision A, dated October 11, 2011.

(i) Credit for Previous Actions

This paragraph provides credit for installations, as required by paragraphs (g)

and (h) of this AD, if those actions were done before the effective date of this AD using Bombardier Service Bulletin 670BA–36–014 or 670BA–36–016, both dated April 7, 2011.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2012–06, dated January 26, 2012; and the service bulletins specified in paragraphs (k)(1) and (k)(2) of this AD; for related information.

(1) Bombardier Service Bulletin 670BA–36–014, Revision A, dated October 11, 2011.

(2) Bombardier Service Bulletin 670BA–36–016, Revision A, dated October 11, 2011.

Issued in Renton, Washington, on March 12, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6769 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0291; Directorate Identifier 2011–NM–168–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318–112, and –121; A319–111, –112, –115, –132, and –133; A320–214, –232, and –233; and A321–211, –212, –213, and –231 airplanes. This proposed AD was prompted by reports that some nuts installed on the wing, including on primary structural elements, were found cracked. This proposed AD would require inspecting to determine if certain nuts are installed or cracked, and replacing the affected nuts if necessary. We are proposing this AD to detect and correct missing and cracked nuts, which could result in the structural integrity of the airplane wings being impaired.

DATES: We must receive comments on this proposed AD by May 7, 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 comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0291; Directorate Identifier 2011–NM–168–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0121R1, dated July 13, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During structural part assembly in Airbus production line, some [wing] nuts Part Number (P/N) ASNA2531–4 were found cracked. Investigations were performed to determine the batches of the affected nuts and had revealed that these nuts have been installed in production on the fuel tank area of aeroplanes listed in the applicability section of this AD.
>
> Static, fatigue and corrosion tests were performed, which demonstrated that no immediate maintenance action is necessary. However, a large number of these nuts are fitted on primary structural elements, which could have long-term consequences.
>
> This condition, if not corrected, could impair the structural integrity of the affected aeroplanes.
>
> For the reasons described above, this [EASA] AD requires a detailed inspection of the affected nuts [for cracking and to determine if nuts are installed], associated corrective actions, depending on findings, and replacement of the affected P/N ASNA2531–4 nuts with new ones, having the

same P/N [and reporting to Airbus the inspection results].

This [EASA] AD has been revised to reduce the Applicability. Since no spare nuts have been delivered to operators for installation on Airbus aeroplanes, only the Models and MSN listed in the Airbus SB are affected by this [EASA] AD.

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

Relevant Service Information

Airbus has issued Service Bulletin A320–57–1153, including Appendices 01, 02, and 03, Revision 01, dated June 28, 2010. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

This proposed AD differs from the MCAI and/or service information as follows: The European Aviation Safety Agency (EASA) Airworthiness Directive specifies a compliance time of 12 years after the first flight of the airplane. This proposed AD specifies a compliance time of the later of the following: (1) Within 6 years after the first flight of the airplane; or (2) within 6 years after the most recent scheduled fuel tank inspection or 6 months after the effective date of this AD (whichever occurs later). This difference has been coordinated with EASA.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 170 products of U.S. registry. We also estimate that it would take up to 15 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $216,750, or $1,275 per product.

In addition, we estimate that any necessary follow-on actions would take about 143 work-hours and require parts costing $0, for a cost of $12,155 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2012–0291; Directorate Identifier 2011–NM–168–AD.

(a) Comments Due Date

We must receive comments by May 7, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–112, and –121; A319–111, –112, –115, –132, and –133; A320–214, –232, and –233; and A321–211, –212, –213, and –231 airplanes; certificated in any category; serial numbers 3359, 3361, 3362, 3365, 3366, 3368, 3370 to 3508 inclusive, 3510 to 3519 inclusive, 3522, 3523, 3525, 3527, 3529, 3530, 3533, 3534, 3537, 3539, 3542, 3544, 3546, 3548, 3552, and 3555.

(d) Subject

Air Transport Association (ATA) of America Code 57: Wings.

(e) Reason

This AD was prompted by reports that some nuts installed on the wing, including on primary structural elements, were found cracked. We are issuing this AD to detect and correct missing and cracked nuts, which could result in the structural integrity of the airplane wings being impaired.

(f) Compliance

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

(g) Inspect/Replace the Fuel Tank Nuts

Within the compliance times specified in paragraphs (g)(1) or (g)(2), whichever occurs later: Do a detailed inspection of the fuel tank areas of the wings to determine if nuts with part number (P/N) ASNA2531–4 are installed or cracked, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1153, including Appendices 01, 02, and 03, Revision 01, dated June 28, 2010. Before further flight, replace any missing or cracked nut with P/N ASNA2531–4 with a new P/N ASNA2531–4 nut, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1153, including Appendices 01, 02, and 03, Revision 01, dated June 28, 2010.

(1) Within 6 years after the first flight of the airplane.

(2) Within 6 years after the most recent scheduled fuel tank inspection, or 6 months

after the effective date of this AD, whichever occurs later.

(h) Inspection Report

Submit a report of the findings of the inspection required by paragraph (h) of this AD to Airbus, at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD. Submit the report using ''Appendix 01—Inspection Report,'' of Airbus Service Bulletin A320–57–1153, Revision 01, dated June 28, 2010.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if the actions were performed before the effective date of this AD using Airbus Service Bulletin A320–57–1153, including Appendices 01, 02, and 03, dated February 9, 2010.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

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

(k) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2011–0121R1, dated July 13, 2011; and Airbus Service Bulletin A320–57–1153, Revision 01, including Appendices 01, 02, and 03, dated June 28, 2010; for related information.

Issued in Renton, Washington, on March 12, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–6772 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM01–8–012]

Revised Public Utility Filing Requirements for Electric Quarterly Reports

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise the Electric Quarterly Report (EQR) Data Dictionary to add ''Simultaneous Exchange'' to the list of available Product Names in the EQR. This revision would allow for greater transparency in wholesale electricity markets through a greater understanding of these complex transactions. The Commission invites comment on this proposal.

DATES: Comments on the proposal are due May 21, 2012.

ADDRESSES: You may submit comments on the proposal, identified by Docket No. RM01–8–012, by one of the following methods:

- *Agency Web Site: http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original copy of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426. Additional requirements can be found on the Commission's Web site, see, *e.g.,* the ''Quick Reference Guide for Paper Submissions,'' available at *http://www/ferc.gov/docs-filing/efiling.asp,* or via phone from FERC Online Support at 202–502–6652 or toll-free at 1–866–208–3676.

FOR FURTHER INFORMATION CONTACT:

Andrew Knudsen, Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6527, *andrew.knudsen@ferc.gov;*

Andrew Weinstein, Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6230, *andrew.weinstein@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

(Issued March 15, 2012)

1. The Commission proposes to revise the Electric Quarterly Report (EQR) Data Dictionary to add ''Simultaneous Exchange'' to the list of available Product Names in the EQR. This revision would allow for accurate reporting of simultaneous exchange transactions, which will bolster transparency in wholesale electricity markets by facilitating a greater understanding of these complex transactions. The Commission invites comment on this proposal.

I. Background

A. Order No. 2001

2. On April 25, 2002, the Commission set forth the EQR filing requirements in Order No. 2001.[1] Order No. 2001 requires public utilities to electronically file EQRs summarizing transaction information for short-term and long-term cost-based sales and market-based

[1] *Revised Public Utility Filing Requirements,* Order No. 2001, 67 FR 31043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 72 FR 56735 (Oct. 4, 2007), 120 FERC ¶ 61,270, *order on reh'g and clarification,* Order No. 2001–H, 73 FR 1876 (Jan. 10, 2008), 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, 73 FR 65526 (Nov. 4, 2008), 125 FERC ¶ 61,103 (2008).

rate sales and the contractual terms and conditions in their agreements for all jurisdictional services.[2] The Commission established the EQR reporting requirements to help ensure the collection of information needed to perform its regulatory functions over transmission and sales,[3] while making data more useful to the public and facilitating the ability of public utilities to fulfill their responsibility under FPA section 205(c)[4] to have rates on file in a convenient form and place.[5] As noted in Order No. 2001, the EQR data are designed to ''provide greater price transparency, promote competition, enhance confidence in the fairness of the markets, and provide a better means to detect and discourage discriminatory practices.''[6] The requirement to file EQRs replaced the requirement to file quarterly transaction reports summarizing a utility's market-based rate transactions and sales agreements that conformed to the utility's tariff.

3. In Order No. 2001, the Commission also adopted a new section in its regulations, 18 CFR 35.10b, which requires that the EQRs must conform to the Commission's software and guidance posted and available from the Commission Web site. This obviates the need to revise 18 CFR 35.10b to implement revisions to the software and guidance.

4. Since issuing Order No. 2001, the Commission has provided guidance and refined the reporting requirements, as necessary, to simplify the filing requirements and to reflect changes in the Commission's regulations.[7] For instance, in 2007 the Commission adopted an Electric Quarterly Report Data Dictionary, which provides in one document the definitions of certain terms and values used in filing EQR data.[8] Moreover, in 2007, the Commission required transmission capacity reassignment to be reported in the EQR.[9] The refinements to the existing EQR requirements proposed in this NOPR build upon the Commission's prior improvements to the reporting requirements and enhance the goals of providing greater price transparency, promoting competition, instilling confidence in the fairness of the markets, and providing a better means to detect and discourage discriminatory and manipulative practices.

B. Docket No. EL10–71–000

5. In an order issued on February 16, 2012, addressing a petition for declaratory order filed by Puget Sound Energy, Inc. (Puget), the Commission expressed concerns that certain ''simultaneous exchange'' transactions may resemble transmission service because they involve a party placing power onto the power grid at one delivery point and then simultaneously receiving power at another delivery point.[10] The Commission defined simultaneous exchanges as:

> Simultaneous exchanges occur when a pair of simultaneously arranged (*i.e.,* part of the same negotiations) wholesale power transactions between the same counterparties in which party A sells an electricity product to party B at one location and party B sells a similar electricity product to party A at a different location have an overlapping delivery period. The simultaneous exchange is the overlapping portion (both in volume and delivery period) of these wholesale power transactions.[11]

In addressing Puget's petition, the Commission determined that when a simultaneous exchange transaction involves the marketing function of a public utility transmission provider, the public utility must seek prior approval from the Commission if the transaction involves its affiliated transmission provider's system.[12] The Commission concluded that all other simultaneous exchange transactions do not require prior Commission approval beyond the necessary authorization under section 205 of the Federal Power Act for the sale for resale of electric energy.[13] However, due to general concerns regarding the potential for simultaneous exchanges to provide what amounts to transmission service without the reservation of service on the transmission system, the Commission stated that it would consider ways to enhance the transparency of these arrangements, including potential modifications to the EQR reporting requirements.[14]

II. Discussion

A. Reporting of Product Name

6. The Commission proposes to add the Product Name ''Simultaneous Exchange'' to the EQR Data Dictionary and to require all EQR filers to use this term, when appropriate, in the Contract Data section and the Transaction Data section. The Commission will define ''Simultaneous Exchange'' in the EQR Data Dictionary as follows:

> Simultaneous exchanges occur when a pair of simultaneously arranged (i.e., part of the same negotiations) wholesale power transactions between the same counterparties in which party A sells an electricity product to party B at one location and party B sells a similar electricity product to party A at a different location have an overlapping delivery period. The simultaneous exchange is the overlapping portion (both in volume and delivery period) of these wholesale power transactions.

7. EQR filers engaging in simultaneous exchange transactions must report each transaction as a ''Simultaneous Exchange'' in the Transaction Data section. In the Contract Data section, appropriate reporting of these transactions depends on the contractual arrangement that governs the particular simultaneous exchange. If an EQR filer engages in simultaneous exchange arrangements under a general power sales contract, the EQR filer would not identify such general power sales agreements as ''Simultaneous Exchange'' in the Contract Data section, but rather the specific simultaneous exchange arrangements under such power sales contracts would be reported in the Transaction Data section. However, if an EQR filer enters into a contract that specifically sets forth the terms for simultaneous exchange arrangements, the EQR filer would categorize the contract product as ''Simultaneous Exchange'' in the Contract Data section.

8. Adding ''Simultaneous Exchange'' to the list of Product Names in the EQR Data Dictionary will enhance transparency in energy markets. The Commission understands that simultaneous exchanges occur in both organized and unorganized energy markets. These transactions are complicated and varied. Simultaneous exchanges may be executed through short-term or long-term contracts; may be arranged a day-ahead, many months in advance or in real-time; and may range in size. The Commission is

[2] Order No. 2001, FERC Stats. & Regs. ¶ 31,127.

[3] *Id.* P 13–14.

[4] 16 U.S.C. 824d(c).

[5] Order No. 2001, FERC Stats. & Regs.¶ 31,127 at P 31.

[6] *Id.* P 31.

[7] *See, e.g., Revised Public Utility Filing Requirements for Electric Quarterly Reports,* 124 FERC ¶ 61,244 (2008) (providing guidance on the filing of information on transmission capacity reassignments in EQRs); *Notice of Electric Quarterly Reports Technical Conference,* 73 FR 2477 (Jan. 15, 2008) (announcing a technical conference to discuss changes associated with the EQR Data Dictionary).

[8] Order No. 2001–G, 120 FERC ¶ 61,270.

[9] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, at P 817, *order on reh'g,* Order No. 890–A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification,* Order No. 890–B, 73 FR 39092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 74 FR 12540 (March 25, 2009), 126 FERC ¶ 61,228 (2009), *order on clarification,* Order No. 890–D, 74 FR 61511 (Nov. 25, 2009), 129 FERC ¶ 61,126.

[10] *Puget Sound Energy, Inc.,* 138 FERC ¶ 61,121, at P 13 (2012).

[11] *Id.* P 12.

[12] *Id.* P 1.

[13] *Id.*

[14] *Id.* P 16.

generally concerned that the complexity of simultaneous exchanges may obscure the true nature of these transactions, and may enable market participants to circumvent market rules. Thus, in order to enhance transparency, the Commission believes it is important that EQR filers report simultaneous exchanges in the EQR.

B. Reporting of Overlapping Transactions

9. As described above, a simultaneous exchange occurs when a pair of wholesale power transactions between the same counterparties is arranged as part of the same negotiations, and involves overlapping volumes of power purchased and sold and overlapping delivery periods for the power purchased and sold. Only the overlapping portion of a simultaneous exchange transaction should be reported as a simultaneous exchange. The non-overlapping portions of the arrangements should be reported in a separate entry as a power sale. Below are two examples of how to report a simultaneous exchange transaction involving two power sales involving overlapping volumes of power sold and overlapping periods for the power sold.

Example A

Transactions: Party A sells 100 MWh to Party B from 1 p.m. to 2 p.m. at point X. Party B sells 50 MWh to Party A from 1 p.m. to 2 p.m. at point Y.

Illustration of the Transactions As Reported in EQR

Party A → Party B at point X	**50 MWh[1]**	
	50 MWh[2]	
Party B → Party A at point Y	**50 MWh[2]**	
Hour	1:00 p.m.	2:00 p.m.

Power Sale	
Simultaneous Exchange	

There are 2 separate transactions in this scenario that must be reported in the EQR (as indicated in the graphic).

(1.) Party A will report a power sale of 50 MWh to Party B from 1 p.m. to 2 p.m.

(2.) Parties A and B will each report a simultaneous exchange of 50 MWh from 1 p.m. to 2 p.m. at points X and Y.[15]

Example B

Transactions: Party A sells 50 MWh to Party B for every hour from 1 p.m. to 3 p.m. at point X. Party B sells 50 MWh to Party A for every hour from 2 p.m. to 4 p.m.

Illustration of the Transactions As Reported in EQR

Party A → Party B at point X	**50 MWh[1]**	**50 MWh[2]**	
Party B → Party A at point Y		**50 MWh[2]**	**50 MWh[3]**
Hour	1:00 p.m. 2:00 p.m.	2:00 p.m. 3:00 p.m.	3:00 p.m. 4:00 p.m.

Power Sale	
Simultaneous Exchange	

[15] This assumes that both parties A and B are entities that are required to file EQR reports under the Commission's regulations. *See* 18 CFR 35.10b (2011).

There are 3 separate transactions in this scenario that must be reported in the EQR (as indicated in the graphic).

(1.) Party A will report a power sale of 50 MWh to Party B from 1 p.m. to 2 p.m.

(2.) Parties A and B will each report a simultaneous exchange of 50 MWh from 2 p.m. to 3 p.m. at points X and Y.[16]

(3.) Party B will report a power sale of 50 MWh to Party A from 3 p.m. to 4 p.m.

C. Price Reporting of Simultaneous Exchanges

10. The Commission proposes that parties reporting simultaneous exchange transactions report the price spread for these transactions, rather than the price assigned by the parties of the individual power sales that make up the simultaneous exchange.[17] The Commission proposes that the price spread be listed in the Price column (Field #64) and be reported as the net price that the filing entity receives per MWh for the overall simultaneous exchange position.[18] A simple example of determining a price spread is given below:

Company A and Company B enter into a simultaneous exchange transaction that involves Company A selling 100 MWh to Company B at $100/MWh and Company B selling 100 MWh back to Company A for $110/MWh. This transaction does not include any other credits or compensation as part of settlement for the simultaneous exchange. The price spread for this transaction would therefore be $10/MWh. Company A would report the price for this simultaneous exchange transaction as −$10/MWh (because it *makes* a net payment of $10 per MWh), and Company B would report the price for this locational exchange transaction as +$10/MWh (because it *receives* a net payment of $10 per MWh).

11. The Commission proposes the adoption of the price spread reporting requirement to provide necessary transparency. For the parties to a simultaneous exchange transaction, prices assigned to the power at either point in the transaction (if applicable) do not necessarily represent the economic values of the power being exchanged at those points. Such prices are merely nominal, since the parties know that any price at one location is partially offset by the price at the other location. In such cases, the nominal prices may be meaningless, and the relevant value of the transaction is the price spread, i.e., the difference between the prices at the points in a simultaneous exchange.[19] Moreover, in some transactions, parties may not assign nominal prices to the power at either point in the simultaneous exchange and may simply negotiate a price spread that applies to the simultaneous exchange. Thus, to ensure the presence of meaningful price information in EQR, the Commission proposes to adopt the requirement that EQR filers report the price spread of each simultaneous exchange.

D. Special Reporting Requirement for Simultaneous Exchange Transactions

12. Because simultaneous exchange transactions involve simultaneously-arranged overlapping power sales, both the point of delivery and the point of receipt are relevant information that should be reported in the EQR. Thus, the Commission proposes to require each party entering into a simultaneous exchange to report both the point of delivery and the point of receipt associated with the simultaneous exchange transaction.

13. To implement this special reporting requirement, the Commission proposes to add a ''Simultaneous Exchange'' selection (SIMX) to the Point of Delivery Balancing Authority field (Field #56) in the Transaction Data section of the EQR. After selecting Simultaneous Exchange in the Product field (Field #62), EQR filers must select Simultaneous Exchange (SIMX) in Field #56 to ensure that Point of Delivery Specific Location field (Field #57) allows for unrestricted text. In Field #57,[20] the entity reporting the transaction should specify the points of both receipt and delivery. The proposed reporting conventions are described and illustrated in Appendix B. If no specific reporting requirement is indicated for a particular field in Appendix B, the general reporting requirements associated with the EQR Data Dictionary apply.

III. Information Collection Statement

14. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.[21] Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA)[22] requires each federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability or addressed to all or a substantial majority of an industry.[23]

15. The following collection of information contained in this Proposed Rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[24] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[25] The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

16. The Commission's estimate of the additional average annual Public Reporting Burden and cost[26] related to the proposed rule in Docket RM01–8–012 follows.

[16] This assumes that both parties A and B are entities that are required to file EQR reports under the Commission's regulations. *See* 18 CFR 35.10b (2011).

[17] In a simultaneous exchange, a party sells power at one point in return for power at another point. Under current EQR rules, a company reports a ''sale price'' for the point in which it makes a power sale. The proposed rules for reporting prices are consistent with this existing policy in that they treat each filer as a net ''seller,'' with net buyers reporting a negative price spread.

[18] There may be transactions in which credits or compensation other than the nominal prices are negotiated as part of the simultaneous exchange. In such cases, *all relevant compensation* should be included in the determination of the price spread.

[19] In a simultaneous exchange, the parties may be indifferent to the market price assigned to each point of the exchange. Thus, an exchange in which the power at point A is assigned a price of $10 and the power at point B is assigned a price of $12 is economically the same to the parties as an exchange where the power at point A is assigned a price of $20 and the power at point B is assigned a price of $22.

[20] EQR filers must select Simultaneous Exchange (SIMX) in Field #56 to ensure that Field #57 allows for unrestricted text.

[21] 5 CFR 1320.8.

[22] 44 U.S.C. 3501–3520.

[23] OMB's regulations at 5 CFR 1320.3(c)(4) require that ''Any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons'', or ''Any collection of information addressed to all or a substantial majority of an industry is presumed to involve ten or more persons.''

[24] 44 U.S.C. 3507(d) (2006).

[25] 5 CFR 1320.11 (2010).

[26] For purposes of calculating the annual average, the implementation burden and cost have been averaged, spread over the 3-year period, and added to the recurring burden and cost.

	Number of Respondents Per Year	Number of Responses Per Year	Implemeting Burden		Recurring Operating Burden		Average Annual Burden (implementing cost averaged over 3 years)	
			Burden Hours Per Respondent	Cost Per Respondent	Burden Hours Per Respondent	Cost Per Respondent	Burden Hours	Cost
Current Respondents	1,143	4						
Estimated Respondents Affected by Proposed Rule	46	4	10	$69/hour	0.5	$69/hour	245.33	$16,927.77

17. In calculating the number of respondents per year, the Commission looked at only those respondents that reported transactions during 2011. There were 1,143 respondents that filed transaction data in the EQR in 2011; therefore, the Commission proposes to use 1,143 as the total number of respondents. Although the Commission estimates the total number of current respondents to be 1,143, this figure overstates the number of corporate families filing the EQR because some of the filings were made separately by affiliates from the same company. For instance, of the 1,143 unique respondent names, 72 were affiliates of NextEra Energy. This trend is common among EQR filers.

18. The Commission recognizes that there will be an increased burden involved in the initial implementation associated with filing simultaneous exchange transactions in the EQR. This burden may include modifying the utility's software to capture the transaction data from the utility's internal computer systems and to place that data into a format that captures the new product name ''Simultaneous Exchanges'' and associated data as required by this order. It is difficult to estimate how many parties use simultaneous exchanges. However, we believe that many parties currently report their simultaneous exchanges using the existing Product Name ''Exchange.'' Of the 1,143 respondents that filed transaction data in 2011, 21 respondents (or approximately 2 percent of the total respondents) filed transaction data using the Product Name ''Exchange.'' With such a small portion of the population of respondents using the current ''Exchange'' Product Name, we estimate that fewer than the 1,143 respondents will be affected if the proposed Product Name were adopted. In an effort to provide a fair estimate, we will assume that the percentage of affected respondents will be twice the current 2 percent that are reporting exchange transactions in the EQR. We estimate that 4 percent of the respondents, or 46 respondents, will be affected by the proposed change. For these estimated 46 respondents, we estimate that the additional data requirement will involve an initial burden of 10 hours.

19. For the recurring effort involved in filing the EQR each subsequent quarter, we anticipate that the burden will be minimal, particularly as filing transaction data will be automated for companies that have designed their systems to account for the required format. We have estimated that current filers spend about 16 hours to meet the existing recurring requirements of filing EQRs. With the additional proposed Product Name, we estimate that filers' recurring burden will increase by 0.5 hours.

Cost to Comply: The Commission has projected the cost of compliance to be $16,927.77.

Total Annual Hours for Collection 245.33 hours @ $69 an hour [27] = $16,927.77

Average cost per entity 16,927.77/46 = $368 (rounded).

Title: FERC–516, Electric Rate Schedules and Tariff Filings.

Action: Proposed Modification to Existing Collection.

OMB Control No. 1902–0096.

Respondents for this Rulemaking: Businesses or other for profit and/or not-for-profit institutions.

Frequency of Information: As indicated in the table.

Necessity of Information: The Commission is proposing to revise the EQR Data Dictionary to add ''Simultaneous Exchange'' to the list of available Product Names in the EQR. This proposal would allow for greater transparency in wholesale electricity markets through a greater understanding of these complex exchange transactions. The Commission is generally concerned that the complexity of simultaneous exchanges may obscure the true nature of these transactions, and may enable market participants to circumvent market rules. Thus, in order to enhance transparency, the Commission believes it is important that EQR filers report simultaneous exchanges in the EQR.

Internal Review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

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

21. Comments on the collections of information and the associated burden estimates in the proposed rule should be sent to the Commission in this docket and may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 [Attention: Desk

[27] It is assumed that this collection of information requires some effort from many types of employees. Therefore, the Commission is using an estimate that is derived from an average FERC employee cost (wages plus benefits), which includes analysts, managers, attorneys, administrative staff, and others. This methodology assumes that respondent entities employee costs are similar to FERC employee costs.

Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM01–8–012 and OMB Control Number 1902–0096.

IV. Environmental Analysis

22. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[28] The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.[29] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

V. Regulatory Flexibility Act

23. The Regulatory Flexibility Act of 1980 (RFA)[30] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[31] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[32]

24. Since the proposed change may affect small entities that file the EQR, the EIA Form 861 was analyzed to determine the potential impact on these filers. Based on EIA data, 198 public utilities reported wholesale sales in the Form 861. Of those 198 entities, 56 entities reported a combined total of wholesale and retail sales of less than 4 million MWh. The Commission expects that fewer than the identified 56 entities will be impacted by this proposed rule. While this may be a substantial number, the direct, economic cost is estimated at $368 per entity. The Commission does not consider this a significant impact. Furthermore, those small entities that may be impacted may have IT systems that are capturing the necessary information and no modifications to those systems may be necessary. Finally, we note that public utilities may request, on an individual basis, waiver from the EQR reporting requirements.[33]

25. Based on the above, the Commission certifies this rule will not have a significant economic impact on a substantial number of small entities, and therefore no initial regulatory flexibility analysis is required.

VI. Comment Procedures

26. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due 60 days from publication in the **Federal Register**. Comments must refer to Docket No. RM10–12–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

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

28. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

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

VII. Document Availability

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

31. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Dated: March 15, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Appendix A: Proposed Addition to Existing EQR Product Names

[28] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[29] 18 CFR 380.4(a)(5).

[30] 5 U.S.C. 601–612.

[31] 13 CFR 121.101.

[32] 13 CFR 121.201, Sector 22, Utilities & n.1.

[33] The Commission has granted requests for waiver of the EQR filing requirements. *See Bridger Valley Elect. Assoc., Inc.,* 101 FERC ¶ 61,146 (2002). Entities with a waiver will continue to have a waiver and will not need to file a new request for waiver.

Product name	Contract product	Transaction product	Definition
SIMULTANEOUS EXCHANGE	✓	✓	Simultaneous exchanges occur when a pair of simultaneously arranged (*i.e.,* part of the same negotiations) wholesale power transactions between the same counterparties in which party A sells an electricity product to party B at one location and party B sells a similar electricity product to party A at a different location have an overlapping delivery period. The simultaneous exchange is the overlapping portion (both in volume and delivery period) of these wholesale power transactions.

Appendix B: Proposed Special Conventions for Reporting Simultaneous Exchange Transactions

The Example column is meant for illustrative purposes only and may not reflect the actual data to be submitted.

Field No.	Field name	Special conventions	Example
46	Transaction Unique ID	.....	T1.
47	Seller Company Name	Reporting EQR seller	Company A.
48	Customer Company Name	Counterparty in the simultaneous exchange	Company B.
49	Customer DUNS Number	.....	485948157.
50	FERC Tariff Reference	.....	FERC Electric Tariff Original Volume No. 1.
51	Contract Service Agreement ID	.....	SE–34.
52	Transaction Unique Identifier	.....	SE–01122012.
53	Transaction Begin Date	Begin Date/Time of overlapping transaction	201201120600.
54	Transaction End Date	End Date/Time of overlapping transaction	201201120800.
55	Time Zone	.....	MS.
56	Point of Delivery Balancing Authority	List "SIMX" to represent simultaneous exchange	SIMX.
57	Point of Delivery Specific Location	Indicate the receipt point first with the entry "R:" Then enter a space followed by the four letter abbreviation for the balancing authority of the *filer's* receipt point followed by a dash (-) and the specific location for the receipt point. Then enter a slash ("/") to separate the receipt and delivery point information. Then indicate the *filer's* delivery point with the entry "D:" Then enter the four letter abbreviation of the balancing authority for the seller's delivery point, followed by a dash (-) and the specific location for the delivery point.	R: PACE-Bonanza/D: PACE-Mona.
58	Class Name	.....	NF.
59	Term Name	.....	ST.
60	Increment Name	.....	H.
61	Increment Peaking Name	.....	OP.
62	Product Name	List "SIMULTANEOUS EXCHANGE" Product Name.	SIMULTANEOUS EXCHANGE.
63	Transaction Quantity	List the amount delivered by the Seller Company.	50.
64	Price	List the price spread representing the amount of net compensation that the filing party received for the simultaneous exchange.	−10.00.
65	Rate Units	.....	$/MWH.
66	Total Transmission Charge	.....	0.
67	Total Transaction Charge	.....	−500

[FR Doc. 2012–6759 Filed 3–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

RIN 1545–BJ60

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB44

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 147

[CMS–9968–ANPRM]

RIN 0938–AR42

Certain Preventive Services Under the Affordable Care Act

AGENCIES: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This advance notice of proposed rulemaking announces the intention of the Departments of Health and Human Services, Labor, and the Treasury to propose amendments to regulations regarding certain preventive health services under provisions of the Patient Protection and Affordable Care Act (Affordable Care Act). The proposed amendments would establish alternative ways to fulfill the requirements of section 2713 of the Public Health Service Act and companion provisions under the Employee Retirement Income Security Act and the Internal Revenue Code when health coverage is sponsored or arranged by a religious organization that objects to the coverage of contraceptive services for religious reasons and that is not exempt under the final regulations published February 15, 2012. This document serves as a request for comments in advance of proposed rulemaking on the potential means of accommodating such organizations while ensuring contraceptive coverage for plan participants and beneficiaries covered under their plans (or, in the case of student health insurance plans, student enrollees and their dependents) without cost sharing.

DATES: Comments are due on or before June 19, 2012.

ADDRESSES: Written comments may be submitted as specified below. Any comment that is submitted will be shared with the other Departments. Please do not submit duplicate comments.

All comments will be made available to the public. **Please Note:** Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the Internet exactly as received, and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

In commenting, please refer to file code CMS–9968–ANPRM. Because of staff and resource limitations, the Departments cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this ANPRM to *http://www.regulations.gov.* Follow the instructions under the ''More Search Options'' tab.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9968–ANPRM, P.O. Box 8016, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9968–ANPRM, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. The Departments post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. EST. To schedule an appointment to view public comments, call 1–800–743–3951.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Beth Baum, Employee Benefits Security Administration (EBSA), Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 927–9639; Jacob Ackerman, Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS), at (410) 786–1565.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*http://www.dol.gov/ebsa*). In

addition, information from HHS on private health insurance for consumers can be found on the CMS Web site (*www.cciio.cms.gov*), and information on health reform can be found at *http://www.HealthCare.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010; the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010 (collectively, the Affordable Care Act). The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. The Affordable Care Act adds section 715(a)(1) to the Employee Retirement Income Security Act (ERISA) and section 9815(a)(1) to the Internal Revenue Code (Code) to incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code, and make them applicable to group health plans.

Section 2713 of the PHS Act, as added by the Affordable Care Act and incorporated into ERISA and the Code, requires that non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage provide benefits for certain preventive health services without the imposition of cost sharing. These preventive health services include, with respect to women, preventive care and screening provided for in the comprehensive guidelines supported by the Health Resources and Services Administration (HRSA) that were issued on August 1, 2011 (HRSA Guidelines).[1] As relevant here, the HRSA Guidelines require coverage, without cost sharing, for ''[a]ll Food and Drug Administration [(FDA)] approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity,'' as prescribed by a provider.[2] Except as discussed below, non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage are required to provide coverage consistent with the HRSA Guidelines, without cost sharing, in plan years (or, in the individual market, policy years) beginning on or after August 1, 2012.[3] These guidelines were based on recommendations of the independent Institute of Medicine, which undertook a review of the scientific and medical evidence on women's preventive services.

The Departments of Health and Human Services (HHS), Labor, and the Treasury (the Departments) published interim final regulations implementing section 2713 of the PHS Act on July 19, 2010 (75 FR 41726). In response to comments, the Departments amended the interim final regulations on August 1, 2011.[4] The amendment provided HRSA with discretion to establish an exemption for group health plans established or maintained by certain religious employers (and any group health insurance coverage provided in connection with such plans) with respect to any contraceptive services that they would otherwise be required to cover consistent with the HRSA Guidelines. The amended interim final regulations further specified that, for purposes of this exemption only, a religious employer is one that—(1) has the inculcation of religious values as its purpose; (2) primarily employs persons who share its religious tenets; (3) primarily serves persons who share its religious tenets; and (4) is a non-profit organization described in section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the Code. Section 6033(a)(3)(A)(i) and (iii) of the Code refers to churches, their integrated auxiliaries, and conventions or associations of churches, as well as to the exclusively religious activities of any religious order. This religious exemption is consistent with the policies in some States that currently both require contraceptive coverage and provide for some type of religious exemption from their contraceptive coverage requirement.

In the HRSA Guidelines, HRSA exercised its discretion under the amended interim final regulations such that group health plans established or maintained by these religious employers (and any group health insurance coverage provided in connection with such plans) are not required to cover any contraceptive services. In the final regulations published on February 15, 2012 (77 FR 8725), the Departments adopted the definition of religious employer in the amended interim final regulations.

The Departments emphasize that this religious exemption is intended *solely* for purposes of the contraceptive coverage requirement pursuant to section 2713 of the PHS Act and the companion provisions of ERISA and the Code. Whether an employer is designated as ''religious'' for these purposes is not intended as a judgment about the mission, sincerity, or commitment of the employer, and the use of such designation is limited to defining the class that qualifies for this specific exemption. The designation will not be applied with respect to any other provision of the PHS Act, ERISA, or the Code, nor is it intended to set a precedent for any other purpose.

In addition, we note that this exemption is available to religious employers in a variety of arrangements. For example, a Catholic elementary school may be a distinct common-law employer from the Catholic diocese with which it is affiliated. If the school's employees receive health coverage through a plan established or maintained by the school, and the school meets the definition of a religious employer in the final regulations, then the religious employer exemption applies. If, instead, the same school provides health coverage for its employees through the same plan under which the diocese provides coverage for its employees, and the diocese is exempt from the requirement to cover contraceptive services, then neither the diocese nor the school is required to offer contraceptive coverage to its employees.

On February 10, 2012, when the final regulations concerning the exemption were posted, HHS issued a bulletin entitled ''Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under Section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code.''[5] The bulletin established a temporary enforcement safe harbor for group health plans sponsored by non-profit organizations that, on and after February 10, 2012, do not provide some or all of the contraceptive coverage otherwise required, consistent with any

[1] The HRSA Guidelines are available at: *http://www.hrsa.gov/womensguidelines.*

[2] **Note:** This excludes items and services such as vasectomies and condoms.

[3] The interim final regulations published by the Departments on July 19, 2010, generally provide that plans and issuers must cover a newly recommended preventive service starting with the first plan year (or, in the individual market, policy year) that begins on or after the date that is one year after the date on which the new recommendation or guideline is issued. 26 CFR 54.9815–2713T(b)(1); 29 CFR 2590.715–2713(b)(1); 45 CFR 147.130(b)(1).

[4] The amendment to the interim final rules was published on August 3, 2011, at 76 FR 46621.

[5] The bulletin can be found at: *http://cciio.cms.gov/resources/files/Files2/02102012/20120210-Preventive-Services-Bulletin.pdf.*

applicable State law, because of the religious beliefs of the organization (and any group health insurance coverage provided in connection with such plans). The temporary enforcement safe harbor is in effect until the first plan year that begins on or after August 1, 2013. The bulletin confirmed that all three Departments will not take any enforcement action against an employer, group health plan, or health insurance issuer that complies with the conditions of the temporary enforcement safe harbor described in the bulletin.

At the same time, the Departments announced plans to expeditiously develop and propose changes to the final regulations implementing section 2713 of the PHS Act that would meet two goals—accommodating non-exempt, non-profit religious organizations' religious objections to covering contraceptive services and assuring that participants and beneficiaries covered under such organizations' plans receive contraceptive coverage without cost sharing. The Departments intend to finalize these amendments to the final regulations such that they are effective by the end of the temporary enforcement safe harbor; that is, the amended final regulations would apply to plan years starting on or after August 1, 2013. This advance notice of proposed rulemaking (ANPRM) is the first step toward promulgating these amended final regulations. Following the receipt of public comment, a notice of proposed rulemaking (NPRM) will be published, which will permit additional public comment, followed by amended final regulations.

II. Overview of Intended Regulations

On February 10, 2012, the Departments committed to working with stakeholders to develop alternative ways of providing contraceptive coverage without cost sharing in order to accommodate non-exempt, non-profit religious organizations with religious objections to such coverage. Specifically, the Departments indicated their plans for a rulemaking to require issuers to offer group health insurance coverage without contraceptive coverage to such an organization (or its plan sponsor) and simultaneously to provide contraceptive coverage directly to the participants and beneficiaries covered under the organization's plan with no cost sharing. Under this approach, the Departments would require that, in this circumstance, there be no premium charge for the separate contraceptive coverage. Actuaries and experts have found that coverage of contraceptives is at least cost neutral, and may save money, when taking into account all costs and benefits for the issuer.[6] If the cost of coverage is reduced, savings may accrue to employers, plan participants and beneficiaries, and the health care system. The Departments indicated their intent to develop policies to achieve the same goals with respect to self-insured group health plans sponsored by non-exempt, non-profit religious organizations with religious objections to contraceptive coverage.

In the time since this announcement, the Departments have met with representatives of religious organizations, insurers, women's groups, insurance experts, and other interested stakeholders. These initial meetings were used to help identify issues relating to the accommodation to be developed with respect to non-exempt, non-profit religious organizations with religious objections to contraceptive coverage. These consultations also began to provide more detailed information on how health coverage arrangements are currently structured, how religious accommodations work in States with contraceptive coverage requirements, and the landscape with respect to religious organizations that offer health benefits today. These discussions have informed this ANPRM.

As the consultations with interested parties continue, this ANPRM presents questions and ideas to help shape these discussions as well as an early opportunity for any interested stakeholder to provide advice and input into the policy development relating to the accommodation to be made with respect to non-exempted, non-profit religious organizations with religious objections to contraceptive coverage. The Departments welcome all points of view on how to provide women access to the important preventive services at issue without cost sharing while accommodating religious liberty interests.

The starting point for this policy development includes two goals and several ideas about how to achieve them. First, the Departments aim to maintain the provision of contraceptive coverage without cost sharing to individuals who receive coverage through non-exempt, non-profit religious organizations with religious objections to contraceptive coverage in the simplest way possible. Second, the Departments aim to protect such religious organizations from having to contract, arrange, or pay for contraceptive coverage. As described below, the Departments intend to propose a requirement that health insurance issuers providing coverage for insured group health plans sponsored by such religious organizations assume the responsibility for the provision of contraceptive coverage without cost sharing to participants and beneficiaries covered under the plan, independent of the religious organization, as a means of meeting these goals. HHS also intends to propose a comparable requirement with respect to student health insurance plans arranged by such religious organizations. For such religious organizations that sponsor self-insured plans, the Departments intend to propose that a third-party administrator of the group health plan or some other independent entity assume this responsibility. The Departments suggest multiple options for how contraceptive coverage in this circumstance could be arranged and financed in recognition of the variation in how such self-insured plans are structured and different religious organizations' perspectives on what constitutes objectionable cooperation with the provision of contraceptive coverage. The Departments seek input on these options, particularly how to enable religious organizations to avoid such objectionable cooperation when it comes to the funding of contraceptive coverage, as well as new ideas to inform the next stage of the rulemaking process.

The following sections set forth questions the Departments believe will help inform the development of proposed regulations, including the policy options the Departments are considering and potential language related to such options. Throughout this ANPRM, the term ''accommodation'' is used to refer to an arrangement under which contraceptive coverage is provided without cost sharing to participants and beneficiaries covered under a plan independent of the objecting religious organization that sponsors the plan, which would effectively exempt the religious organization from the requirement to cover contraceptive services. The term ''religious organization'' is used to describe the class of organizations that qualifies for the accommodation. An ''independent entity'' is an issuer, third-party administrator, or other provider of contraceptive coverage that is not a

[6] Bertko, John, F.S.A., M.A.A.A., Director of Special Initiatives and Pricing, Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services, Glied, Sherry, Ph.D., Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (ASPE/HHS), Miller, Erin, MPH, ASPE/HHS, Wilson, Lee, ASPE/HHS, Simmons, Adelle, ASPE/HHS, ''The Cost of Covering Contraceptives Through Health Insurance,'' (February 9, 2012), available at: *http://aspe.hhs.gov/health/reports/2012/contraceptives/ib.shtml.*

religious organization. And ''contraceptive coverage'' means the contraceptive coverage required under the HRSA Guidelines.

The Departments note that a number of questions have been raised about the scope and application of the contraceptive coverage requirement more generally (that is, questions apart from the religious accommodation). The Departments' interim final regulations implementing section 2713 of the PHS Act provide that ''[n]othing prevents a plan or issuer from using reasonable medical management techniques to determine the frequency, method, treatment, or setting for an item or service * * * to the extent not specified in the recommendation or guideline.''[7] The preamble to the interim final regulations further provides:

> ''The use of reasonable medical management techniques allows plans and issuers to adapt these recommendations and guidelines to coverage of specific items and services where cost sharing must be waived. Thus, under these interim final regulations, a plan or issuer may rely on established techniques and the relevant evidence base to determine the frequency, method, treatment, or setting for which a recommended preventive service will be available without cost sharing requirements to the extent not specified in a recommendation or guideline.'' (75 FR 41728–29).[8]

This policy applies to contraceptive coverage. The Departments plan to issue further guidance on section 2713 of the PHS Act more generally.

A. Who qualifies for the accommodation?

As previously described, group health plans sponsored by certain religious employers (and any group health insurance coverage provided in connection with such plans) are exempt from the requirement to offer coverage of contraceptive services that would otherwise be required under the HRSA Guidelines for plan years beginning on or after August 1, 2012. A second set of organizations qualifies for a temporary enforcement safe harbor: group health plans sponsored by non-exempt, non-profit organizations, that, consistent with any applicable State law, do not, on or after February 10, 2012 (the date of the posting of the final regulations), cover some or all forms of contraceptives due to the organization's religious objections to them (and any group health insurance coverage provided in connection with such plans). The temporary enforcement safe harbor also applies to student health insurance plans arranged by non-profit institutions of higher education that meet comparable criteria. The temporary enforcement safe harbor applies for plan years beginning on or after August 1, 2012, and before August 1, 2013.

On February 10, 2012, the Departments also announced their intention to provide an accommodation with respect to non-exempt, non-profit religious organizations with religious objections to contraceptive coverage. The final regulation concerning student health insurance plans, published elsewhere in this issue of the **Federal Register**, states that this intention extends to student health insurance plans arranged by non-profit religious institutions of higher education with such objections. This accommodation would apply to some or all organizations that qualify for the temporary enforcement safe harbor, and possibly to additional organizations. Thus, a question for purposes of the intended regulations is: What entities should be eligible for the new accommodation (that is, what is a ''religious organization'')?[9]

One approach would be to adopt the definition of religious organization used in another statute or regulation. For example, the definition used in one or more State laws to afford a religious exemption from a contraceptive coverage requirement could be adopted. Alternatively, the intended regulations could base their definition on another Federal law, such as section 414(e) the Code and section 3(33) of ERISA, which set forth definitions for purposes of ''church plans.'' A definition based on these provisions may include organizations such as hospitals, universities, and charities that are exempt from taxation under section 501 of the Code and that are controlled by or associated with a church or a convention or association of churches. In developing a definition of religious organization, we are cognizant of the important role of ministries of churches and, as such, seek to accommodate their religious objections to contraceptive coverage. The Departments seek comment on which religious organizations should be eligible for the accommodation and whether, as some religious stakeholders have suggested, for-profit religious employers with such objections should be considered as well.

The Departments underscore, as we did with respect to the definition of religious employer in the final regulations, that whatever definition of religious organization is adopted will not be applied with respect to any other provision of the PHS Act, ERISA, or the Code, nor is it intended to set a precedent for any other purpose. And, while the participants and beneficiaries covered under the health plans offered by a ''religious employer'' compared to those covered under the health plans offered by a ''religious organization'' will have differential access to contraceptive coverage, nothing in the final regulations or the forthcoming regulations is intended to differentiate among the religious merits, commitment, mission, or public or private standing of the organizations themselves.

Regardless of the definition of religious organization that is proposed, the Departments are considering proposing the same or a similar process for self-certification that will be used for the temporary enforcement safe harbor referenced in the final regulations. Under that process, an individual authorized by the organization certifies that the organization satisfies the eligibility criteria, and the self-certification is made available for examination. The Departments expect that, for purposes of the proposed accommodation, religious organizations would make a similar self-certification, and similarly make the self-certification available for examination. The self-certification would be used to put the independent entity responsible for providing contraceptive coverage on notice that the religious organization has invoked the accommodation. The future rulemaking would require that the independent entity be responsible for providing the contraceptive coverage in this case.

Under the temporary enforcement safe harbor, an organization that self-certifies must also provide (or arrange to provide) notice to plan participants and beneficiaries that its plan qualifies for the one-year enforcement safe harbor. As the Departments noted in the bulletin establishing the temporary enforcement safe harbor, nothing precludes any organization or individual from expressing opposition, if any, to the regulations or to the use of contraceptives. The Departments do not anticipate that religious organizations would be required to provide such notice to plan participants and beneficiaries beyond the one-year transition period because the

[7] 26 CFR 54.9815–2713T(a)(4), 29 CFR 2590.715–2713(a)(4), and 45 CFR 147.130(a)(4).

[8] See also the Departments' guidance in FAQ–8 at *http://www.dol.gov/ebsa/pdf/faq-aca2.pdf* and FAQ–1 at *http://www.dol.gov/ebsa/pdf/faq-aca5.pdf.*

[9] Note that, even if the definition of religious organization for purposes of the accommodation were to include religious employers eligible for the exemption, nothing in the proposed regulations would limit eligibility of religious employers for the exemption.

responsibility to provide notice to plan participants and beneficiaries about the contraceptive coverage would be assumed by the independent entity. The Departments seek comment on how this notice should be provided.

The Departments also intend to propose an accommodation for religious organizations that are non-profit institutions of higher education with religious objections to contraceptive coverage with respect to the student health insurance plans that they arrange. In the final regulation published elsewhere in this issue of the **Federal Register**, ''student health insurance coverage'' is defined as a type of individual market health insurance coverage offered to students and their dependents under a written agreement between an institution of higher education and an issuer. Some non-profit religious colleges and universities object to signing a written agreement providing for student health insurance coverage that includes contraceptive coverage. Some non-profit religious colleges and universities include funding for their student health insurance plans in their student aid packages and would object if contraceptive coverage were included in the student health insurance plan. The preamble to the final regulation on student health insurance plans provides that the temporary enforcement safe harbor announced on February 10, 2012, with respect to certain non-exempt, non-profit organizations with religious objections to contraceptive coverage extends on comparable terms to student health insurance plans if offered through non-profit institutions of higher education with such objections. After the one-year transition period, the Departments would propose to treat student health insurance plans arranged by non-profit religious institutions of higher education that object to contraceptive coverage on religious grounds in a manner comparable to that in which insured group health plans sponsored by religious organizations eligible for the accommodation are treated. This means that the issuer of the student health insurance plan would, independent of the agreement with the institution of higher education, provide student enrollees and their dependents with contraceptive coverage without cost sharing and without charge.

The Departments seek comment on whether the definition of religious organization should include religious organizations that provide coverage for some, but not all, FDA-approved contraceptives consistent with their religious beliefs. That is, under the forthcoming proposed regulations, the Departments could allow religious organizations to continue to provide coverage for some forms of contraceptives without cost sharing, and allow them to qualify for the accommodation with respect to other forms of contraceptives consistent with their religious beliefs.

B. Who administers the accommodation?

The accommodation aims to simultaneously fulfill the requirement that plan participants and beneficiaries be offered contraceptive coverage without cost sharing and without charge, and protect a non-profit religious organization that objects on religious grounds from having to provide contraceptive coverage. To achieve these goals, an independent entity is needed to assume certain functions. This entity would, separate from the religious organization and as directed by regulations and guidance, notify plan participants and beneficiaries of the availability of separate contraceptive coverage, provide this coverage automatically to participants and beneficiaries covered under the organization's plan (for example, without an application or enrollment process), and protect the privacy of participants and beneficiaries covered under the plan who use contraceptive services.

Today, in most instances, an independent entity either provides or administers health coverage for group health plans. Such group coverage falls into two categories: Insured coverage and self-insured coverage. A group that buys insured coverage pays a premium to a State-licensed and State-regulated health insurance issuer which bears the risk of claims for that coverage. A group that self-insures its coverage does not pay premiums to a health insurance issuer; instead, employer and/or employee contributions fund the health claims of participants and beneficiaries covered under the plan. Typically, self-insured plans contract with a third-party administrator, under a fee arrangement, for administrative services, such as network contracting, managed care services, and payment of claims. Insured group health plans and self-insured group health plans that are not church plans or governmental plans are generally subject to Title I of ERISA. Because there is no insurance provided by a health insurance issuer, self-insured plans are not subject to State insurance laws.

The Departments intend to propose that, when offering insured coverage to a religious organization that self-certifies as qualifying for the accommodation, a health insurance issuer may not include contraceptive coverage in that organization's insured coverage. This means that contraceptive coverage would not be included in the plan document, contract, or premium charged to the religious organization. Instead, the issuer would be required to provide participants and beneficiaries covered under the plan separate coverage for contraceptive services, potentially as excepted benefits, without cost sharing, and notify plan participants and beneficiaries of its availability. The issuer could not charge a premium to the religious organization or plan participants or beneficiaries for the contraceptive coverage. To incorporate this proposal into regulations with respect to insured group health plans (comparable regulatory language would be developed with respect to student health insurance plans), the Departments are considering proposing new language in the existing preventive services regulations at 45 CFR 147.130, 29 CFR 2590.715–2713 and 26 CFR 54.9815–2713 providing: ''In the case of an insured group health plan established or maintained by a religious organization—

- The group health plan established or maintained by the religious organization (and the group health insurance coverage provided in connection with the plan) need not comply with any requirement under this section to provide coverage for contraceptive services with respect to the insured group coverage if all of the following conditions are satisfied:
  - The organization provides the issuer with written notice that the organization is a religious organization, and will not act as the designated plan administrator or claims administrator with respect to claims for contraceptive benefits.
  - The issuer has access to information necessary to communicate with the plan's participants and beneficiaries and to act as a claims administrator and plan administrator with respect to contraceptive benefits.
- An issuer that receives the notice described above must offer to the religious organization group health insurance coverage that does not include coverage for contraceptive services otherwise required to be covered under this section. The issuer must additionally provide to the participants and beneficiaries covered under the plan separate health insurance coverage consisting solely of coverage for contraceptive services required to be covered under this section. The issuer must make such health insurance coverage for

contraceptive services available without any charge to the organization, group health plan, or plan participants or beneficiaries. The issuer must notify plan participants and beneficiaries of the availability of such coverage for contraceptive services in accordance with guidance issued by the Secretary. The issuer must not impose any cost sharing requirements (such as a copayment, coinsurance, or a deductible) on such coverage for contraceptive services and must comply with all other requirements of this section with respect to coverage for contraceptive services.''

Additionally, to ensure that contraceptive coverage offered by a health insurance issuer under these circumstances does not confront obstacles due to other Federal requirements (such as the guaranteed issue requirement under section 2702 of the PHS Act, the single risk pool requirement under section 1312(c) of the Affordable Care Act, and the essential health benefits requirement under section 2707 of the PHS Act), the Departments are considering adding by regulation contraceptive coverage to the types of excepted benefits in the individual market at 45 CFR 148.220(b). In so doing, the Departments would consider preserving certain PHS Act protections such as appeals and grievances rights while ensuring relief from others such as the requirement to provide essential health benefits. The Departments seek comment on whether and how to structure such a change to the excepted benefits regulations, and what PHS Act protections should (or should not) continue to apply. In addition, the Departments seek comment on ways to structure the contraceptive-only benefit as a benefit separate from the insured group coverage other than as an excepted benefit.

Issuers would pay for contraceptive coverage from the estimated savings from the elimination of the need to pay for services that would otherwise be used if contraceptives were not covered. Typically, issuers build into their premiums projected costs and savings from a set of services. Premiums from multiple organizations are pooled in a ''book of business'' from which the issuer pays for services. To the extent that contraceptive coverage lowers the draw-down for other health care services from the pool, funds would be available to pay for contraceptive services without an additional premium charged to the religious organization or plan participants or beneficiaries. Actuaries, insurers, and economists estimate that covering contraceptive services is at least cost neutral.

For a religious organization that sponsors a self-insured group health plan, the Departments aim to similarly shield it from contracting, arranging, paying, or referring for contraceptive coverage. The Departments intend to propose, and invite comments on, having the third-party administrator of an objecting religious organization fulfill such responsibility. For ERISA plans,[10] the Departments are considering proposing that the self-certification of the religious organization, described above, would serve as a notice to the third-party administrator that the requirement to provide contraceptive coverage will not be fulfilled by the religious organization. The proposed regulations, in this circumstance, would set forth the circumstances and criteria under which the third-party administrator would be designated as the plan administrator for ERISA plans solely for the purpose of fulfilling the requirement to provide contraceptive coverage. As prescribed by the proposed regulations, the third-party administrator would provide or arrange for such coverage in such circumstances. The third-party administrator would notify plan participants and beneficiaries of this coverage. The religious organization would take no action other than self-certification.

To incorporate this proposal into regulations with respect to self-insured group health plans, the Departments are considering proposing new language in the existing preventive services regulations at 29 CFR 2590.715–2713 and 26 CFR 54.9815–2713 providing that: ''A religious organization maintaining a self-insured group health plan is not responsible for compliance with any requirement under this section to provide coverage for contraceptive services if all of the following conditions are satisfied:

- The plan contracts with one or more third parties for processing of benefit claims,
- Before entering into each such contract, the employer provides each third party administrator (TPA) with written notice that the employer: (1) Is a religious organization, (2) will not act as the designated plan administrator or claims administrator with respect to claims for contraceptive services, (3) will not contribute to the funding of contraceptive services, and (4) will not participate in claims processing with respect to claims for contraceptive services.
- With respect to contraceptive benefits, the TPAs have authority and control over the funds available to pay the benefit, authority to act as a claims administrator and plan administrator, and access to information necessary to communicate with the plan's participants and beneficiaries.''

In addition, with respect to ERISA plans, the Department of Labor is considering proposing a new regulation at 29 CFR 2510.3–16 providing: ''In the case of a group health plan established or maintained by a religious organization that is not responsible for compliance with any requirement under § 2590.715–2713 of this part to provide coverage for contraceptive services, the required notice from the religious organization provided to a third party administrator (TPA) of the religious organization's refusal to provide and fund such benefits shall be an instrument under which the plan is operated and shall have the effect of designating such TPA as the plan administrator under section 3(16) of ERISA for those contraceptive benefits for which that TPA processes claims in its normal course of business. A TPA that becomes a plan administrator pursuant to this section shall be responsible for—

- The plan's compliance with section 2713 of the Public Health Service Act (as incorporated into section 715 of ERISA and § 2590.715–2713 of this part) as to those categories of contraceptive benefits for which the TPA processes claims in its normal course of business (*for example,* surgical procedures, non-surgical procedures, patient education and counseling, prescription benefits and non-prescription benefits).
- Establishing and operating a procedure for determining such claims for contraceptive benefits in accordance with § 2560.503–1 of this title.
- Complying with disclosure requirements and other requirements under Title I of ERISA for such benefits to participants and beneficiaries.''

We note that there is no obligation for a TPA to enter into such a contract if it objects to these terms.

Providing for an independent entity to assume responsibility for plan-related functions when other plan sponsors or officials fail or refuse to do so would not be unique to the instant context. For example, where certain retirement savings plans have been abandoned by their sponsors, Department of Labor regulations authorize asset custodians to

[10] A church plan as defined under section 3(33) of ERISA is exempt from ERISA's requirements under section 4(b) of ERISA, and, therefore, any proposed ERISA regulations would not apply to church plans. Comments are sought on potential options for church plans.

distribute plan benefits and wind up the plan's affairs. 29 CFR 2578.1.

The Departments seek comment on the following possible approaches that a third-party administrator could use to fund the contraceptive coverage without using funds provided by the religious organization. The third-party administrator could use revenue that is not already obligated to plan sponsors such as drug rebates, service fees, disease management program fees, or other sources. These funds may inure to the third-party administrator rather than the plan or its sponsor and drug rebates, for example, could be larger if contraceptive coverage were provided. Additionally, nothing precludes a third-party administrator from receiving funds from a private, non-profit organization to pay for contraceptive services for the participants and beneficiaries covered under the plan of a religious organization. Comments should address the ways in which third-party administrators generally receive funding to pay benefits, other flows of funds, the extent to which funding from other sources may be available for payment of claims, and the monitoring responsibilities and oversight that would be associated with such arrangements.

Another option under consideration would be to have the third-party administrator receive a credit or rebate on the amount that it pays under the reinsurance program under Affordable Care Act section 1341 in order to fund contraceptive coverage for participants and beneficiaries covered under the plan of a religious organization that sponsors a self-insured plan. Section 1341 of the Affordable Care Act creates a reinsurance program to balance out risk selection from 2014 through 2016. Payments from health insurance issuers and third-party administrators on behalf of group health plans will be made to a reinsurance entity. Payments are used, among other things, to offset the cost of reinsurance for health insurance issuers. While the reinsurance program does not provide payments to group health plans, it collects payments from third-party administrators to support the program. Under this proposal, a third-party administrator that funds contraceptive coverage separate from a religious organization could offset the amount of this cost with a credit or rebate against its assessments under the reinsurance program. Such a policy could help advance the goals of the reinsurance program, which is one of many in the Act designed to make health insurance affordable, accessible, meaningful, and stable. The Departments seek comments on such an interpretation of Affordable Care Act section 1341and on ideas of alternative sources of funding once this temporary program ends.

An additional option would have the third-party administrator separately arrange for contraceptive coverage. In this case, an additional independent entity other than a third-party administrator would be needed. The Departments are considering having the Office of Personnel Management (OPM) identify a private insurer to provide this coverage. Under section 1334 of the Affordable Care Act, OPM is responsible for contracting with at least two insurers to offer multi-State plans in each Exchange in each State to promote choice, competition, and access to health services. The OPM Director, in consultation with the HHS Secretary, has the authority to impose appropriate requirements on the insurers that offer multi-State plans. Accordingly, OPM could incentivize or require one or more of the insurers offering a multi-State plan also to provide, at no additional charge, contraceptive coverage to participants and beneficiaries covered under religious organizations' self-insured plans. The third-party administrator would send a copy of the religious organization's self-certification to OPM along with information on plan participants and beneficiaries. One option for covering the cost of the contraceptive coverage would be a credit against any user fees such an insurer would be required to pay in order to offer coverage on the Exchanges. The Departments seek comment on the impact of this proposal on the multi-State plan program, ways to administer it, and additional funding ideas.

If adopted, the reinsurance program and multi-State plan options may require amendments to the regulations and guidance governing those programs. In addition, these programs start on January 1, 2014. There may be some religious organizations with plan years that begin on or after August 1, 2013, but before those programs begin, so, should the Departments propose these options, we would also propose a means of resolving this gap in relief. The Departments seek input on such means as well as how many religious organizations have plan years that start between August 1 and December 31.

The Departments welcome ideas on other options for the source of funds for contraceptive coverage. Some religious stakeholders have suggested, for example, the use of tax-preferred accounts that employees may in their discretion use for a range of medical services that neither precludes nor obligates funds to be used for contraceptive services. A number of religious stakeholders have also suggested that public funding to support coverage of contraceptive services is not objectionable. The Departments seek comment on these and other proposals. Comments are also requested on additional considerations that should be taken into account with respect to these and other proposals and on suggestions for structuring the implementation of the proposals in light of these considerations.

The Departments expect that the third-party administrator could use these sources of funds individually or in combination. The Departments also note that nothing precludes a religious organization from switching from a self-insured plan to an insured plan such that a health insurance issuer rather than a third-party administrator is responsible for providing the contraceptive coverage.

The Departments also seek information on coordination when there are multiple third-party administrators and on the prevalence of multi-year contracts as well as options for addressing the application of these proposals in such instances. The Departments invite comment on the extent to which there are self-insured health plans without a third-party administrator as well as options for how the accommodation would work in these rare circumstances. One option would be to have a religious organization send its self-certification to OPM, which would be directed to independently arrange for contraceptive coverage through a private insurer. The Departments seek comment on the prevalence and number of participants and beneficiaries of health plans sponsored by religious organizations without a third-party administrator.

C. Additional Questions

To inform the notice of proposed rulemaking, the Departments seek information on several additional questions. One question that has arisen from religious stakeholders is whether an exemption or accommodation should be made for certain religious health insurance issuers or third-party administrators with respect to contraceptive coverage. The Departments have little information about the number and location of such issuers and administrators and whether and how such issuers operate in the 28 States with contraceptive coverage requirements.

The Departments also recognize that various denominations may offer coverage to institutions affiliated with those denominations. For example, their

plans may be offered as ''church plans'' (described above) to individual churches as a means of pooling their risk. The Departments seek comment on whether different accommodations are needed for such plans.

In addition, the Departments are aware that 28 States have adopted laws requiring that certain health insurance issuers provide contraceptive coverage. Some of these laws contain exemptions related to religious organizations, but the scope of the exemptions varies among the States. Generally, Federal health insurance coverage regulation creates a floor to which States may add consumer protections, but may not subtract. This means that, in States with broader religious exemptions than that in the final regulations, the exemptions will be narrowed to align with that in the final regulations because this will help more consumers. Organizations that qualify for an exemption under State law but do not qualify for the exemption under the final regulations may be eligible for the temporary enforcement safe harbor. During this transition period, State laws that require contraceptive coverage with narrower or no religious exemptions will continue. The Departments seek comment on the interaction between these State laws and the intended regulations on which we are seeking comment in this notice and on the extent to which there is a need for consistency between any Federal regulations and these State laws. Similarly, the Departments solicit comment on what other Federal or State laws or accounting rules governing funding and accounting could affect the proposed options described herein.

In addition, the Departments solicit information on the number of potentially affected issuers and religious organizations as well as their plan participants and beneficiaries; the administrative cost of providing separate contraceptive coverage, including details regarding the nature of the costs (for example, one-time systems changes or ongoing administrative costs); and the average costs and savings to health plans, plan participants and beneficiaries, and the public of providing contraceptive coverage.

D. Additional Input

The 90-day comment period is designed to encourage maximum input into the development of an accommodation for religious organizations with religious objections to providing contraceptive coverage while ensuring the availability of contraceptive coverage without cost sharing for plan participants and beneficiaries. The Departments seek comments on the ideas and questions outlined in this ANPRM as well as new suggestions to achieve its goals. The Departments also intend to hold listening sessions to ensure all voices are heard. This will not be the only opportunity for comment. The subsequent notice of proposed rulemaking will also include a public comment period. The Departments aim to ensure that the final accommodation is fully vetted and published in advance of the expiration of the temporary enforcement safe harbor.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Signed this day of March 14, 2012.

Phyllis C. Borzi.

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: March 15, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: March 15, 2012.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2012–6689 Filed 3–16–12; 4:15 pm]

BILLING CODE 4120–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2011–0435; FRL–9650–3]

RIN 2060–AR02

National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; Pesticide Active Ingredient Production; and Polyether Polyols Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of public comment period.

SUMMARY: On January 9, 2012, the EPA proposed amendments to three national emission standards for hazardous air pollutants: National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production; and National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production. The EPA is reopening the comment period until March 30, 2012. The EPA received a request for this reopening from the Sierra Club. The Sierra Club requested the reopening in order to analyze data and review the proposed amendments. EPA finds this request to be reasonable due to the multiple source categories involved in this action.

DATES: Comments must be received on or before March 30, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0435, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Attention Docket ID No. EPA–HQ–OAR–2011–0435.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2011–0435.
- *Mail:* U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA–HQ–OAR–2011–0435, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID No. EPA–HQ–OAR–2011–0435. 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–2011–0435. The 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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 the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2011–0435. All documents in the docket are listed in the *www.regulations.gov index.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Nick Parsons, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5372; fax number: (919) 541–0246; email address: *parsons.nick@epa.gov.*

SUPPLEMENTARY INFORMATION: For the reasons noted above, the public comment period will be reopened until March 30, 2012.

How can I get copies of the proposed rule and other related information?

The proposed rule titled, National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins; Pesticide Active Ingredient Production; and Polyether Polyols Production, was published on January 9, 2012 (77 FR 1268). EPA has established the public docket for the proposed rulemaking under docket ID No. EPA–HQ–OAR–2011–0435, and a copy of the proposed rule is available in the docket. Information on how to access the docket is presented above in the **ADDRESSES** section.

Dated: March 9, 2012.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2012–6807 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R09–OAR–2011–0955; FRL–9649–4]

Proposed Approval of Revision of Five California Clean Air Act Title V Operating Permits Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Operating Permits (Title V) programs of the Monterey Bay Unified Air Pollution Control District (MBUAPCD), San Luis Obispo County Air Pollution Control District (SLOCAPCD), Santa Barbara County Air Pollution Control District (SBCAPCD), South Coast Air Quality Management District (SCAQMD), and Ventura County Air Pollution Control District (VCAPCD). These program revisions will require sources with the potential to emit (PTE)of greenhouse gas (GHG) above the thresholds in EPA's Tailoring Rule that have not been previously subject to Title V for other reasons to obtain a Title V permit. See ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule,'' (the Tailoring Rule), 75 FR 31514 (June 3, 2010). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by April 20, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0955, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: R9airpermits@epa.gov.*
3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

Docket: EPA has established a docket for this action under EPA–R09–OAR–2011–0955. Generally, documents in the docket for this action are available electronically at *www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. While all documents are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Roger Kohn, EPA Region IX, (415) 972–3973, *kohn.roger@epa.gov.*

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

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
MBUAPCD	218	Title V: Federal Operating Permits	11/17/10	11/7/11
SLOCAPCD	216	Federal Part 70 Operating Permits	3/23/11	8/19/11
SBCAPCD	1301	Part 70 Operating Permits—General Information	1/20/11	4/21/11
SCAQMD	3000	General	11/5/10	11/5/10
	3001	Applicability.		
	3002	Requirements.		
	3003	Applications.		
	3005	Permit Revisions.		
	3006	Public Participation.		
VCAPCD	33	Part 70 Permits—General	4/12/11	8/19/11
	33.1	Part 70 Permits—Definitions.		

II. The Part 70 Operating Permits Program

A. What is the Part 70 operating permits program?

Title V of the Clean Air Act (CAA) Amendments of 1990 require all states to develop an operating permits program that meets federal criteria listed in 40 Code of Federal Regulations (CFR) Part 70. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the Part 70 operating permits program (also known as the Title V program) is to improve enforcement and compliance by issuing each source a single permit that consolidates all of the applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

B. How did EPA revise Part 70 to address Title V permitting of GHG sources?

In the Tailoring Rule (75 FR 31514, June 3, 2010), we amended the definition of ''major source'' in Part 70 by codifying EPA's longstanding interpretation that applicability for a ''major stationary source'' under CAA sections 501(2)(B) and 302(j) and 40 CFR 70.2 is triggered by sources of pollutants ''subject to regulation.'' We also added a definition of ''subject to regulation'' to clarify that this phrase means a pollutant subject to either a provision in the CAA or a regulation adopted by EPA under the CAA that requires actual control of emissions of that pollutant and that has taken effect under the CAA. Finally, to tailor the Title V program for GHGs, we also included a second component within the definition of ''subject to regulation,'' specifying that GHGs are not subject to regulation for purposes of defining a major source, unless as of July 1, 2011, the GHG emissions are from a source emitting or having the potential to emit 100,000 tons per year (tpy) of GHGs on a carbon dioxide equivalent (CO2e) basis. We defined the term ''greenhouse gases'' with a cross-reference to the definition in 40 CFR 86.1818–12(a). The combined effect of these Part 70 amendments is to revise the Title V program to require stationary sources that have the potential to emit 100,000 tpy or more of GHGs on a CO2e basis to obtain Title V permits, regardless of whether they are subject to any CAA requirement to control their GHG emissions. The five air districts whose Title V programs we are proposing to revise took differing approaches to revising their Title V regulations to address the Tailoring Rule's Title V requirements, depending on the structure and content of their rules. In section III.B., we explain how the districts' revised Title V regulations satisfy the new Title V GHG criteria.

C. What is the federal approval process for revisions to a Part 70 operating permits program?

In order for state regulations to be approved as part of the federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into its approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA, including revisions to the state program, are included in the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled ''Approval Status of State and Local Operating Permits Programs.''

III. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

The relevant statutory provisions for our review of the submitted rules include 40 CFR Part 70, as amended by the June 3, 2010 Tailoring Rule.

B. Do the rules meet the evaluation criteria?

We have reviewed the five districts' revised Title V rules in accordance with the rule evaluation criteria described above. A discussion for each District is provided below. EPA is proposing to find that each district's submittal correctly implements the changes in Title V applicability required by the Tailoring Rule.

MBUAPCD revised Rule 218 (Title V: Federal Operating Permits) to satisfy the Tailoring Rule requirements. The District revised the definition of ''Major Source'' in section 2.18.5 of the rule to include sources that, as of July 1, 2010, emit or have the potential to emit ''100,000 tpy or more of carbon dioxide equivalent (CO2e) greenhouse gas emissions and directly emit, or have the potential to emit, 100 tons per year (tpy) or more of any greenhouse gas,'' as required by the Tailoring Rule. The District also revised Section 1.3 of the rule to exempt sources that limit their PTE of GHG emissions to less than 100,000 tpy of CO2e greenhouse gas emissions, and to exclude greenhouse gases from the exemption for sources that limit their PTE to less than 100 tpy of any air pollutant. The District added new definitions for ''Greenhouse Gases'' and ''Carbon Dioxide Equivalent Emissions''. Instead of using a cross-reference to 40 CFR 86.1818–12(a), as EPA does in the Tailoring Rule, MBUAPCD has provided a specific definition of Greenhouse Gases in its rule, which is consistent with the EPA definition. The District's definition of ''Carbon Dioxide Equivalent Emissions'' incorporates the Global Warming Potential values that EPA lists in Table A–1 to Subpart A of 40 CFR Part 98, EPA's Mandatory Greenhouse Gas Reporting regulation. All of these changes, which are the only changes that the District made to Rule 218, are consistent with the requirements of the Tailoring Rule. We note that the applicability date of July 1, 2010 is one year earlier than required by the Tailoring Rule. This had no practical effect in the District because there are no sources newly subject to Title V based solely on being classified a major source for GHG emissions.

SLOAPCD added a new provision to the Applicability section of Rule 216 (Federal Part 70 Permits). The new provision, in paragraph 216.B.2., requires sources that emit GHG in amounts ''equal to or exceeding the thresholds specified in 40 CFR 70.2 in effect August 2, 2010'' to apply for a title V permit. The District also added a new provision to the definition of ''Air Pollutant.'' The new provision, in paragraph 216.C.4.f., adds ''Greenhouse gases that are 'subject to regulation' as defined in 40 CFR 70.2 in effect August 2, 2010'' to the list of the air pollutants defined in the rule. These cross-references to 40 CFR 70.2 means that the District's approach to tailoring the applicability of its Title V program for GHG sources is identical to EPA's. We are proposing to approve these revisions to SLOAPCD's title V program because they are consistent with EPA's approach to Title V applicability for GHG sources in the Tailoring Rule.

SBCAPCD revised Rule 1301 (General Information), which is one of five rules that comprise the District's Regulation XIII (Part 70 Operating Permit Program), by adding a cross-reference to 40 CFR 70.2. Specifically, the District amended the definition of ''Part 70 Source'' in section 1301.C. by adding a new provision that makes sources with the potential to emit ''greenhouse gases that are 'subject to regulation' as defined in 40 CFR 70.2 in effect August 2, 2010'' subject to Title V. This cross-reference to the 40 CFR 70.2 definition of ''subject to regulation'' means that the District's approach to tailoring the applicability of its Title V program to GHG sources is identical to EPA's, and therefore approvable.

In addition to the GHG-related rule changes adopted on January 20, 2011, SBCAPCD had previously revised the definition of ''stationary source'' in Rule 1301 to reduce the area in which marine vessels associated with a stationary source must account for their emissions. Rule 1301 now limits the geographic area of emissions liability to ''California Coastal Waters'' (as defined in Rule 1301) adjacent to the District, and excludes areas adjacent to the neighboring counties of San Luis Obispo and Ventura. We are proposing to approve this change, which is consistent with the District's jurisdiction in Santa Barbara County.

SCAQMD addressed the Tailoring Rule requirements by revising six of the seven rules that comprise Regulation XXX (Title V Permits). Specifically, SCAQMD revised Rule 3000 (General) to add definitions of ''Carbon Dioxide Equivalent'', ''Global Warming Potential'', and ''Greenhouse Gas.'' SCAQMD also revised Rule 3001 (Applicability) to require that any facility that, as of July 1, 2011, has the potential to emit 100,000 tpy or more of GHG on a CO_2e basis and a potential to emit more than 100 tpy of any GHG on a mass basis apply for a Title V permit within 180 days. SCAQMD provided a specific definition of GHG in Rule 3000 which is consistent with the EPA definition. The District's definition of ''CO_2 equivalent'' is based on the same Global Warming Potential values that EPA lists in Table A–1 to Subpart A of 40 CFR Part 98, EPA's Mandatory Greenhouse Gas Reporting regulation. SCAQMD's definition of ''Global Warming Potential'' uses the same language as EPA's definition in 40 CFR Section 98.6. Finally, SCAQMD revised Rule 3003 (Applications), Rule 3005 (Permit Revisions), and Rule 3006 (Public Participation), to make the cross references to Rule 3000 within those rules consistent with the revised numbering sequence in that rule. Since the District's Title V program changes are consistent with EPA's approach to Title V in the Tailoring Rule, we are proposing to approve them as a revision to SCAQMD's Title V program.

VCAPCD addressed the applicability of title V permitting for major GHG sources by revising the applicability provisions of Rule 33 (Part 70 Permits—General). Specifically, the District revised subsection 33.B.1., which requires stationary sources with a PTE of 100 tpy or more of any regulated air pollutant to obtain a title V permit. VCAPCD added language to this provision to make it applicable to sources that emit greenhouse gases, effective July 1, 2011, if a source also has a PTE of 100,000 tons per year or more on a CO_2 equivalent basis.

In addition the District added a new definition of ''CO_2 Equivalent (CO_2e)'' to Rule 33.1 (Part 70 Permits—Definitions) that is based on EPA's definition of ''tpy CO_2 equivalent emissions'' in 40 CFR 70.2, and refers to the Global Warming Potentials that appear in Table 1 of Rule 2 (Definitions). (Rule 2 has been submitted to EPA for approval into the Ventura County portion of the California State Implementation Plan. We will take action on that rule in a separate rulemaking.) We are approving the District's definition because, while it is not identical to the 70.2 definition, it is sufficiently similar to, and fully consistent with, our definition. The District also revised two definitions in Rule 33.1. The definition of ''regulated air pollutant'' now includes greenhouse gases if the source has a potential to emit of 100,000 tons per year or more CO_2 equivalent emissions. The definition of ''Insignificant Activity'' now excludes greenhouse gases from the emission level of 2 tpy of any regulated pollutant that otherwise qualifies an activity as insignificant.

VCAPCD also made one revision that is unrelated to GHG. The District revised the definition of ''Federally-Enforceable Requirement'' in Rule 33.1. The District added language to Subparagraph 33.1.12.a, which lists Title I requirements of the CAA that are federally enforceable, to clarify that federally enforceable Title I requirements are ''not limited to'' the requirements listed in the definition. The additional language ensures that the definition includes other Title I requirements that may be promulgated by the EPA Administrator in the future.

We are proposing to approve the Title V program revisions submitted by VCAPCD because the GHG provisions of the revised rules are consistent with EPA's approach to Title V in the Tailoring Rule, and the revision to the definition of ''Federally-Enforceable Requirement'' clarifies the definition and is consistent with EPA's definition of ''applicable requirement'' in 40 CFR 70.2.

C. Public Comment and Proposed Action

EPA believes the submitted rules fulfill all of the Tailoring Rule's Title V requirements; therefore we are proposing to approve these rule changes, adopted in 2010 and 2011, as revisions to the Title V programs of all five districts. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action.

IV. Statutory and Executive Order Reviews

Today's proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

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

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the action 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon dioxide, Carbon dioxide equivalents, Greenhouse gases, Hydrofluorocarbons, Intergovernmental relations, Methane, Nitrous oxide, Perfluorocarbons, Reporting and recordkeeping requirements, Sulfur hexafluoride, Incorporation by Reference.

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

Dated: March 8, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–6676 Filed 3–20–12; 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–2011–0096; 4500030114]

RIN 1018–AX38

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Southern Selkirk Mountains Population of Woodland Caribou *(Rangifer tarandus caribou)*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and announcement of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our November 30, 2011, proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou (*Rangifer tarandus caribou*) under the Endangered Species Act of 1973, as amended (Act). We are reopening the public comment period to allow all interested parties another opportunity to comment on the proposed rule. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule. We will also hold a public informational session and hearing (see **DATES** and **ADDRESSES**).

DATES: *Written Comments:* We will consider comments received or postmarked on or before May 21, 2012. Comments must be received by 11:59 p.m. Eastern Standard Time on the closing date.

Public informational session and public hearing: We will hold a public informational session from 9:30 a.m. to 11:30 a.m., followed by a public hearing from 2 p.m. to 5 p.m., on April 28, 2012, in Bonners Ferry, Idaho (see **ADDRESSES**).

ADDRESSES: *Written Comments:* You may submit comments by one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.* In the Search box, enter the Docket number for this proposed rule, which is FWS–R1–ES–2011–0096. Please ensure that you have found the correct rulemaking before submitting your comment.

(2) *U.S. mail or hand* delivery: Public Comments Processing, Attn: Docket No. FWS–R1–ES–2011–0096; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Public informational session and public hearing: The public informational session and hearing will be held at the Bonners Ferry High School, 6485 Tamarack Lane, Bonners Ferry, ID 83805. People needing reasonable accommodations in order to attend and participate in the public hearing should contact Brian Kelly, State Supervisor, Idaho Fish and Wildlife Office, at (208) 378–5243, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Brian Kelly, State Supervisor, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 South Vinnell Way, Room 368, Boise, ID 83709; telephone 208–378–5243; facsimile

208–378–5262. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only those topics directly relevant to the proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou. On November 30, 2011, we published a proposed rule (76 FR 74018) to designate critical habitat for the southern Selkirk Mountains population of woodland caribou. For a description of the previous Federal actions concerning the southern Selkirk Mountains population of woodland caribou, please refer to the proposed rule. In response to comments we received during the public comment period that opened on November 30, 2011, and closed on January 30, 2012, we have decided to allow the public more time to submit comments, and to hold an informational session and public hearing (as described above). All details of the proposed critical habitat designation are provided in our November 30, 2011, proposed rule, available online at *http://www.regulations.gov,* or by contacting the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

We will announce the availability of the draft economic analysis of the proposed designation as soon as it is completed, at which time we will seek additional public review and comment both on the draft economic analysis as well as the proposed designation of critical habitat for the southern Selkirk Mountains population of woodland caribou. Copies of the draft economic analysis will be available for downloading from the Internet at *http://www.regulations.gov,* or from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Comments

We will accept written comments and information during this reopened comment period for the proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou that was published in the **Federal Register** on November 30, 2011 (76 FR 74018). We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned government agencies, the scientific community, industry, or other interested parties concerning this proposed rule. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the southern Selkirk Mountains population of woodland caribou from human activity, the degree of which can be expected to increase due to the designation, such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of habitat for the southern Selkirk Mountains population of woodland caribou in the United States;

(b) What areas occupied at the time of listing that contain the physical and biological features essential to the conservation of the species should be included in the designation and why; and

(c) Special management considerations or protections that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

(5) Information on the projected and reasonably likely impacts of climate change on the southern Selkirk Mountains population of woodland caribou and the proposed critical habitat.

(6) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act and why.

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Public Informational Session and Public Hearing

Section 4(b)(5)(E) of the Act requires that we hold one public hearing on a proposed regulation, if any person files a request for such a hearing within 45 days after the date of publication of a general notice. At the request of the Governor of Idaho and the Commissioners of Boundary County, Idaho, we have scheduled an informational session (a brief presentation about the proposed rule with a question-and-answer period), and a public hearing (see **DATES** and **ADDRESSES**). Anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a written copy of their statement to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up at the informational meeting and hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact Brian Kelly, State Supervisor, Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

The Service has conducted several outreach efforts to be responsive to public requests for additional information. On January 9, 2012, we presented information on the proposed critical habitat designation in Bonners Ferry, Boundary County, Idaho, at the request of the Kootenai Valley Resource Initiative (KVRI), and on January 24, 2012, we held an informational meeting in Priest Lake, at the request of the Bonner County, Idaho Commission. On February 13, 2012, we participated in a meeting in Boundary County, Idaho, sponsored by the KVRI, and on February 28, 2012, we participated in another meeting with the Bonner County Commission; both meetings were open to the public.

To ensure the final decision is based on the best available information, an additional informational session and public hearing will be announced concurrent with the forthcoming publication of a notice of availability for the draft economic analysis, which is currently under development. Prior to a final decision on the proposed critical habitat designation, the Service intends to conduct two public hearings, each preceded by an informational session.

We will also continue with our ongoing outreach efforts, such as those described above, as needs and opportunities to do so arise.

Our final determination concerning critical habitat for the southern Selkirk Mountains population of woodland caribou will take into consideration all written comments we receive during the comment period, comments from peer reviewers, comments and public testimony received during the public hearings, and any additional information we receive in response to the forthcoming notice of availability of the draft economic analysis. All comments will be included in the public record for this rulemaking. On the basis of peer reviewer and public comments, we may, during the development of our final determination, find that areas within the proposed designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

If you previously submitted comments or information on this proposed rule, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and will fully consider them in the preparation of our final determination.

You may submit your comments and materials concerning our proposed rule by one of the methods listed in **ADDRESSES**.

We will post your entire comment—including any personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information, such as your street address, phone number, or email address, 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. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2011–0096, or by mail from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff of the Idaho Fish and Wildlife Field Office, Region 1, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: March 12, 2012.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–6853 Filed 3–20–12; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 77, No. 55
Wednesday, March 21, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—School Breakfast Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This collection is a revision of a currently approved collection which FNS employs to determine public participation in the School Breakfast Program.

DATES: Written comments must be received on or before May 21, 2012.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Lynn Rodgers-Kuperman, Branch Chief, Program Analysis and Monitoring, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 500, Alexandria, VA 22302–1594. Comments may also be submitted via fax to the attention of Lynn Rodgers-Kuperman at 703–305–2879 or via email to *lynn.rodgers@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lynn Rodgers-Kuperman at 703–305–2600.

SUPPLEMENTARY INFORMATION:

Title: School Breakfast Program Information Collection Request (ICR) Renewal.

OMB Number: 0584–0012.

Expiration Date: May 31, 2012.

Type of Request: Revision of a currently approved collection.

Abstract: Section 4 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1773), authorizes the School Breakfast Program (SBP). The SBP is a nutrition assistance program whose benefit is providing breakfast that meets nutritional requirements prescribed by the Department in accordance with Section 4(e) of the CNA. That provision requires that ''Breakfasts served by schools participating in the School Breakfast Program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.'' The reporting and recordkeeping burden associated with this revision is summarized in the charts below. Note that the difference in burden is mainly due to increase in SFAs and Schools, program changes and adjustments.

This information collection is required to administer and operate this program in accordance with the NSLA (National School Lunch Act). The Program is administered at the State and school food authority (SFA) levels and the operations include the submission and approval of applications, execution of agreements, submission of claims, payment of claims, providing monitoring and technical assistance. All of the reporting and recordkeeping requirements associated with the SBP are currently approved by the Office of Management and Budget and are in force. This is a revision of the currently approved information collection.

Affected Public: (1) State agencies; (2) School Food Authorities; and (3) schools.

Number of Respondents: 109,522 (56 SAs, 20,697 SFAs, 88,769 schools).

Number of Responses per Respondent: 10.026214.

Total Annual Responses: 1,098,091.

Reporting Time per Response: 0.24610.

Estimated Annual Reporting Burden: 270,241.

Number of Recordkeepers: 109,522 (56 SAs, 20,697 SFAs, 88,769 schools).

Number of Records per Record Keeper: 294.234.

Estimated Total Number of Records/ Response to Keep: 33,432,713.

Recordkeeping Time per Response: 0.11341.

Total Estimated Recordkeeping Burden: 3,654,661.

Annual Recordkeeping and Reporting Burden: 3,924,902.

Current OMB Inventory for Part 210: 2,713,748.

Difference (Change in Burden With This Renewal): 1,211,154.

See the table below for estimated total annual burden for each type of respondent.

Affected public	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
Reporting					
State agencies	56	41.3393	2315	0.6003	1389
School Food Authorities	20,697	10.0539	208,086	1.07872	224,467
Schools	88,769	10.0000	887,690	0.0500	44,385
Total Estimated Reporting Burden	109,522	10.026214	1,098,091	0.246101097	270,241
Recordkeeping					
State agencies	56	1076.0000	60,256	0.5833	35,147
School Food Authorities	20,697	10.04995	208,004	0.501242	104,261
Schools	88,769	360.0000	31,956,840	0.1100	3,515,252
Total Estimated Recordkeeping Burden	109,522	294.234035	32,225,100	0.11341037	3,654,661
Total of Reporting and Recordkeeping					
Reporting	109,522	10.026214	1,098,091	0.246101097	270,241
Recordkeeping	109,522	294.234035	32,225,100	0.11341037	3,654,661
Total			33,432,713		3,924,902

Dated: March 16, 2012.

Jeffrey J. Tribiano,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2012–6782 Filed 3–20–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Special Milk Program for Children

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This collection is a revision of a currently approved collection which FNS employs to determine public participation in Special Milk Program for Children.

DATES: Written comments must be received on or before May 21, 2012.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Lynn Rodgers-Kuperman, Branch Chief, Program Analysis and Monitoring, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Lynn Rodgers-Kuperman at 703–305–2879 or via email to *lynn.rodgers@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lynn Rodgers-Kuperman at 703–305–2600.

SUPPLEMENTARY INFORMATION:

Title: Special Milk Program for Children.

Form Number: FNS–66B.

OMB Number: 0584–0005.

Expiration Date: May 31, 2012.

Type of Request: Revision of a currently approved collection.

The Special Milk Program for Children

Abstract: Section 3 of the Child Nutrition Act (CNA) of 1966, (42 U.S.C. 1772) authorizes the Special Milk Program (SMP). It provides for the appropriation of such sums as may be necessary to enable the Secretary of Agriculture to encourage the consumption of fluid milk by children in the United States in: (1) Nonprofit schools of high school grade and under; and (2) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a food service program authorized under the CNA or the National School Lunch Act.

Section 10 of the CNA (42 U.S.C. 1779) requires the Secretary of Agriculture to prescribe such regulations as deemed necessary to carry out this Act and the National School Lunch Act. Pursuant to that provision, the Secretary has issued 7 CFR part 215, which sets forth policies and procedures for the administration and operation of the SMP. State and local operators of the SMP are required to meet Federal reporting and accountability requirements. The vast majority of reporting relates to information regarding eligibility determinations of the children, the

number of milk servings, and revenues received from milk sales. State and local operators are also required to maintain records regarding eligibility to operate the program, review results, and accounts of revenues and expenditures. The reporting and record keeping burden associated with this revision is decreased from 508,485 to 21,246 hours. This change is mainly due to program adjustments and the reduction in number of State agencies operating the Program.

Affected Public: State agencies, Institutions.

Number of Respondents: 5,623 (54 State Agencies, 5569 Institutions).

Number of Responses per Respondent: 1.31869.

Total Annual Responses: 7,415.

Reporting Time per Response: .87367.

Estimated Annual Reporting Burden: 6,478.

Number of Recordkeepers: 5,623 (54 State Agencies, 5,569 Institutions).

Number of Records per Recordkeepers: 13.96970.

Estimated Total Number of Records/ Response to Keep: 78,552.

Recordkeeping Time per Response: .188.

Total Estimated Recordkeeping: 14,768.

Total Annual Responses for Reporting/Recordkeeping: 91,590.

Annual Recordkeeping and Reporting Burden: 21,246.

Current OMB Inventory for Part 215: 508,485.

Difference (change in burden with this renewal): (487,239).

Refer to the table below for estimated total annual burden for each type of respondent.

Affected Public	Estimated respondents	Response annually per respondent	Total annual responses	Hours per response	Estimated total burden
Reporting Burden					
State agencies	54	34	1,836	.487	894
Institutions	5,569	1.0018	5,579	1.0009	5,584
Total Estimated Reporting Burden	5,623	1.31869	7,415	.87367	6,478
Recordkeeping Burden					
State agencies	54	1351.53	72,983	.12604	9,199
Institutions	5,569	1	5,569	1	5,569
Total Estimated Recordkeeping Burden	5,623	13.96970	78,552	.188	14,768
	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
Total Reporting and Recordkeeping					
Reporting	5,623	1.31869	7,415	.87367	6,478
Recordkeeping	5,623	13.96970	78,552	.188	14,768
Total	.....	.....	*91,590	.....	21,246

* Added total number of recordkeepers to the total annual responses.

Dated: March 16, 2012.

Jeffrey J. Tribiano,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2012–6785 Filed 3–20–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Information Collection for the National School Lunch Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This collection is a revision of a currently approved collection which FNS employs to determine public participation in the National School Lunch Program.

DATES: Written comments must be received on or before May 21, 2012.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Lynn Rodgers-Kuperman, Branch Chief, Program Analysis and Monitoring, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302–1594. Comments may also be submitted via fax to the attention of Lynn Rodgers-Kuperman at 703–305–2879 or via email to *Lynn.Rodgers@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101

Park Center Drive, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lynn Rodgers-Kuperman at the address indicated above or by phone at 703–305–2600.

SUPPLEMENTARY INFORMATION:

Title: Information Collection for the National School Lunch Program.

Forms: FNS–66, FNS–66A, FNS–640.

OMB Number: 0584–0006.

Expiration Date: May 31, 2012.

Type of Request: Revision of a currently approved collection.

Abstract: The Richard B. Russell National School Lunch Act (NSLA), as amended, authorizes the National School Lunch Program (NSLP) to safeguard the health and well-being of the nation's children and provide low cost or free school lunch meals to qualified students through subsidies to schools. The United States Department of Agriculture (USDA) provides States with general and special cash assistance and donations of foods to assist schools in serving nutritious lunches to children each school day. Participating schools must serve lunches that are nutritionally adequate, and maintain menu and production records to demonstrate compliance with the meal requirements. To the extent practicable, schools ensure that participating children gain a full understanding of the relationship between proper eating and good health.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) requires the Secretary of Agriculture to prescribe such regulations as deemed necessary to carry out this Act and the NSLA (42 U.S.C. 1751 *et seq.*). Pursuant to that provision, the Secretary has issued 7 CFR Part 210, which sets forth policies and procedures for the administration and operation of the NSLP. State and local operators of the NSLP are required to meet Federal reporting and accountability requirements. The vast majority of reporting relates to information regarding eligibility determinations of the children (including verification of a required sample size), the number of meals served, and data from required reviews conducted by the State agency. State and local operators are also required to maintain records regarding eligibility to operate the program, review results, and school food service accounts of revenues and expenditures. The reporting and recordkeeping burden associated with this revision is decreased from 11,806,566 to 11,755,891 hours. This change is mainly due to reduction in number of State agencies operating the program, and other program changes.

This information collection is required to administer and operate this program in accordance with the NSLA. The Program is administered at the State and school food authority (SFA) levels, and the operations include the submission and approval of applications, execution of agreements, submission of claims, payment of claims, providing monitoring and technical assistance. All of the reporting and recordkeeping requirements associated with the NSLP are currently approved by the Office of Management and Budget and are in force. This is a revision of the currently approved information collection.

Affected Public: Schools; School food authorities; and State agencies.

Number of Respondents: 122,661. This includes 101,747 schools; 20,858 school food authorities (SFAs); and 56 State agencies (SAs).

Number of Responses per Respondent: 20.1784.

Total Annual Responses: 2,475,102.

Reporting Time per Response: 1.176681.

Estimated Annual Reporting Burden: 2,912,405.

Number of Recordkeepers: 122,661 (101,747 schools, 20,858 SFAs, 56 SAs).

Number of Records per Record Keeper: 510.2643.

Estimated total Number of Records/ Response to Keep: 62,589,529.

Recordkeeping Time per Response: 0.14129338.

Total Estimated Recordkeeping Burden: 8,843,486.

Annual Recordkeeping and Reporting Burden: 11,755,891.

Current OMB Inventory for Part 210: 11,806,566.

Difference (change in burden with this renewal): 50,675.

Refer to the table below for estimated total annual burden for each type of respondent.

Affected public	Estimated number of respondents	Number of responses per respondent	Total annual responses	Estimated total hours per response	Estimated total burden
Reporting					
State Agencies	56	263	14,728	1.42636	21,005
School Food Authorities	20,858	21.39668	425,434	4.81132	2,046,900
Schools	101,747	20	2,034,940	0.415	844,500
Total Estimated Reporting Burden	122,661		2,475,102		2,912,405
Recordkeeping					
State Agencies	56	4607	257,992	0.273312	70,512
School Food Authorities	20,858	12	250,296	8.638333	2,162,140
Schools	101,747	610.1530	62,081,241	0.1064868	6,610,833
Total Estimated Recordkeeping Burden	122,661		62,589,529		8,843,486
Total of Reporting and Recordkeeping					
Reporting	122,661	20.178	2,475,102	1.176681	2,912,405
Recordkeeping	122,661	510.264	62,589,529	0.14129338	8,843,486
Total			65,064,631		11,755,891

Dated: March 16, 2012.

Jeffrey J. Tribiano,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2012–6786 Filed 3–20–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest Wrangell Ranger District; Alaska; Wrangell Island Project Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Corrected Notice of Intent to prepare an environmental impact statement; Correction.

SUMMARY: A Corrected Notice of Intent (NOI) to prepare an environmental impact Statement was published in the **Federal Register** (77 FR 14727) on March 13, 2012 concerning a request for scoping comments. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Tim Piazza, Team Leader, Federal Building, Ketchikan, AK 99901, (907) 228–6318.

Correction

In the **Federal Register** of March 13, 2012 (77 FR 14727), on page 14727, in the third column, correct the **DATES** caption to read:

DATES: Comments received during the initial scoping period in 2010–2011 will be considered in the preparation of this EIS. New or additional comments must be received April 27, 2012. The draft environmental impact statement is expected in December 2012, and the final environmental impact statement is expected in June 2013.

Dated: March 13, 2012.

Forrest Cole,

Forest Supervisor, Tongass National Forest.

[FR Doc. 2012–6780 Filed 3–20–12; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI) for Fiscal Year 2011 and Fiscal Year 2012

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the availability of $8,611,000 of FYs 2011 and 2012 funding of competitive grant funds for the RCDI program through the Rural Housing Service (RHS), an agency within the USDA Rural Development mission area (Agency). Appropriation Acts made available $4,990,000 in FY 2011 and $3,621,000 in FY 2012 for the RCDI program for a total of $8,611,000 for the two fiscal years.

The RCDI grant program includes an initiative called the Rural Jobs and Innovation Accelerator Challenge. For FY 2011 and the FY 2012 RCDI funds will be divided between the traditional RCDI Program and the Rural Jobs and Innovation Accelerator Challenge as follows: $2,500,000 of the FY 2011 funds and $1,811,000 of the FY 2012 funds will be available for the traditional RCDI program and $2,490,000 of the FY 2011 funds and $1,810,000 of the FY 2012 will be reserved for awards through a Federal Funding Opportunity Announcement in partnership with the Department of Commerce Economic Development Administration (EDA) for the Rural Jobs and Innovation Accelerator Challenge. An application for ''Rural Jobs and Innovation Accelerator Challenge'' funds must be submitted to both USDA and EDA by an organization or a team of organizations that is individually or collectively eligible to receive funding from USDA and EDA. Additional information regarding the Rural Jobs and Innovation Accelerator Challenge can be found in Part VI and Part VII of this NOFA. Requirements outlined in Parts II, III, VIII, IX, X, and XI of this NOFA apply to both the Traditional RCDI Program and the Rural Jobs and Innovation Accelerator Challenge.

All applicants must provide matching funds in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development. This Notice lists the information needed to submit an application for these funds.

DATES: *The deadline for receipt of an application—May 9, 2012.* The application date is firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/rhs/rcdi/index.htm.* Application information for electronic submissions may be found at *http://www.grants.gov.* Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development offices is included in this Notice.

FOR FURTHER INFORMATION CONTACT: The Rural Development office for the state the applicant is located in. A list of Rural Development State Office contacts is included in this Notice.

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.446. This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials because it is not listed by the Secretary of Agriculture, pursuant to 7 CFR 3015.302, as a covered program.

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

National Environmental Policy Act

This Notice has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving and implementing the Agency's financial programs is categorically excluded in the Agency's NEPA regulation found at 7 CFR 1940.310(e)(3) of Subpart G, Environmental Program. Thus, in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347), Rural Development has determined that this NOFA does not constitute a major Federal action significantly affecting the quality of the human environment. Furthermore, individual awards under this NOFA are hereby classified as Categorical Exclusions according to 1940.310(e), the award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analysis, which do not require any additional documentation.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.446.

Part I—Funding Opportunity Description

Congress initially created the RCDI in Fiscal Year (FY) 2000 to develop the capacity and ability of nonprofit organizations, low-income rural communities, or federally recognized tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas.

Part II—Award Information

Appropriation Acts have made available a total of $8,611,000 for RCDI for FYs 2011 and 2012. The FY 2011 and the FY 2012 appropriated RCDI funds will be divided between the traditional RCDI Program and the Rural Jobs and Innovation Accelerator Challenge as follows: $2,500,000 of the FY 2011 funds and $1,811,000 of the FY 2012 funds will be available for the traditional RCDI program and $2,490,000 of the FY 2011 funds and $1,810,000 of the FY 2012 will be reserved for awards through a Federal Funding Opportunity Announcement in partnership with the Department of Commerce Economic Development Administration for the Rural Jobs and Innovation Accelerator Challenge. The Rural Jobs Accelerator provides resources to support the development of clusters in approximately 20 regions, selected through a competitive inter-agency grant process, and assist rural distressed communities accelerate job creation by: leveraging local assets, building stronger communities, and creating regional linkages. Opportunities for accelerated job creation in rural regions can be found in numerous high-potential industry clusters, including renewable energy, food production, rural tourism, natural resources, and advanced manufacturing.

Qualified private, nonprofit and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant. The respective minimum and maximum grant amount per intermediary is $50,000 and $300,000. The intermediary must provide a program of financial and technical assistance to a private nonprofit, community-based housing and development organization, a low-income rural community or a federally recognized tribe.

Part III—Eligibility Information

A. Eligible Applicants

1. Qualified private, nonprofit, including faith-based and community organizations, in accordance with 7 CFR part 16, and public (including tribal) intermediary organizations. Definitions that describe eligible organizations and other key terms are listed below.

2. RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

B. Program Definitions

Agency—The Rural Housing Service (RHS) or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Federally recognized tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the current notice in the **Federal Register** published by the Bureau of Indian Affairs. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial assistance—Funds, not to exceed $10,000 per award, used by the intermediary to purchase supplies and equipment to build the recipient's capacity.

Funds—The RCDI grant and matching money.

Intermediary—A qualified private, nonprofit (including faith-based and community organizations), or public (including tribal) organization that provides financial and technical assistance to multiple recipients.

Low-income rural community—An authority, district, economic development authority, regional council, or unit of government representing an incorporated city, town, village, county, township, parish, or borough whose median household income is at or below 80% of either the state or national Median Household Income as measured by the 2000 Census.

Recipient—The entity that receives the financial and technical assistance from the Intermediary. The recipient must be a private, non-profit community-based housing and development organization, a low-income rural community or a federally recognized Tribe.

Regional collaboration—Multi-jurisdictional areas typically within a State, territory, or Federally designated Tribal land but which can cross State, territory, or Tribal boundaries. The Regional Collaboration approach is intended to combine the resources of the Agency with those of State and local governments, educational institutions, and the private and nonprofit sectors to implement regional economic and community development strategies.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

C. Cost Sharing or Matching

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount and committed for a period of not less than the grant performance period. These funds can only be used for eligible RCDI activities. In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property and goods and services cannot be used as matching funds. Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item. The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used. Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015, 3016, and 3019, as applicable. Verification of matching funds must be submitted with the application.

The intermediary is responsible for demonstrating that matching funds are available, and committed for a period of not less than the grant performance period to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose. Matching funds must be used

to support the overall purpose of the RCDI program. RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement. No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the intermediary is a non-profit or educational entity and has requested and received written Agency approval of the costs prior to the actual expenditure. This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement. The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

D. Other Program Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income, whichever is higher. The applicable Rural Development State Office can assist in determining the eligibility of an area. A listing of Rural Development State Offices is included in this Notice. A map showing eligible rural areas can be found at the following link: *http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=RBSmenu&NavKey=property@13*.

2. The recipients must be private nonprofit, including faith-based organizations, community-based housing and development organizations, low-income rural communities, or federally recognized tribes based on the RCDI definitions of these groups.

3. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient. Private nonprofit, faith or community-based organizations must provide a certificate of incorporation and good standing from the Secretary of the State of incorporation, or other similar and valid documentation of nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income, whichever is higher. For Federally recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of federally recognized tribes in this Notice for details on this list). If a tribe has been federally recognized since the last list of federally recognized tribes was published in the **Federal Register**, appropriate documentation from the Department of the Interior, Bureau of Indian Affairs must be submitted that legally verifies that recognition.

4. Individuals cannot be recipients.

5. The intermediary must provide matching funds at least equal to the amount of the grant. Verification of matching funds must be submitted with the application. Matching funds must be committed for a period equal to the grant performance period.

6. The intermediary must provide a program of financial and technical assistance to the recipient.

7. The intermediary organization must have been legally organized for a minimum of 3 years and have at least 3 years prior experience working with private nonprofit community-based housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

8. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

9. Each applicant, whether singularly or jointly, may submit one application for the traditional RCDI funds and one application for the Jobs Accelerator funds under this NOFA. This restriction does not preclude the applicant from providing matching funds for other applications.

10. Recipients can benefit from more than one RCDI application; however, after grant selections are made, the recipient can only benefit from multiple RCDI grants if the type of financial and technical assistance the recipient will receive is not duplicative. Funding for services to the same recipients must have separate and identifiable accounts for compliance purposes.

11. The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient, provided the relationship does not create a conflict of interest that cannot be resolved to Rural Development's satisfaction.

12. A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant. Organizations with pending requests for nonprofit designations are not eligible.

13. If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided, e.g., town council or village board. The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

14. If a grantee has an outstanding RCDI grant over 3 years old, as of the application due date in this Notice, it is not eligible to apply for this round of funding.

15. The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application.

16. Grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register in the Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance to 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

Eligible Fund Uses

Fund uses must be consistent with the RCDI purpose. A nonexclusive list of eligible grant uses includes the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, i.e., the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary.

2. Develop the capacity of recipients to conduct community development

programs, e.g., homeownership education or training for business entrepreneurs.

3. Develop the capacity of recipients to conduct development initiatives, e.g., programs that support micro-enterprise and sustainable development.

4. Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.

5. Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.

6. Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, e.g., architectural, engineering, or legal.

7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.

8. Purchase of computers, software, and printers, limited to $10,000 per award, at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.

9. Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

Ineligible Fund Uses

1. Pass-through grants, capacity grants, and any funds provided to the recipient in a lump sum that are not reimbursements.

2. Funding a revolving loan fund (RLF).

3. Construction (in any form).

4. Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.

5. Intermediary preparation of strategic plans for recipients.

6. Funding prostitution, gambling, or any illegal activities.

7. Grants to individuals.

8. Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.

9. Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.

10. Purchasing real estate.

11. Improvement or renovation of the grantee's, or recipient's office space or for the repair or maintenance of privately owned vehicles.

12. Any other purpose prohibited in 7 CFR parts 3015, 3016, and 3019, as applicable.

13. Using funds for recipient's general operating costs.

14. Using grant or matching funds for Individual Development Accounts.

15. Purchasing vehicles.

Program Examples and Restrictions

The purpose of this initiative is to develop or increase the recipient's capacity through a program of financial and technical assistance to perform in the areas of housing, community facilities, or community and economic development. Strengthening the recipient's capacity in these areas will benefit the communities they serve. The RCDI structure requires the intermediary (grantee) to provide a program of financial and technical assistance to recipients. The recipients will, in turn, provide programs to their communities (beneficiaries). The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objectives of the RCDI program will be considered eligible.)

1. The intermediary must work directly with the recipient, not the ultimate beneficiaries. As an example: The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will build the recipient's capacity by enabling them to conduct homeownership education classes for the public. This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

2. If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council. If the intermediary provides technical assistance to the Board of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from the community to establish the cooperative, this is not an eligible purpose. The recipient's capacity is built by learning skills that will enable them to support sustainable economic development in their communities on an ongoing basis.

3. The intermediary may provide technical assistance to the recipient on how to create and operate a revolving loan fund. The intermediary may not monitor or operate the revolving loan fund. RCDI funds, including matching funds, cannot be used to fund revolving loan funds.

4. The intermediary may work with recipients in building their capacity to provide planning and leadership development training. The recipients of this training would be expected to assume leadership roles in the development and execution of regional strategic plans. The intermediary would work with multiple recipients in helping communities recognize their connections to the greater regional and national economies.

5. The intermediary could provide training and technical assistance to the recipients on developing emergency shelter and feeding, short-term housing, search and rescue, and environmental accident, prevention, and cleanup program plans. For longer term disaster and economic crisis responses, the intermediary could work with the recipients to develop job placement and training programs, and develop coordinated transit systems for displaced workers.

Part IV—Application and Submission Information for the Traditional RCDI Program

A. Address To Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/rhs/rcdi.* Application information for electronic submissions may be found at *http://www.grants.gov.* Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State offices is included in this Notice.

B. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its

appeal rights and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

1. A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person and telephone number,

e. Applicant's fax number,

f. County where applicant is located,

g. Congressional district number where applicant is located,

h. Amount of grant request, and

i. Number of recipients

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than five pages, including the following items, which will also be addressed separately and in detail under ''Building Capacity'' of the ''Evaluation Criteria.''

a. The type of technical assistance to be provided to the recipients and how it will be implemented.

b. How the capacity and ability of the recipients will be improved.

c. The overall goals to be accomplished.

d. The benchmarks to be used to measure the success of the program. Benchmarks should be specific and quantifiable.

4. Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.

5. Verification of source and amount of matching funds, i.e., a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application or the application will be considered incomplete.

The applicant will be contacted by the Agency prior to grant award to verify that the matching funds provided with the application continue to be available. The applicant will have 15 working days from the date contacted to submit verification that matching funds continue to be available. If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved.

6. The following information for each recipient:

a. Recipient's entity name,

b. Complete address (mailing and physical location, if different),

c. County where located,

d. Number of Congressional district where recipient is located,

e. Contact person's name and telephone number, and

f. Form RD 400–4, ''Assurance Agreement.'' If the Form RD 400–4 is not submitted for a recipient, the recipient will be considered ineligible. No information pertaining to that recipient will be included in the income or population scoring criteria and the requested funding may be adjusted due to the deletion of the recipient.

7. Submit evidence that each recipient entity is eligible:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation or the IRS, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of nonprofit status of each recipient.

b. Low-income rural community—provide evidence the entity is a public body, and a copy of the 2000 census data to verify the population, and evidence that the median household income is at, or below, 80 percent of either the State or the national income. We will only accept data and printouts from *http://www.census.gov.* The specific instructions to retrieve data from this site are detailed under the ''Evaluation Criteria'' for ''Population'' and ''Income.''

c. Federally recognized tribes—provide the page listing their name from the **Federal Register** list of tribal entities published by the Bureau of Indian Affairs on October 1, 2010 (75 FR 60810) or a subsequent updated list or supplement in the **Federal Register**. If a tribe has been federally recognized since the last list of federally recognized tribes was published in the **Federal Register**, appropriate documentation from the Department of the Interior, Bureau of Indian Affairs must be submitted that legally verifies that recognition.

8. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Documentation must be limited to three pages per criterion. The ''Population'' and ''Income'' criterions for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

9. A timeline identifying specific activities and proposed dates for completion.

10. A detailed project budget that includes the RCDI grant amount and matching funds. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: year 1, year 2, year 3, as applicable.

11. Form SF–424, ''Application for Federal Assistance.'' (Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in No. 10 of this section.)

12. Form SF–424B, ''Assurances—Non-Construction Programs.''

13. Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

14. Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''

15. Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

16. Certification of Non-Lobbying Activities.

17. Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

18. Form RD 400–4, ''Assurance Agreement,'' for the applicant.

19. Identify and report any association or relationship with Rural Development employees.

20. For grants, the applicant's Dun and Bradstreet Data Universal Numbering Systems (DUNS) number and registration in the Central Contractor Registration (CCR) database in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applications must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via Internet at *http:www.dnb.com/us/.* Additional information concerning this requirement can be obtained on the Grants.gov Web Site at *http://www.grants.gov.* Similarly, applicants

may register for the CCR at *https://uscontractingregistration.com* or by calling 1–877–252–2700.

The required forms and certifications can be downloaded from the RCDI Web site at: *http://www.rurdev.usda.gov/rhs/rcdi.*

C. Other Submission Information

Survey on Ensuring Equal Opportunity for Applicants, OMB No. 1894–0010 Exp. 05/31/2012 (applies only to non-profit applicants only—submission is optional).

The original application package must be submitted to the Rural Development State Office where the applicant's headquarters is located. A listing of Rural Development State Offices is included in this Notice. Applications will not be accepted via FAX or electronic mail.

Applicants may file an electronic application at *http://www.grants.gov.* Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application.

If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the Grants.gov Web site.

Technical difficulties submitting an application through Grants.gov will not be a reason to extend the application deadline. If an application is unable to be submitted through Grants.gov, a paper application must be received in the appropriate Rural Development State Office by the deadline noted previously.

First time Grants.gov users should carefully read and follow the registration steps listed on the Web site. These steps need to be initiated early in the application process to avoid delays in submitting your application online.

In order to register with the Central Contractor Registry (CCR), your organization will need a DUNS number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the CCR registration process. These are mandatory fields that are required when submitting grant applications through Grants.gov. Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on Grants.gov.

The deadline for receipt of an application is May 9 by 4 p.m. local time. The application deadline date and time are firm and apply to submission of the original application to the Rural Development State Office where the applicant's headquarters is located. The Agency will not consider any application received after the deadline. A listing of Rural Development State Offices, their addresses, telephone numbers, and contact person is provided elsewhere in this Notice. Applicants intending to mail applications must allow sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Fax, electronic mail or postage due applications will not be accepted.

D. Funding Restrictions

Meeting expenses. In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may be used to pay for these expenses. RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting. RCDI funds can be used for travel, transportation, or subsistence expenses for program-related training and technical assistance purposes. Any training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345. Travel and per diem expenses will be similar to those paid to Agency employees. Rates are based upon location. Rate information can be obtained from the applicable Rural Development State Office.

Grantees and recipients will be restricted to traveling coach class on common carrier airlines. When lodging is not available at the government rate, grantees and recipients may exceed the Government rate for lodging by a maximum of 20 percent. Meals and incidental expenses will be reimbursed at the same rate used by Agency employees. Mileage and gas reimbursement will be the same rate used by Agency employees. This rate may be obtained from the applicable Rural Development State Office.

Part V—Application Review Information for the Traditional RCDI Program

A. Evaluation Criteria

Applications will be evaluated using the following criteria and weights:

1. Building Capacity—Maximum 60 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes. Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. The program of financial and technical assistance provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application. All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest. Capacity-building financial and technical assistance may include, but is not limited to: training to conduct community development programs, e.g., homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, e.g., assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, e.g., hiring a person at intermediary or recipient level to provide technical assistance to recipients.

a. The narrative response must:

i. Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance;

ii. Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively;

iii. Identify which RCDI purpose areas will be addressed with this assistance: housing, community facilities, or community and economic development; and

iv. Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness? Benchmarks should be specific and quantifiable.

b. The maximum 60 points for this criterion will be broken down as follows:

i. Type of financial and technical assistance and implementation activities. 35 points.

ii. An explanation of how financial and technical assistance will develop capacity. 10 points.

iii. Identification of the RCDI purpose. 5 points.

iv. Measurement of outcomes. 10 points.

2. Expertise—Maximum 30 Points

The applicant must demonstrate that it has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas. Provide the name, contact information, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years:

a. Nonprofit organizations in rural areas.

b. Low-income communities in rural areas, (also include the type of entity, e.g., city government, town council, or village board).

c. Federally recognized tribes or any other culturally diverse organizations.

3. Population—Maximum 30 Points

Population is based on the average population from the 2000 census data for the communities in which the recipients are located. The physical address, not mailing address, for each recipient must be used for this criterion. Community is defined for scoring purposes as a city, town, village, county, parish, borough, or census-designated place where the recipient's office is physically located. The applicant must submit the census data from the following Web site in the form of a printout of the applicable ''Fact Sheet'' to verify the population figures used for each recipient. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder'' from the left menu; click on ''Fact Sheet'' from the left menu; at the right, fill in one or more fields and click ''Go''; the name and population data for each recipient location must be listed in this section. The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
5,000 or less	30
5,001 to 10,000	20
10,001 to 20,000	10
20,001 to 50,000	5

4. Income—Maximum 30 Points

The average of the median household income for the communities where the recipients are physically located will determine the points awarded. The physical address, not mailing address, for each recipient must be used for this criterion. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $41,994. The applicant must submit the income data in the form of a printout of the applicable information from the following Web site to verify the income for each recipient. The data being used is from the 2000 census. The data can be accessed on the Internet at *http://www.census.gov;* click on ''American FactFinder'' from the left menu; click on ''Fact Sheet'' from the left menu; at the right, fill in one or more fields and click ''Go''; the name and income data for each recipient location must be listed in this section. Points will be awarded as follows:

Average recipient median income	Scoring (points)
Less than 60 percent of state or national median household income	30
From 60 to 70 percent of state or national median household income	20
Greater than 70 to 80 percent of state or national median household income	10
In excess of 80 percent of state or national median household income	0

5. Soundness of Approach—Maximum 50 Points

The applicant can receive up to 50 points for soundness of approach. The overall proposal will be considered under this criterion. Applicants must list the page numbers in the application that address these factors.

The maximum 50 points for this criterion will be broken down as follows:

a. The ability to provide the proposed financial and technical assistance based on prior accomplishments has been demonstrated. 10 Points.

b. The proposed financial and technical assistance program is clearly stated and the applicant has defined how this proposal will be implemented. The plan for implementation is viable. 10 Points.

c. Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level. 15 points.

d. The proposal fits the objectives for which applications were invited. 15 points.

6. Technical Assistance for the Development of Renewable Energy Systems and Energy Efficiency Improvements—Maximum 20 Points

The applicant must demonstrate how they will improve the recipients' capacity to carry out activities related to the development of renewable energy systems and energy efficiency improvements for housing, community facilities, or community and economic development.

7. Regional Collaboration Applications—Maximum 20 Points

The Agency encourages applications that promote substantive economic growth, including job creation, as well as specifically addressing the circumstances of those sectors within the region that have fewer prospects and the greatest need for improved economic opportunity.

A Regional Collaboration project should implement goals, objectives or actions identified in a Regional Strategic Plan which addresses priorities specified at a regional scale. Applications should demonstrate:

a. Clear leadership at the Intermediary level in organizing and coordinating a regional initiative;

b. Evidence that the Recipient's region has a common economic basis that supports the likelihood of success in implementing its strategy;

c. Evidence that technical assistance will be provided that will increase the Recipient's capacity to assess their circumstance, determine a long term sustainable vision for the region, and implement a comprehensive strategic plan, including identifying performance measures and establishing a system to collect the data to allow assessment of those performance measures.

8. Local Investment Points—Maximum 20 Points

Intermediaries must be physically located in an eligible rural community and must include evidence of investment in the community. The intent is to ensure that RCDI funds are expended in the rural community.

9. State Director's Points Based on Project Merit—Maximum 20 Points

This criterion does not have to be addressed by the applicant. Up to 20 points may be awarded by the Rural

Development State Director. Points may be awarded to more than one application per state or jurisdiction. The total points awarded under this criterion, to all applications, will not exceed 20. Assignment of points will include a written justification and be tied to and awarded based on how closely they align with the Rural Development State Office's strategic plan.

10. Proportional Distribution Points—20 Points

This criterion does not have to be addressed by the applicant. After applications have been evaluated and awarded points under the first 9 criteria, the Agency may award 20 points per application to promote an even distribution of grant awards between the ranges of $50,000 to $300,000.

B. Review and Selection Process

Rating and ranking. Applications will be rated and ranked on a national basis by a review panel based on the ''Evaluation Criteria'' contained in this Notice. If there is a tied score after the applications have been rated and ranked, the tie will be resolved by reviewing the scores for ''Building Capacity'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

Initial screening. The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are examples of reasons for rejection from previous funding rounds. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

1. Recipients were not located in eligible rural areas based on the definition in this Notice.
2. Applicants failed to provide evidence of recipient's status, i.e., documentation supporting nonprofit evidence of organization.
3. Applicants failed to provide evidence of committed matching funds or matching funds were not committed for a period at least equal to the grant performance period.
4. Application did not follow the RCDI structure with an intermediary and recipients.
5. Recipients were not identified in the application.
6. Intermediary did not provide evidence it had been incorporated for at least 3 years as the applicant entity.
7. Applicants failed to address the ''Evaluation Criteria.''
8. The purpose of the proposal did not qualify as an eligible RCDI purpose.
9. Inappropriate use of funds (e.g., construction or renovations).
10. The applicant proposed providing financial and technical assistance directly to individuals.
11. The application package not received by closing date and time.

Part VI—Rural Jobs Accelerator and Innovation Challenge Application Process

An application for ''Rural Jobs and Innovation Accelerator Challenge'' funds must be submitted to USDA and EDA by an organization or a team of organizations that is individually or collectively eligible to receive funding from USDA and EDA.

Required Application Forms and Content

To be considered complete, an application package must consist of:

(1) Required forms as discussed below;

(2) Project Narrative; and

(3) Addenda to the Project Narrative.

Applications that do not contain all required forms listed below, or that fail to adhere to the instructions in this Notice, will be considered non-responsive and will not be considered for funding. Additional application materials not requested under this Notice will not be reviewed or evaluated.

Applicants are advised to carefully read the instructions contained in this Notice and in all forms contained in the application package. It is the sole responsibility of each applicant to ensure that a complete application package is received.

Required Forms

All applicants are required to submit the following forms at the time of application. The forms should be uploaded as separate portable document format (PDF) files. Forms are available in the application package at *www.grants.gov* or on the Rural Jobs Accelerator Web site under 'application submission information'.

Each USDA applicant must submit the following forms.

- Form SF–424—Application for Federal Assistance for the applicant
- Form SF–424A—Budget Information-Non-Construction Programs for the applicant
- Form SF–424B—Assurances—Non-Construction Programs for the applicant
- Form CD–511—Certification Regarding Lobbying for the USDA and EDA applicant
- Form RD–400–4—Assurance Agreement, for the applicant and each RCDI Recipient
- Form AD–1047—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions
- Form AD–1048—Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions
- Form AD–1049—Certification Regarding Drug-Free Workplace Requirements
- Identity and report any association or relationship with Rural Development employees.
- Survey on Ensuring Equal Opportunity for Applicants, OMB No. 1894–0010 Exp. 05/13/2012 (applies only to non-profit applicants—submission is optional)
- Form SF–LLL—Disclosure of Lobbying Activities, if applicable

Project Description

The Project Description must demonstrate the applicant's capability to implement the proposed activities in accordance with the requirements of this NOFA. The Project Description must demonstrate how each scope of work (individually funded by each Funding Agency) is integrated into an overarching project.

The full Project Description must include the following components:

Executive Summary:

Not to exceed two pages, the Executive Summary will serve as a summary of the proposed project and may be shared publicly in the form originally submitted; therefore, applicants should not include proprietary, confidential commercial/business, and personally identifiable information. The Executive Summary must include the following sections: (a) The project name; (b) the organizations composing the Applicant Team; (c) the identified region and cluster; (d) a summary of the integrated project and project objectives; (e) a brief description of the scopes of work to be funded by each funding source and the associated performance measures; and (f) a summary of how the capacity of the recipients will be improved and the regional strength will be increased.

Project Narrative:

The Project Narrative should be a detailed description of all activities that will be undertaken by all sources of funds requested under this solicitation. Within the Project Narrative, applicants

should address all the evaluation criteria, as outlined in section VI.A:

1. Region and Cluster of Focus;
2. Integrated Project Concept/Overview;
3. Building Community and Regional Capacity (USDA scope of work);
4. Developing Regional Links (EDA scope of work);
5. ARC or DRA scope of work (only applicable to applicants seeking funding from ARC or DRA);
6. Project Impact and Measurable Outcomes; and
7. Soundness of Approach.

The length of the Project Narrative is limited to 25 double-spaced, 8.5 x 11 inch pages with 12-point font and 1-inch margins. Applicants may include a map delineating the region at the end of the Project Narrative, which will not count towards the 25 page limit. Any Project Narrative text beyond the specified page limit will not be read. Applicants must number the pages of the Project Narrative, beginning with page number 1. The Project Narrative should be submitted as one PDF file, and only one Project Narrative should be submitted per application. **Note:** the page limit described in this section may be increased to 30 pages if the Applicant Team is also seeking funding from ARC or DRA.

Integrated Work Plan

Applicants must input details of proposed activities under each scope of work from the Project Narrative, as well as expected/estimated impacts of the activities, into an Integrated Work Plan.

Budget Description

A separate budget narrative must be created and submitted to support the scope of work for each Funding Agency, and each narrative must provide a description of costs associated with each line item on each Form SF–424A over the project period. Supporting documentation listing the components of these categories must be included. The budget should be dated: Year 1, Year 2, Year 3, as applicable. The budget narrative should include a personnel plan listing all positions that will be charged to the Federal and non-Federal portion of the budget for each year of the applicable project period. The personnel plan must include the position titles, salaries, percentage of time dedicated to the project, and amount of salary charged to the project for each staff member assigned to the project. The sum of all salaries charged to the project must equal the amount on the ''Personnel'' budget line item on Form SF–424A. The personnel plan should provide a description of how the personnel will carry out the proposed plan, including the adequacy and previous performance of the proposed team to carry out project activities.

Addenda to the Project Description

The applicant must also submit the following required addenda to the Project Description in PDF file.

The required addenda to the Project Description are:

- *Resumes of Key Personnel (by Funding Agency):* Applicants must provide resumes for key personnel staff which generally should not exceed two pages in length (per resume). Applicants also should provide a 2 page summary description of all personnel (performing for the applicant) and contractors named in the application. Resumes should be uploaded as one PDF file.
- *Verification of Matching Funds*
  - *Verification of source and amount of matching funds:* Each USDA applicant must provide verification of source and amount of matching funds, i.e., a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application or the application will be considered incomplete.

Applicant Team Written Agreement: If the USDA Applicant is applying for funds under this Notice in partnership with and EDA applicant, the Applicant Team must provide a copy of the written agreement signed by each team member that reflects a binding commitment to undertake the proposed project, the respective scopes of work, and perform the roles and responsibilities identified in the Project Narrative. The Agreement must include the project title and list each applicant and the source of funds they are applying for.

- *Facilities and Administrative or Indirect Cost Rate Agreement*
  - The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application.
- *Non-profit organizations:* Non-profit organizations applying for funding must submit the following, addition to all items listed above.
  - Organization documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.
- *Recipient Information:* Applicants must provide the following information for each recipient. Please combine into a single PDF file.

1. A summary page, double-spaced between items, listing the following for each recipient (this information should not be presented in narrative form):

a. Recipient's entity name;
b. Complete address (mailing and physical location, if different);
c. County where located;
d. Number of Congressional district where recipient is located; and
e. Contact person's name and telephone number.

2. Submit evidence that each recipient entity is eligible:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation or the IRS, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of nonprofit status of each recipient.

b. Low-income rural community—provide evidence the entity is a public body, and a copy of the most recent available census data to verify the population, and evidence that the median household income is at, or below, 80 percent of the national median household income. We will only accept data and printouts from *http://www.census.gov.* The specific instructions to retrieve data from this site are detailed under the ''Evaluation Criteria'' for ''Population'' and ''Income.''

c. Federally recognized tribes—provide the page listing their name from the **Federal Register** list of tribal entities published by the Bureau of Indian Affairs on October 1, 2010 (75 FR 60810) or a subsequent updated list or supplement in the **Federal Register**. If a tribe has been federally recognized since the last list of federally recognized tribes was published in the **Federal Register**, appropriate documentation from the Department of the Interior, Bureau of Indian Affairs must be submitted that legally verifies that recognition.

Part VII—Application Review Process for the Rural Jobs Accelerator Challenge

Evaluation Criteria

Applications will be evaluated based on their ability to satisfy the following core evaluation criteria, with each criterion assigned the points indicated.

1. Region and Cluster of Focus (15 Points)

The applicant must describe the region of focus (see page 4) for which the funding is requested, including the economics, clusters, and the networks and assets that contribute to the region's competitiveness and potential for growth.

The narrative response must:

• Clearly describe the geographic region of the proposed project. Regions may be single or multi-jurisdictional areas. Applicants have the flexibility to define their region based on quantitative and qualitative information about where and how the cluster targeted for development operates.[1] The region description should include the location of project recipients for the Building Community and Regional Capacity activity. Applicants should provide information about areas and/or sectors of economic distress.

• Present a compelling description of the economics of the region and the specific cluster that will be targeted by the proposed project. This should demonstrate that the region possesses unique assets to support the cluster and has a competitive advantage in the identified industry and identify any specific economic needs and opportunities for growth. Applicants should include evidence of a concentration of firms in the identified industry sector, available industry-specific infrastructure that support the cluster, and clear leadership at the regional level in organizing and coordinating a region-wide initiative.

○ Fully describe existing regional partnerships that directly engaged in supporting the targeted cluster, including a discussion of the extent of participation and effectiveness:

○ Private sector leadership and significant participation in cluster activities;

○ Any and all cluster intermediary organization, such as an economic development organization, workforce development board, business incubator or accelerator, chamber of commerce, or a university-based consortium;

○ Universities, federally funded labs, or privately funded research and development centers;

○ Federally funded program or center, such as a Manufacturing Extension Partnership Center (MEP), Small Business Development Center, and Preferred Sustainability Status holders within the Partnership for Sustainable Communities;

○ Venture development organizations, venture capital firms, revolving loan funders, angel investment groups, community lenders, community development financial institutions, and other institutions focused on expanding access to capital;

○ Local and municipal governments, workforce development entities, communities colleges, and community-based organizations; and

○ Private foundations focused on economic or community development, science, business, and innovation.

2. Integrated Project Concept (10 Points)

Applicants must provide an Integrated Project Concept, which is a narrative summary that describes the proposed project with a maximum of 5 pages.

The narrative response must:

a. Present how the applicant intends to leverage and utilize multiple resources to meet project objectives, address identified needs and capitalize on opportunities;

b. Clearly express how the proposed scopes of work will complement each other in accelerating competitiveness in rural regions;

c. Describe how the project will promote substantive economic growth, including job creation.

Note: Applicants requesting ARC or DRA funds must also include or incorporate the proposed ARC or DRA scopes of work in their Integrated Project Concept.

3. Building Community and Regional Capacity (20 Points)

The applicant must demonstrate how they will apply USDA funds to improve the recipients' capacity, through a program of financial and technical assistance, as it related to the RCDI purposes. Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. The proposed program of financial and technical assistance provided, its delivery, and the measurability of its effectiveness will determine the merit of the application.

Capacity-building financial and technical assistance may include: Training to conduct community development programs, e.g., the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, e.g., assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, e.g., hiring a person at intermediary or recipient level to provide technical assistance to recipients.

The narrative response must:

a. Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance;

b. Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively;

c. Identify which RCDI purpose areas will be addressed with this assistance: Housing, community facilities, or community and economic development.

d. Demonstrate that the applicant has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas. Provide the name, contact information, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years:

○ Nonprofit organizations in the rural areas.

○ Low-income communities in rural areas (also include the type of entity, e.g., city government, town council or village board).

○ Federally recognized tribes or any other culturally diverse organizations.

4. Linking to Regional Clusters and Opportunities (20 Points)

The applicant must demonstrate how they will utilize EDA funds to link rural communities to markets, networks, industry clusters, and other regional opportunities and assets to improve the rural regions' competitiveness, repatriate U.S. jobs, foster job creation, retain existing jobs, support innovation, and promote private investment in the regional economy.

The narrative response must:

a. Describe the proposed activity to be implemented by the applicant and how it will link rural regions to the identified clusters and opportunities;

b. Explain how the proposed activity will address an identified need or opportunity to meet activity objectives,

[1] Regions can be non-contiguous (e.g., cluster ''anchor'' in one region with networked assets such as research partnerships with federal labs or supply chain linkages in other regions).

including supporting innovation and job growth;

c. Explain how the activity will implement goals, objectives or actions identified in a Comprehensive Economic Development Strategy or Regional Strategic Plan which addresses priorities specified at a regional scale;

d. Note the entity or entities that will oversee activity development and implementation and demonstrate that these entities have experience in the proposed activities and achieved measurable results in the areas of regional development and cluster development; and

e. Demonstrate financial resources to ensure institutional capacity to support the projects in the long-term, without significant future Federal funding.

5. Project Impact and Measurable Outcomes (20 Points)

Applications funded under this competitive solicitation are expected to identify clear goals and demonstrate potential for substantial benefits. While each funding source will identify performance metrics that applicants must track and report, applicants are encouraged to identify additional metrics that can be used to assess the impact of requested funding. Applicants must also describe mechanisms for tracking and reporting on these outcomes.

Applicants are required to submit an Integrated Work Plan (IWP) as part of their submission package. The IWP is designed to document the key activities that will be supported by Funding Agency, the anticipated dates these activities will be completed, and the anticipated core impacts that each activity is expected to yield in the short-term (during the 3 year project period) and the long-term (within three years after project end date). The impacts set forth in the IWP should be forecasts based on each activity; grantees will be required to report on progress towards reaching these forecasts throughout the life of the project.

Applicants should utilize the Excel-based IWP template available on the Rural Jobs Accelerator Web site, *http://www.rurdev.usda.gov/RuralJobsAccelerator.* Each measure should be broken down by funding source (i.e. EDA, USDA, ARC, and DRA), clearly linking proposed funding to specific outcomes. A copy of the IWP template is included as Attachment A to this FFO for reference (please note how activities, expected deadlines, and anticipated impacts are separately reported for each funding agency).

All applicants are required to utilize and include the following measures in their IWP to report on anticipated project impacts:

- Jobs Created during the Project Period—Applicants should include an estimate of the number of jobs that will be created during the three year project period *as a direct result of funding from one of the Funding Partners.* Anticipated jobs created should be reported as full time equivalent (FTE) or equivalents which are annualized for the entire project period.
- Jobs Retained during the Project Period—Applicants should include an estimate of the number of jobs expected to be retained during the three year project period *as a direct result of funding from each of the Funding Partners.* Anticipated jobs retained should be reported as FTEs or equivalents which are annualized for the entire project period.
- Private Investment Leverage during the Project Period—Applicants should include an estimate of the amount of private investment that will be leveraged during the three year project period *as a direct result of funding from one of the Funding Partners.*
- Businesses Assisted during the Project Period—Applicants should include an estimate of the number of businesses expected to be assisted during the three year project period *as a direct result of funding from one of the Funding Partners.*
- Engagement and Collaboration of Regional Organizations—Applicants should include an estimate of the number and types of organizations within the region expected to be engaged in the project during the three year project period.
- Long-term Jobs Created—Applicants should include an estimate of the number of jobs expected to be created within three years after project is completed (within six years from project inception) that result from funding from one of the Funding Partners. Anticipated long-term jobs created should be reported as FTEs or equivalents which are annualized for the entire six year period since the original grant award.
- Long-term Jobs Retained—Applicants should include an estimate of the number of jobs expected to be retained within three years after project is completed (within six years from project inception) that result from funding from one of the Funding Partners. Anticipated long-term jobs retained should be reported as FTEs or equivalents which are annualized for the entire six year period since the original grant award.
- Long-term Private Investment Leveraged—Applicants should include an estimate of the amount of private investment that will be leveraged within three years after project is completed (within six years from project inception) that result from funding from one of the Funding Partners. Funds reported should reflect the cumulative amount of private investment anticipated to be leveraged for the entire six year period since the original grant award.
- Long-term Businesses Assisted—Applicants should include an estimate of the number of businesses that will be assisted three years after project is completed (within six years from project inception) that result from funding from one of the Funding Partners.

Additionally, applicants are encouraged to provide other self-identified measures within the IWP which are specific to their proposed project activities. Such measures should align with the objectives of the individual project, as well as the overall Rural Jobs Accelerator initiative. For example, applicants may consider the following types of measures:

- Cooperation:
  - Number of organizations actively engaged in the cluster (and new ones added to the network)
  - Number of symposia held by the cluster
  - Number of further cooperative agreements as a result of the supported activity
- Innovation:
  - Number of new projects developed
  - Number of education and training activities related to innovation
  - Number of workshops and seminars related to innovation
- Workforce Skills:
  - Percentage of employees for which training was provided by this project
  - Average number of qualified applicants per job
  - Number of recruitment events at universities and community colleges
- Business Creation:
  - Number of newly formed businesses as a result of the supported activity
  - Number of jobs relocated from outside the U.S. to the region
- Housing Support:
  - Change in available housing units in supported communities
- Access to Capital:
  - Amount and number of new equity investments in cluster firms
  - Amount and number of new loans to cluster firms
- Market Development:
  - Dollar increase in exports resulting from the project activities

Applicants should note that the submitted IWP and associated information will form the basis by

which selected projects will be monitored. Grantees will be required to submit regular reports to the Funding Partners which document project progress against the scopes of work, deadlines, and short-term measures outlined in the original IWP. Reporting requirements will be outlined in the terms and conditions of the grant award.

Applicant teams requesting funding from ARC or DRA should include measures for those funding agencies in the IWP.

Evaluation criterion for this section will be based on the following:

a. Includes specific and quantifiable measures of project impacts that benefit the regional economy and will support the cluster;

b. Presents measures that are relevant to the proposed scopes of work and objectives;

c. Presents measures that will help monitor progress towards meeting the objectivities of the Rural Jobs Accelerator; and

d. Presents practical and clear tracking and reporting mechanisms.

6. Soundness of Approach (15 Points)

The overall proposal will be considered under this criterion. Applicants must list the page numbers in the application that address these factors.

The narrative response must demonstrate:

a. The ability to implement the proposed scopes of work based on prior accomplishments has been demonstrated for both Building Community and Regional Capacity and Regional Linkages scopes of work.

b. The proposed technical assistance program and regional linkages program is clearly stated and the application has defined how this proposal will be implemented. The plan for implementation is viable for both Building Community and Regional Capacity and Regional Linkages scopes of work.

c. Cost effectiveness will be evaluated based on the budget in the application for both Building Community and Regional Capacity and Regional Linkages scopes of work. For the Building Community and Regional Capacity activity the proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level.

d. The proposal fits the objectives for which applications were invited.

Application and Eligibility Review

Each Funding Agency will conduct an initial application and eligibility review of applications submitted and received by the deadline Each Funding Agency will independently review applications to ensure compliance with its agency-specific requirements. This review will determine if the application satisfies: (a) All requirements for a complete submission (including all required forms, documentation of matching funds, and addenda to the Project Description); (b) agency-specific eligibility criteria; and (c) agency-specific requirements for permitted activities. Applications found to be responsive will be forwarded for merit review.

Merit Review Panels

Upon completion of the application and eligibility review, Merit Review Panels comprised of Federal employees from the Funding Agencies, who will review and evaluate applications deemed responsive. Merit Review Panels may also include experts from Support Agencies. The Merit Review Panels will evaluate the applications against the evaluation criteria enumerated. The Merit review Panels will award up to 100 points to each application, rank the applications by consensus, and forward the evaluation findings and rankings to the Policy Review and Recommendation Committee.

Policy Review and Recommendation Committee

Upon completion of the merit review, the Policy Review and Recommendation Committee composed of senior officials from the Primary Funding Agencies will review the top 30 ranked applications, or approximately 5 per EDA Region. This Committee will evaluate the applications based on how well they meet the purposes of the Rural Job Accelerator initiative. They may consider such factors as, geographic balance in distribution of program funds, balance of diverse project types in the distribution of program funds, balanced funding for a diverse group of organizations including smaller and rural organizations that may form part of a broader consortium to serve diverse populations, the availability of funds, the applicant's performance under previous Federal financial assistance awards, and the extent to which the applicant integrates and leverages multiple Federal resources to effectively support rural region and cluster development. For projects based within regions serviced by the Delta Regional Authority and the Appalachian Regional Commission, the Policy Review and Recommendation Committee will give additional consideration to projects that fully integrate and leverage the resources provided by these agencies. Based on these combined factors, the Policy Review and Recommendation Committee will recommend approximately twenty applications to the agency principals and selecting officials.

Agency Principals and Selecting Officials

Agency principals and selecting officials will work together to make the final award determinations. The agency principals for the Primary Funding agencies include the Assistant Secretary of Commerce for Economic Development and the Undersecretary for Rural Development of the U.S. Department of Agriculture.

Selecting officials are authorized to finalize funding decisions and make awards. The USDA selecting official will be the Tammye Trevino, Administrator for Rural Housing Service.

Selecting officials may follow the recommendations of the Policy Review and Recommendation Committee, or may consider additional information in making their selections. If a selecting official makes a selection of an application that is not included in the set of applications recommended by the Policy Review and Recommendation Committee, the selecting official must document the rationale for the decision in writing.

Unsuccessful Competition

On occasion, competitive solicitations or competitive panels produce less than optimum results, such as a competition resulting in the receipt of no applications, a competition resulting in the receipt of only unresponsive or unqualified applications, or too few highly rated applications. In the event that these conditions arise, the Funding Agencies shall take the most time- and cost-effective approach available that is in the best interest of the Federal government. This includes (1) Re-competition, (2) re-paneling, or (3) formal negotiation.

Transparency

The agencies and bureaus involved in this initiative are committed to conducting a transparent grant award process and publicizing information about investment decisions. Applicants are advised that their respective applications and information related to its review and evaluation may be shared publicly as permitted by law. In addition, information about the grant award progress and related results may also be made publicly available. USDA may release a list of Rural Jobs

Accelerator applicants including organization, project name, city and state.

Additional information regarding the ''Rural Jobs and Innovation Accelerator Challenge'' can be found at *http://www.rurdev.usda.gov/RuralJobsAccelerator.html.*

Submission of Applications

An applicant may obtain the appropriate application package electronically at Grants.gov. All components of the appropriate application package may be accessed and downloaded (in a screen-fillable format) at *www.grants.gov/applicants/apply_for_grants.jsp.* The preferred electronic file format for attachments is PDF; however, electronic files in Microsoft Word, WordPerfect, or Microsoft Excel will also be accepted. The applicant must complete the Grants.gov registration process to submit applications through Grants.gov; however, please note that registration is not required for an applicant to access, view, or download the application packages. Alternatively, an applicant may request a paper application package by contacting the USDA Rural Development State Office listed in this Notice.

Electronic Submission

The Primary Funding Agencies encourage electronic submission of applications through Grants.gov. Applicants should not wait until the application closing date to begin the registration and submission process. In order to submit an application through Grants.gov, applicants first must register for a Grants.gov user id and password. Note that this registration process can take between three to five business days or as long as two weeks if all steps are not completed in a timely manner (*see http://www.grants.gov/applicants/get_registered.jsp*). Applicants should register as organizations, not as individuals. Please note that organizations already registered with Grants.gov do not need to re-register; however, all registered organizations must keep their Central Contractor Registration (CCR) database registration up-to-date and must designate the person submitting the application on behalf of the organization as an Authorized Organizational Representative (AOR). See the following discussion of AOR requirements in this section.

An application that is not validated and time-stamped by Grants.gov by the applicable deadline will not be processed.

Applicants need to be aware that once an application is submitted, it undergoes a validation process through Grants.gov in which the application may be accepted or rejected by the system. The validation process may take 24 to 48 hours to complete. Applications that contain errors will be rejected by Grants.gov and will not be forwarded to the Funding Agencies for review. The applicant must correct the error before Grants.gov will accept and validate the application. The Funding Agencies will not accept late applications that were rejected by Grants.gov due to errors. Accordingly, the Funding Agencies strongly suggest that applicants submit their applications at least *four to five days before the application deadline* to allow the application to be accepted and validated by Grants.gov and to allow time for errors to be corrected. The Funding Agencies will consider the time-stamp on the validation from Grants.gov as the official submission time.

AOR requirement. Applicants must register as organizations, not as individuals, and must register at least one Authorized Organizational Representative (AOR) for your organization. AORs registered at Grants.gov are the only officials with the authority to submit applications via Grants.gov. If the application is submitted to Grants.gov by anyone other than your organization's AOR, it will be rejected by Grants.gov and cannot be considered. **Please note:** An Applicant Team must submit its application package using the registered AOR for the organization applying for EDA funds.

The Funding Agencies will not accept late submissions caused by Grants.gov registration issues, including CCR and AOR issues.

The following instructions provide step-by-step instructions for accessing, completing, and submitting an application via Grants.gov. Save the application package at regular intervals to avoid losing work.

a. Navigate to the URL *www.grants.gov.*

b. Select ''Apply for Grants'' from the left-hand menu at Grants.gov.

c. Ensure that you have installed a Grants.gov compatible version of Adobe Acrobat Reader on your computer. Incompatible versions of Adobe Acrobat Reader may cause errors. Please see compatible versions of Adobe Reader at *http://grants.gov/help/download_software.jsp#adobe811.*

d. Select the link ''Download a Grant Application'' package.

e. Enter [[''Rural Jobs Accelerator 2012'']] as the Funding Opportunity Number and click on ''Download Package.''

f. Click on the ''Download'' link.

g. Click on ''Download Application Package.''

h. Save the application package to your computer or network drive. Note that the application package file can be shared among multiple users; however, each user must have a Grants.gov compatible version of Adobe Acrobat Reader installed in order to save changes to the application package.

i. Click on each of the documents in the ''Mandatory Documents'' box and, after selecting each one, click on the arrow to move these into the ''Mandatory Documents for Submission'' box.

j. In the ''Optional Documents'' box, click on Form SF–LLL if non-Federal funds have been or are planned to be used for lobbying in connection with a covered federal transaction, including this competitive solicitation and then move this to the ''Optional Documents for Submission'' box. If you will submit your application via Grants.gov, also click on ''Attachments'' and move this to the ''Optional Documents for Submission'' box. The Attachments Form also allows applicants to attach the Project Description documents, forms, and other documents required as addenda under this competition. Note that if the applicant is not submitting electronically, the Project Description documents and other required forms and addenda all must be printed and submitted in hard copy via a CD or paper.

k. The application package should pre-populate with all selected forms embedded. Complete all mandatory fields (highlighted in yellow) on the forms. Note that mandatory fields will vary based on the type of applicant and the type of assistance sought. On Form CD–511, type ''not awarded yet'' in the ''project number'' field.

l. Attach the Project Description documents and other required forms and addenda. *Note, the mandatory USDA forms can be found on the ''Full Announcement'' tab, and must be included as attachments to the application.* The preferred electronic file format for the required attachments is PDF; however, the Funding Agencies will accept electronic files in Microsoft Word, WordPerfect, or Excel formats.

m. When all mandatory fields have been completed, scroll to the top and click on ''Check Package for Errors.''

n. Click ''Save.''

o. Click ''Save and Submit.'' At this point, *the registered AOR for the EDA applicant* must be connected to the Internet and will be prompted to enter

the appropriate Grants.gov user id and password in order to electronically submit the application.

Verify submission was successful. Applicants should save and print written proof of an electronic submission made at Grants.gov. Applicants can expect to receive multiple emails regarding the status of their submission. Since email communication can be unreliable, applicants must proactively check on the status of their application if they do not receive email notifications within a day of submission. The first email should confirm receipt of the application, and the second should indicate that the application has either been successfully validated by the system before transmission to the Funding Agencies or has been rejected due to errors. **Please note:** That it can take up to two business days after Grants.gov receives an application for applicants to receive email notification of an error. An applicant will receive a third email once EDA has retrieved an application from Grants.gov.

Applicants should refrain from submitting multiple copies of the same application package. Applicants should save and print both the submitted application confirmation screen provided on Grants.gov, and the confirmation email sent by Grants.gov when the application has been successfully received and validated in the system. If an applicant receives an email from Grants.gov indicating that the application was received and subsequently validated, but does not receive an email from Grants.gov indicating that EDA has retrieved the application package within 72 hours of that email, the applicant may contact the appropriate person listed in Appendix F. of this FFO to inquire if EDA is in receipt of the submission.

It is the applicant's responsibility to verify that its submission was received and validated successfully at Grants.gov. To see the date and time your application was received, log on to Grants.gov and click on the ''Track My Application'' link from the left-hand menu. For a successful submission, the application must be received and validated by Grants.gov, and an agency tracking number assigned. If your application has a status of ''Received'' it is awaiting validation by Grants.gov. Once validation is complete, the status will change to ''Validated'' or ''Rejected with Errors.'' If the status is ''Rejected with Errors,'' your application has not been received successfully. Some of the reasons Grants.gov may reject an application can be found at *http://www.grants.gov/applicants/submit_application_faqs.jsp.*

Systems issues. If you experience a Grants.gov ''systems issue'' (technical problems or glitches with the Grants.gov Web site) that you believe threatens your ability to complete a submission, please (a) print any error message received and (b) call the Grants.gov Contact Center at 1–800–518–4726 for immediate assistance. Ensure that you obtain a case number regarding your communications with Grants.gov. **Please note:** Problems with an applicant organization's computer system or equipment are not considered ''systems issues.'' Similarly, an applicant's failure to (a) complete the registration, (b) ensure that a registered AOR with the EDA applicant submits the application, or (c) notice receipt of an email message from Grants.gov, are not considered systems issues. A Grants.gov ''systems issue'' is an issue occurring in connection with the operations of Grants.gov itself, such as the temporary loss of service by Grants.gov due to an unexpected volume of traffic or failure of information technology systems, both of which are highly unlikely.

Applicants should access the following link for assistance in navigating Grants.gov and for a list of useful resources: *http://www.grants.gov/help/help.jsp.* Also, the following link lists frequently asked questions (FAQs): *www.grants.gov/applicants/submit_application_faqs.jsp.* If you do not find an answer to your question under the ''Applicant FAQs,'' try consulting the ''Applicant User Guide'' or contacting *Grants.gov* via email at *support@grants.gov* or telephone at 1–800–518–4726. The Grants.gov Contact Center is open 24 hours a day, seven days a week.

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/rhs/rcdi.* Application information for electronic submissions may be found at *http://www.grants.gov.*

Applicants may also request paper application packages from the Rural Development office in their state.

Applicants have the option of submitting their application on a CD or a completed paper application. Proposals submitted via CD or paper must be received at or before 5 p.m. Eastern time on May 9, 2012 at the following address: Attn: Terry D'Addio, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 6015–S, Washington, DC 20250.

Proposals shall be submitted in sealed envelopes or packages with a cover page labeled with ''Fiscal Year (FY) 2012 Rural Jobs Accelerator,'' the project name; and the organizations included in the application. One original and two copies of the CD or paper submission must be delivered via postal mail or courier service with a postmark or courier service's time and date stamp on or before the deadline. USDA mail security measures may delay receipt of United States Postal Service mail for up to three weeks. Therefore, applicants that submit via paper or CD are strongly advised to use carriers with guaranteed delivery services and that provide confirmation that indicates the application was delivered by the deadline.

CDs must be labeled with the project name and verified as virus free. The Funding Agencies will not review any proposals submitted on CDs on which viruses are detected.

The CD or paper submission must include all the required forms, Project Description documents and addenda for all applicants proposing scopes of work for the joint project (*see* section V.C. of this FFO for application content requirements).

The applicant may download the appropriate application package in a screen-fillable format from *http://www.grants.gov/applicants/apply_for_grants.jsp,* save it electronically, and upload it onto the CD.

If your application is received after the deadline, it will not be reviewed.

Selection of an organization under this FFO does not constitute approval of the proposed project as submitted. Before any funds are awarded, the Funding Agencies may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support implementation of the award. The amount of available funding may require the final award amount to be less than that requested by the applicant. If the negotiations do not result in a mutually acceptable submission, the Grants Officer for the applicable Funding Agency reserves the right to terminate the negotiations and decline to fund the application. The Funding Agencies reserve the right not to fund any application received under this competitive solicitation.

Unsuccessful Competition

On occasion, competitive solicitations or competitive panels produce less than optimum results, such as a competition resulting in the receipt of no

applications, a competition resulting in the receipt of only unresponsive or unqualified applications, or too few highly rated applications. In the event that these conditions arise, the Funding Agencies shall take the most time- and cost-effective approach available that is in the best interest of the Federal government. This includes (1) Re-competition, (2) re-paneling, or (3) formal negotiation.

Part VIII—Award Administration Information

A. General Information

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice.

B. Award Notice

Applicants will be notified of selection by letter. Unsuccessful applicants will receive notification including appeal rights by mail. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award obligation date, if requested by the Agency. The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds.''

C. Administrative and National Policy Requirements

Grantees will be required to do the following:

1. Execute a Rural Community Development Initiative Grant Agreement.
2. Execute Form RD 1940–1.
3. Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.
4. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.
5. Maintain a financial management system that is acceptable to the Agency.
6. Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.
7. Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.
8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.
9. Provide a final project performance report.
10. Identify and report any association or relationship with Rural Development employees.
11. The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1968, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12898, Executive Order 12250 and RD Instruction 7 CFR part 1901–E.
12. The grantee must comply with policies, guidance, and requirements as described in the following applicable OMB Circulars and Code of Federal Regulations:

a. OMB Circular A–87 (Cost Principles for State, Local, and Indian Tribal Government);
b. OMB Circular A–122 (Cost Principles for Non-profit Organizations);
c. OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);
d. 7 CFR part 3015 (Uniform Federal Assistance Regulations);
e. 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);
f. 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement);
g. 7 CFR part 3019 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations); and
h. 7 CFR part 3052 (Audits of States, Local Governments, and Non-Profit Organizations).

Additional Requirements

No Obligation for Future Funding

If an applicant is awarded funding under this Notice, USDA is not under any obligation to provide any additional future funding in connection with that award or to make future award(s). Amendment or renewal of an award to increase funding or to extend the period of performance is at the discretion of USDA.

Freedom of Information Act Disclosure

The Freedom of Information Act (5 U.S.C. 552) (FOIA) and the USDA's implementing regulations at 7 CFR part 1, subpart A set forth the rules and procedures to make requested material, information and records publicly available. Unless prohibited by law and to the extent permitted under FOIA, contents of applications submitted by applicants may be released in response to FOIA requests.

Past Performance and Non-Compliance With Award Provisions

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. Failure to comply with any or all of the provisions of an award may have a negative impact on future funding by the USDA and may be considered grounds for any or all of the following actions: (1) Establishing an account receivable; (2) withholding payments to the recipient under any USDA award(s); (3) changing the method of payment from advance to reimbursement only; (4) imposing other special award conditions; (5) suspending any active USDA award(s); and (6) terminating any active USDA award(s).

Part IX—Agency Contact

Contact the Rural Development office in the state where the applicant's headquarters is located. A list of Rural Development State Offices is included in this Notice.

Part X—Nondiscrimination 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, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or 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, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to

USDA, Director, Office of Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider, employer, and lender.

Part XI—Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as part of the selection process are appealable pursuant to 7 CFR part 11. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse decision.

Grant Amount Determination

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Rural Development State Office Contacts

Note: Telephone numbers listed are not toll-free.

Alabama State Office
Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400, TDD (334) 279–3495, Allen Bowen.

Alaska State Office
800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7778, TDD (907) 761–8905, Merlaine Kruse.

Arizona State Office
230 North 1st Avenue, Suite 206, Phoenix, AZ 85003, (602) 280–8747, TDD (602) 280–8705, Leonard Gradillas.

Arkansas State Office
700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3265, TDD (501) 301–3200, Stephen Lagasse.

California State Office
430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5810, TDD (530) 792–5848, Janice Waddell.

Colorado State Office
Denver Federal Center, Building 56, Room 2300, P.O. Box 25426*, Denver, CO 80225–0426, (720) 544–2927, TDD (720) 544–2976, Jerry Tamlin.

Connecticut
Served by Massachusetts State Office.

Delaware and Maryland State Office
1221 College Park Dr., Suite 200, Dover, DE 19904–8713, (302) 857–3627, TDD (302) 857–3585, Denise MacLeish.

Florida & Virgin Islands State Office
4440 NW. 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3485, TDD (352) 338–3499, Michael Langston.

Georgia State Office
Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2171, TDD (706) 546–2034, Jerry M. Thomas.

Guam
Served by Hawaii State Office.

Hawaii, Guam, & Western Pacific Territories State Office
Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8317, TDD (808) 933–8321, Alton Kimura.

Idaho State Office
9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5617, TDD (208) 378–5600, David A. Flesher.

Illinois State Office
2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6209, TDD (217) 403–6240, Michael Wallace.

Indiana State Office
5975 Lakeside Boulevard, Indianapolis, IN 46278–1996, (317) 290–3100 (ext. 407), TDD (317) 290–3343, Rochelle Owen.

Iowa State Office
873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4459, TDD (515) 284–4858, Karla Peiffer.

Kansas State Office
1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2728, TDD (785) 271–2767, Kent Evans.

Kentucky State Office
771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7415, TDD (859) 224–7300, Vernon Brown.

Louisiana State Office
3727 Government Street, Alexandria, LA 71302, (318) 473–7965, TDD (318) 473–7920, Richard Hoffpauir.

Maine State Office
967 Illinois Ave., Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9124, TDD (207) 942–7331, Ron Lambert.

Maryland
Served by Delaware State Office.

Massachusetts, Connecticut, & Rhode Island State Office
451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300, TDD (413) 253–7068, Daniel R. Beaudette.

Michigan State Office
3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5208, TDD (517) 337–6795, Christine M. Maxwell.

Minnesota State Office
410 Farm Credit Service Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7800, TDD (651) 602–3799, Terry Louwagie.

Mississippi State Office
Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4326, TDD (601) 965–5850, Darnella Smith-Murray.

Missouri State Office
601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976, TDD (573) 876–9480, Clark Thomas.

Montana State Office
2229 Boot Hill Court, Bozeman, MT 59715, (406) 585–2520, TDD (406) 585–2545, Steve Troendle.

Nebraska State Office
Federal Building, Room 152, 100 Centennial Mall N., Lincoln, NE 68508, (402) 437–5559, TDD (402) 437–5551, Denise Brosius-Meeks.

Nevada State Office
1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 113), TDD 7–1–1, Cheryl Couch.

New Hampshire
Served by Vermont State Office.

New Jersey State Office
8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7753, Kenneth Drewes.

New Mexico State Office
6200 Jefferson St. NE., Room 255, Albuquerque, NM 87109, (505) 761–4954, TDD (505) 761–4938, Martha Torrez.

New York State Office
The Galleries of Syracuse, 441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400, TDD (315) 477–6447, Gail Giannotta.

North Carolina State Office
4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2063, TDD (919) 873–2003, William A. Hobbs.

North Dakota State Office
Federal Building, Room 208, 220 East Rosser Ave., P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2029, TDD (701) 530–2113, Mark Wax.

Ohio State Office
Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2391, TDD (614) 255–2554, David M. Douglas.

Oklahoma State Office
100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1061, TDD (405) 742–1007, Jerry Efurd.

Oregon State Office
1201 NE Lloyd Blvd., Suite 801, Portland, OR 97232, (503) 414–3362, TDD (503) 414–3387, Sam Goldstein.

Pennsylvania State Office
One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2281, TDD (717) 237–2281, Susanne Gantz.

Puerto Rico State Office
654 Muñoz Rivera Avenue, Suite 601, San Juan, PR 00918–6106, (787) 766–5095, TDD (787) 766–5332, Nereida Rodriguez.

Rhode Island
Served by Massachusetts State Office.

South Carolina State Office
Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3425, TDD (803) 765–5697, Jesse T. Risher.

South Dakota State Office
Federal Building, Room 210, 200 Fourth Street SW., Huron, SD 57350, (605) 352–1145, TDD (605) 352–1147, Doug Roehl.

Tennessee State Office
Suite 300, 3322 West End Avenue, Nashville, TN 37203–1071, (615) 783–1345, TDD (615) 783–1397, Keith Head.

Texas State Office
Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9787, TDD (254) 742–9749, Michael B. Canales.
Utah State Office
Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, P.O. Box 11350, Salt Lake City, UT 84138, (801) 524–4326, TDD (801) 524–3309, Debra Meyer.
Vermont State Office
City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6033, TDD (802) 223–6365, Rhonda Shippee.
Virgin Islands
Served by Florida State Office.
Virginia State Office
Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1577, TDD (804) 287–1753, Kent Ware.
Washington State Office
1835 Black Lake Boulevard, SW., Suite B, Olympia, WA 98512–5715, (360) 704–7737, Peter McMillin.
Western Pacific Territories
Served by Hawaii State Office.
West Virginia State Office
1550 Earl Core Road, Suite 101, Morgantown, WV 26505, (304) 284–4886, TDD (304) 284–4836, Janna Lowery.
Wisconsin State Office
4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7615, TDD (715) 345–7610, Brian Deaner.
Wyoming State Office
Federal Building, Room 1005, 100 East B Street, P.O. Box 11005, Casper, WY 82602–5006, (307) 233–6700, TDD (307) 233–6719, Alana Cannon.
Washington, DC
Stop 0787, Room 0175, 1400 Independence Avenue SW., Washington, DC 20250–0787, (202) 205–9685, Shirley J. Stevenson.

Dated: March 14, 2012.

Cristina Chiappe,

Acting Administrator, Rural Housing Service.

[FR Doc. 2012–6611 Filed 3–20–12; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire 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 planning meeting of the New Hampshire Advisory Committee to the Commission will convene at 12:30 p.m. (EDT) on Wednesday, April 4, 2012, at the University of New Hampshire, 400 Commercial Street, Room 255, Manchester, New Hampshire. The purpose of the planning meeting is to consider next steps after their January briefing.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Friday, May 4, 2012. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 624 9th Street NW., Suite 740, Washington, DC 20425, faxed to (202) 376–7548, or emailed to *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Persons needing accessibility services should contact the Eastern 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 Eastern 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 Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, March 16, 2012.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2012–6774 Filed 3–20–12; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Request for Nominations of Members To Serve on the Census Bureau National Advisory Committee on Racial, Ethnic, and Other Populations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of request for nominations.

SUMMARY: The Bureau of the Census (Census Bureau) is requesting nominations of individuals and organizations to serve on the Census Bureau National Advisory Committee on Racial, Ethnic, and Other Populations. The Census Bureau will consider nominations received in response to this notice, as well as from other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by April 20, 2012.

ADDRESSES: Please submit nominations to Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233. Nominations also may be submitted via fax at 301–763–8609, or by email to *jeri.green@census.gov.*

FOR FURTHER INFORMATION CONTACT: Jeri Green, Chief, Office of External Engagement, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–2070.

SUPPLEMENTARY INFORMATION: The Census Bureau National Advisory Committee on Racial, Ethnic, and Other Populations (''Advisory Committee'') was established in accordance with the Federal Advisory Committee Act (Title 5, United States Code (U.S.C.), Appendix 2). The following provides information about the committee, membership, and the nomination process.

Objectives and Duties

1. The Advisory Committee advises the Director of the U.S. Census Bureau on the full range of economic, housing, demographic, socioeconomic, linguistic, technological, methodological, geographic, behavioral, and operational variables affecting the cost, accuracy, and implementation of Census Bureau programs and surveys, including the decennial census.

2. The Advisory Committee advises the Census Bureau on the identification of new strategies for improved census operations, survey and data collection methods, including identifying cost efficient ways to increase census participation.

3. The Advisory Committee addresses census policies, research and methodology, tests, operations, communications/messaging, and other activities to ascertain needs and best practices to improve censuses, surveys, operations, and programs. This expertise is necessary to ensure that the Census Bureau continues to provide relevant and timely statistics used by federal, state, and local governments as well as business and industry in an increasingly technologically-oriented society.

4. The Advisory Committee functions solely as an advisory body under the Federal Advisory Committee Act.

5. The Advisory Committee reports to the Director.

Membership

1. The Advisory Committee will consist of up to 32 members who serve at the discretion of the Director.

2. Generally, members will serve for a three-year term. All members will be reevaluated at the conclusion of each term with the prospect of renewal, pending advisory committee needs. Active attendance and participation in meetings and activities (e.g., conference calls and assignments) will be factors considered when determining term renewal or membership continuance. Generally, members may be appointed for a second three-year term at the discretion of the Director.

3. Members will serve as either ''Special Government Employees'' (SGEs) or ''Representatives.'' SGEs will be subject to the ethical standards applicable to SGEs. Members will be individually advised of the capacity in which they will serve through their appointment letters.

4. Members are selected in accordance with applicable Department of Commerce guidelines. The Advisory Committee aims to have a balanced representation, considering such factors as race, ethnicity, geography, gender, technical expertise, community involvement, and knowledge of census procedures and activities. The Advisory Committee aims to include members from diverse backgrounds, including state and local governments, academia, research, national and community-based organizations, and the private sector.

5. No employee of the federal government can serve as a member of the Advisory Committee. Meeting attendance and active participation in the activities of the Advisory Committee are essential for sustained Advisory Committee membership as well as submission of required annual financial disclosure statements by those who serve as Special Government Employees.

6. Membership is open to persons who are not seated on other Census Bureau stakeholder entities (i.e., State Data Centers, Census Information Centers, Federal-State Cooperative on Populations Estimates program, other Census Advisory Committees, etc.).

Miscellaneous

1. Members of the Advisory Committee serve without compensation, but receive reimbursement for committee-related travel and lodging expenses.

2. The Advisory Committee meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Census Director or Designated Federal Official. All Advisory Committee meetings are open to the public in accordance with the Federal Advisory Committee Act.

Nomination Information

1. Nominations are requested as described above.

2. Nominees must have expertise and knowledge of the cultural patterns and issues and/or data needs of minority populations and sub-culture groups, such as hidden households, rural populations, students and youth, etc. Such knowledge and expertise are needed to provide advice and recommendations to the Census Bureau on how best to enumerate minority populations and sub-culture groups.

3. Individuals, groups, and/or organizations may submit nominations on behalf of individual candidates. A summary of the candidate's qualifications (resumé or curriculum vitae) *must* be included along with the nomination letter. Nominees must be able to actively participate in the tasks of the Advisory Committee, including, but not limited to, regular meeting attendance, committee meeting discussant responsibilities, review of materials, as well as participation in conference calls, webinars, working groups, and/or special committee activities.

4. The Department of Commerce is committed to equal opportunity in the workplace and seeks diverse Advisory Committee membership.

Dated: March 13, 2012.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. 2012–6798 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 13–2012]

Foreign-Trade Zone 93—Raleigh/Durham, NC; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Triangle J Council of Governments, grantee of FTZ 93, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170–1173, 1/12/09 (correction 74 FR 3987, 1/22/09); 75 FR 71069–71070, 11/22/10). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 7, 2012.

FTZ 93 was approved by the Board on November 4, 1983 (Board Order 233, 48 FR 52108, 11/16/83) and expanded on December 30, 2003 (Board Order 1314, 69 FR 1964–1965, 1/13/04).

The current zone project includes the following sites: *Site 1* (121 acres)—Imperial Center Business Park, I–40 & New Page Road, Durham (Durham County); *Site 1A* (85 acres)—World Trade Park, 10900 World Trade Blvd., Raleigh (Wake and Durham Counties); *Site 2* (6 acres)—Dudson China USA, 5604 Departure Drive, Raleigh (Wake County); and *Site 3* (240 acres)—Holly Springs Business Park, 100 Green Oaks Parkway, Holly Springs (Wake County).

The grantee's proposed service area under the ASF would be Chatham, Durham, Franklin, Granville, Harnett, Johnston, Lee, Moore, Orange, Person, Vance, Wake, and Warren Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within/adjacent to the Raleigh-Durham Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project under the ASF as follows: renumber Site 1 as Site 4; renumber Site 1A as Site 1; Sites 1, 3, and 4 would become magnet sites; and, Site 2 would become a usage-driven site. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that magnet Site 1 (as renumbered) would be so exempted. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 93's authorized subzones.

In accordance with the Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original

and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 21, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 4, 2012.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: March 7, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–6088 Filed 3–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1820]

Approval for Expansion of Manufacturing Authority, Foreign-Trade Subzone 78A, Nissan North America, Inc. (Electric Passenger Vehicles), Smyrna and Decherd, TN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Nissan North America, Inc. (NNA), operator of Subzone 78A, at the NNA manufacturing facilities in Smyrna and Decherd, Tennessee, has requested an expansion of the scope of manufacturing authority to include new finished products (FTZ Docket 39–2011, filed 6–7–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 34203, 6–13–2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand scope of FTZ manufacturing authority to include new finished products, as described in the application and **Federal Register** notice, is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 8th day of March 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–6819 Filed 3–20–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1819]

Grant of Authority for Subzone Status Piramal Critical Care, Inc., (Inhalation Anesthetics), Bethlehem, PA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment* * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, Lehigh Valley Economic Development Corporation, grantee of Foreign-Trade Zone 272, has made application to the Board for authority to establish a special-purpose subzone at the inhalation anesthetic manufacturing and distribution facilities of Piramal Critical Care, Inc., located in Bethlehem, Pennsylvania (FTZ Docket 52–2010, filed August 31, 2010);

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 54594–54595, 9/8/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing and distribution of inhalation anesthetics at the facilities of Piramal Critical Care, Inc., located in Bethlehem, Pennsylvania (Subzone 272B), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 8th day of March 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–6818 Filed 3–20–12; 8:45 am]

BILLING CODE; P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801]

Ball Bearings and Parts Thereof from France, Germany, and Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 21, 2012.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, the Department of Commerce (the Department) initiated administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom for the period May 1,

2010, through April 30, 2011.[1] On January 18, 2012, we published a notice in the **Federal Register** extending the deadline for the preliminary results to March 31, 2012.[2]

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested. If it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of these reviews within the original time limit because there are concurrent cases before Office 1 (the office responsible for the AFB orders) with numerous complex issues. Furthermore, these concurrent cases have fully extended deadlines that are proximate to the current deadline in these reviews making it impracticable for Office 1 to complete these ball-bearings reviews within the current deadline. For example, Office 1 has the antidumping duty investigations on certain steel nails from the United Arab Emirates and certain stilbenic optical brightening agents from Taiwan, the countervailing duty investigations on circular welded carbon-quality steel pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam, and in the antidumping duty administrative review of freshwater crawfish tail meat from the People's Republic of China, all of which involve complex issues and all of which have fully extended deadlines which are within two weeks of the current deadline for the preliminary results in these reviews. Therefore, we are extending the time period for issuing the preliminary results of these reviews by an additional 60 days, which is 365 days after the last day of the anniversary month, until May 30, 2012.

This notice is published in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: March 14, 2012.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–6817 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 37781 (June 28, 2011). *See also Ball Bearings and Parts Thereof From Japan and the United Kingdom: Revocation of Antidumping Duty Orders,* 76 FR 41761 (July 15, 2011), where we revoked the antidumping duty orders with respect to ball bearings and parts thereof from Japan and the United Kingdom. In the **Federal Register** notice we indicated that, as a result of the revocation, the Department is discontinuing all unfinished administrative reviews immediately and will not initiate any new administrative reviews of the orders.

[2] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Reviews,* 77 FR 2511 (January 18, 2012).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB085

Endangered and Threatened Species; Initiation of 5-Year Review for the North Atlantic Right Whale and the North Pacific Right Whale

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

ACTION: Notice of initiation of 5-year reviews; request for information.

SUMMARY: NMFS announces a 5-year review of North Atlantic right whale (*Eubalaena glacialis*) and North Pacific right whale (*Eubalaena japonica*) under the Endangered Species Act of 1973 (ESA), as amended. A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on these whales that has become available since the last status review in 2006.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than April 20, 2012. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0057, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0057 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon to the right of that line.
- *Mail or hand-delivery:* Angela Somma, National Marine Fisheries Service, Office of Protected Resources, Endangered Species Division, 1325 East West Highway, Silver Spring, MD 20910.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will 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). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Larissa Plants, Office of Protected Resources, 301–427–8471, or Shannon Bettridge, Office of Protected Resources 301–427–8437.

SUPPLEMENTARY INFORMATION: Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. This notice announces our active review of right whales, currently listed as endangered.

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of right whales. Categories of requested information include: (1) Species biology and demographics (population trends, distribution, abundance, genetics, etc.); (2) habitat conditions (amount, distribution, suitability, quality, etc.); (3) conservation measures that have been implemented that benefit the species; (4) status and trends of threats; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information

contained in the list of threatened and endangered species, and improved analytical methods, if any. Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for these whales.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 12, 2012.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–6575 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB084

Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Notice; issuance of Letters of Authorization (LOA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued one-year LOAs to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

DATES: These authorizations are effective from March 16, 2012 through March 15, 2013.

ADDRESSES: The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term ''take'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the total taking over the five-year period will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*). NMFS received requests for LOAs from W&T Offshore, Inc. (W&T Offshore) and W&T Energy VI, L.L.C. (W&T Energy) for activities covered by EROS regulations. W&T Offshore and W&T Energy have not conducted any EROS activities to date.

Pursuant to these regulations, NMFS has issued an LOA to W&T Offshore and W&T Energy. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking over the five-year period (with monitoring, mitigation, and reporting measures) will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: March 14, 2012.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–6821 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB098

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Council to convene a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Socioeconomic Scientific and Statistical Committee.

DATES: The meeting will be 9 a.m. to 5 p.m. on Thursday, April 5, 2012.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Socioeconomic Scientific and Statistical Committee to discuss socioeconomic issues related to allocation and the application of social indicators to

coastal communities. The Committee will also discuss issues related to the red snapper individual fishing quota 5-year review.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630 or can be downloaded from the Council's ftp site, *ftp.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Socioeconomic Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Socioeconomic Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 16, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–6767 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XB097

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Oversight Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, April 6, 2012 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Hotel Providence, 139 Mathewson Street, Providence, RI 02903; telephone: (401) 861–8000; fax: (401) 454–4306.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Council's Habitat Committee to recommend management measures for further development and analysis in Omnibus Essential Fish Habitat Amendment 2. Two types of measures will be considered at the meeting: (1) Options to minimize the adverse effects of fishing on Essential Fish Habitat and (2) alternatives to protect deep-sea corals from the impacts of fishing. Specifically, the Committee will review updated boundaries for some of the potential adverse effects minimization areas, and for the discrete coral zones. Other issues related to these options/alternatives will also be discussed. The Council will review the deep-sea coral alternatives at their April 24–26 meeting. Also, the Committee will receive a presentation from Stellwagen Bank National Marine Sanctuary staff regarding an ecological research area proposal that they have developed within the boundaries of the Sanctuary. The Committee is considering designation of dedicated habitat research areas as part of the Omnibus Amendment and requested this briefing at their last meeting. An update about Habitat Plan Development Team work on this topic will also be provided.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 15, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–6761 Filed 3–20–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Office of Innovation and Improvement; School Leadership Program (SLP) Annual Performance Report

SUMMARY: Information in the School Leadership Program (SLP) Annual Performance Report (APR) is collected in compliance with the Elementary and Secondary Education Act of 1965, as amended, Title II, Part A, Subpart 5; 20 U.S.C. 2151(b), the Government Performance Results Act (GPRA) of 1993, Section 4 (1115), and the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an APR demonstrating that substantial progress has been made toward meeting the approved objectives of the project. In addition, discretionary grantees are required to report on their progress toward meeting the performance measures established for the U.S. Department of Education School Leadership Program.

DATES: Interested persons are invited to submit comments on or before May 21, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04834. 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 *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.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: School Leadership Program (SLP) Annual Performance Report.

OMB Control Number: 1855–0019.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 22.

Total Estimated Number of Annual Burden Hours: 880.

Abstract: There are two GPRA performance objectives and six performance measures for SLP grantees. The two GPRA performance objectives are: To recruit, prepare, and support individuals from education or other fields to become principals or assistant principals of schools in high-need local educational agencies (LEAs) and to train and support principals and assistant principals from schools in high-need LEAs in order to improve their skills and increase retention. Most grantees will report on the GPRA measures for only one of the objectives because most grantees focus on either recruiting and training new principals and assistant principals or providing training to currently practicing principals and assistant principals. The SLP APR is a customized APR that goes beyond the ED 524B APR; this data collection is requested to facilitate the collection of more standardized and comprehensive data to address the program's GPRA measures, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Dated: March 16, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–6790 Filed 3–20–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Office of Planning, Evaluation and Policy Development; Case Studies of Current and Former Grantees of the Title III National Professional Development Program (NPDP)

SUMMARY: The purpose of the National Professional Development Program, which is administered by the Office of English Language Acquisition, is to support pre-service education and professional development activities intended to improve instruction for English Learners (ELs). Grants are made to Institutions of Higher Education that have entered into consortium arrangements with states or school districts. Funded projects are designed to increase the pool of highly-qualified teachers prepared to serve EL students and increase the skills of teachers already serving them.

DATES: Interested persons are invited to submit comments on or before May 21, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04823. 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 *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.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Case Studies of Current and Former Grantees of the Title III National Professional Development Program (NPDP)

OMB Control Number: Pending.

Type of Review: New.

Total Estimated Number of Annual Responses: 438.

Total Estimated Number of Annual Burden Hours: 450.

Abstract: The purpose of this study is to examine how a sample of grantees is implementing their grants with respect to four areas: (1) The content and structure of the education they provide to current and prospective teachers of English Learners; (2) the nature of changes they attempt to make to the full teacher education program at their institutions; (3) the efforts grantees make to institutionalize their projects so that they can be sustained after the grant ends; and (4) their efforts to track former program participants. Information gathered on these four topics will be used to identify issues that could be investigated in a larger, more representative study.

This study will consist of 15 purposively-selected current grantees

and nine purposively-selected former grantees. The case study sites will be selected from among the grantees in the 2007 cohort (''current grantees'') and those in the 2002 and 2004 cohorts (''former grantees''), and will provide information on some of the pre-service and in-service teacher training models and approaches that current grantees are using, as well as strategies that former grantees have used to track newly-minted teachers after program completion and to plan for continuing program services after the federal grant period.

The study will collect data from the current grantees through site visits and from the former grantees through telephone interviews.

Dated: March 15, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–6793 Filed 3–20–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanics

AGENCY: U.S. Department of Education, White House Initiative on Educational Excellence for Hispanics.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the fourth meeting of the President's Advisory Commission on Educational Excellence for Hispanics. The notice also describes the functions of the Commission. Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend.

DATES: Tuesday, April 3, 2012.

Time: 9 a.m.–5 p.m. Pacific Daylight Time.

ADDRESSES: Loker Student Union Ballroom, California State University, Dominguez Hills, 1000 E. Victoria St., Carson, CA 90747, Tel: 310–243–3303.

FOR FURTHER INFORMATION CONTACT: Glorimar Maldonado, Chief of Staff, White House Initiative on Educational Excellence for Hispanics, 400 Maryland Ave. SW., Room 4W110, Washington, DC 20202; telephone: 202–401–1411, 202–401–0078, or 202–870–1227.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Educational Excellence for Hispanics (the Commission) is established by Executive Order 13555 (Oct. 19, 2010). The Commission is governed by the provisions of the Federal Advisory Committee Act (FACA), (Pub. L. 92–463; as amended, 5 U.S.C.A., Appendix 2) which sets forth standards for the formation and use of advisory committees. The purpose of the Commission is to advise the President and the Secretary of Education (Secretary) on all matters pertaining to the education attainment of the Hispanic community.

The Commission shall advise the President and the Secretary in the following areas: (i) Developing, implementing, and coordinating educational programs and initiatives at the Department and other agencies to improve educational opportunities and outcomes for Hispanics of all ages; (ii) increasing the participation of the Hispanic community and Hispanic-Serving Institutions in the Department's programs and in education programs at other agencies; (iii) engaging the philanthropic, business, nonprofit, and education communities in a national dialogue regarding the mission and objectives of this order; (iv) establishing partnerships with public, private, philanthropic, and nonprofit stakeholders to meet the mission and policy objectives of this order.

Agenda

The Commission will discuss and finalize its 2012 strategic work plan drafted during its Feb. 8, 2012 conference call meeting and have breakout sessions with the established subcommittees.

Individuals who will need accommodations in order to attend the meeting (e.g., interpreting services, assistive listening devices, or material in alternative format) should notify Glorimar Maldonado, Chief of Staff, White House Initiative on Educational Excellence for Hispanics at 202–401–1411 or 202–401–0078, no later than Wednesday, March 28, 2012. We will attempt to meet requests for such accommodations after this date, but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Individuals who wish to attend the Commission meetings must RSVP by noon EDT, Wednesday, March 28, 2012, to *WhiteHouseforHispanicEducation@ed.gov*. Members of the public must RSVP by the due date.

An opportunity for public comment is available throughout the day on Tuesday, April 3, 2012, from 9 a.m. to 5 p.m., PDT. Individuals who wish to provide comments will be allowed three minutes to speak. Those members of the public interested in submitting written comments may do so by submitting written comments to the attention of Glorimar Maldonado, White House Initiative on Educational Excellence for Hispanics, U.S. Department of Education, 400 Maryland Ave. SW., Room 4W110, Washington, DC 20202, by Wednesday, March 28, 2012. The meeting proceedings will be webcast at *http://ustream.tv/channel/csudhtv*.

Records are kept of all Commission proceedings and are available for public inspection at the office of the White House Initiative on Educational Excellence for Hispanics, U.S. Department of Education, 400 Maryland Ave. SW., Room 4W108, Washington, DC, 20202, Monday through Friday (excluding federal holidays) during the hours of 9 a.m. to 5 p.m.

Electronic Access to the Document: You may 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) on the Internet at: *www.ed.gov/fedregister/index.html*. To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. For questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1830; or in the Washington, DC, area at 202–512–0000.

Martha Kanter,

Under Secretary, Department of Education.

[FR Doc. 2012–6735 Filed 3–20–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, April 12, 2012, 9 a.m.–5 p.m.

Friday, April 13, 2012, 8:30 a.m.–3 p.m.

ADDRESSES: Red Lion Hotel, 1101 North Columbia Center Boulevard., Kennewick, WA 99336.

FOR FURTHER INFORMATION CONTACT: Tifany Nguyen, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA

99352; Phone: (509) 376–3361; or Email: *tifany.nguyen@rl.doe.gov.*

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Draft Advice
  - 2012 Lifecycle Scope, Schedule and Cost Report
  - Fiscal Years 2013 and 2014 Budget Advice
- Discussion Topics
  - Cleanup Budget Priorities
  - Weldon Springs' Barrier
  - Tri-Party Agreement Agency Updates
  - Committee Reports
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Tifany Nguyen at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tifany Nguyen at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Tifany Nguyen's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC, on March 16, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–6789 Filed 3–20–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–80–000.
Applicants: Pioneer Trail Wind Farm, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, Requests for Waivers of Filing Requirements, Expedited Review and Confidential Treatment of Pioneer Trail Wind Farm, LLC.
Filed Date: 3/14/12.
Accession Number: 20120314–5019.
Comments Due: 5 p.m. ET 4/4/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2179–007; ER10–2181–007; ER10–2182–007.
Applicants: R.E. Ginna Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC, Calvert Cliffs Nuclear Power Plant, LLC.
Description: Supplemental Filing of the CENG Nuclear Entities.
Filed Date: 2/29/12.
Accession Number: 20120229–5081.
Comments Due: 5 p.m. ET 3/21/12.

Docket Numbers: ER10–2502–002; ER11–2724–002; ER11–4436–001; ER10–2472–002; ER10–2473–002.
Applicants: Black Hills Colorado IPP, LLC, Black Hills/Colorado Electric Utility Company, LP, Black Hills Power, Inc., Black Hills Wyoming, LLC, Cheyenne Light, Fuel and Power Company.
Description: Notification of Non-Material Change in Status of Black Hills/Colorado Electric Utility Company, LP, et al.
Filed Date: 3/14/12.
Accession Number: 20120314–5034.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–733–001.
Applicants: Promet Energy Partners, LLC.
Description: Compliance Filing for MBR Tariff Baseline to be effective 12/30/2011.
Filed Date: 3/14/12.
Accession Number: 20120314–5057.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1255–000.
Applicants: PJM Interconnection, L.L.C., American Electric Power Service Corporation.
Description: AEPSC revises PJM OATT Attachments H–14 and H–20 merging CSPC into Ohio Power to be effective 1/1/2012.
Filed Date: 3/14/12.
Accession Number: 20120314–5041.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1256–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. CMEEC Capacity Supply Obligation Resource Termination.
Filed Date: 3/14/12.
Accession Number: 20120314–5046.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1257–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Longfellow Capacity Supply Obligation Resource Termination.
Filed Date: 3/14/12.
Accession Number: 20120314–5047.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1258–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc. submits Notice of Termination of FERC Rate Schedule No. 198.
Filed Date: 3/14/12.
Accession Number: 20120314–5049.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1259–000.
Applicants: PJM Interconnection, L.L.C., Potomac-Appalachian Highline Transmission.
Description: PATH submits PJM OATT Att H–19A & Refund Report per 2/16/2012 Order in ER08–386 to be effective 1/1/2011.
Filed Date: 3/14/12.
Accession Number: 20120314–5055.
Comments Due: 5 p.m. ET 4/4/12.

Docket Numbers: ER12–1260–000.
Applicants: Stephentown Spindle, LLC.
Description: Notice of Succession to be effective 3/7/2012.
Filed Date: 3/14/12.
Accession Number: 20120314–5060.
Comments Due: 5 p.m. ET 4/4/12.

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: March 14, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–6792 Filed 3–20–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL12–48–000]

City of New Martinsville, WV; Notice of Petition for Enforcement

Take notice that on March 15, 2012, pursuant to section 210(h)(2)(B) of the Public Utility Regulatory Policies Act of 1978 (PURPA), the City of New Martinsville, West Virginia filed a petition requesting the Federal Energy Regulatory Commission (Commission) initiate an enforcement action against the Public Service Commission of West Virginia (PSC) and granting such other relief as the Commission may deem proper in order to remedy the PSC's violations of PURPA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 comment date. On or before the comment date, it is not necessary to 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 14 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 March 29, 2012.

Dated: March 15, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–6791 Filed 3–20–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0757; FRL–9326–3]

Pesticide Product Registration Approvals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's issuance, pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), of certain registrations for new pesticide products and amended registrations for currently existing pesticide products.

FOR FURTHER INFORMATION CONTACT: A contact person, with telephone number and email address, is listed at the end of each registration and amended registration approval summary. You may also reach each contact person by mail at Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the contact person listed at the end of the registration or amended registration approval summary of interest.

B. How can I get copies of this document and other related Information?

For each registration and amended registration approval summary (see Unit IV. and Unit V.), EPA has established a unique docket identification (ID) number. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, copies of approved labels, lists of data references, data and other scientific information used to support registration or amended registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Such requests should identify the product name and registration number and specify the data or information desired.

Paper copies of the fact sheets, which provide more detail on these registrations and amended registrations, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

II. EPA's Approval Process

EPA approved the subject applications in accordance with established procedures. EPA considered the nature of the active ingredients, patterns of use, application methods and rates, and levels and extent of potential exposure. EPA has determined that the active ingredients described in Units IV. and V., when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

III. Public Participation Process

EPA provides an opportunity to comment on certain registration actions (i.e., new active ingredients, first food uses, first residential uses, first outdoor uses, and other actions of significant interest to the public). Each of the applications described in Units IV. and V. was subjected to a 30-day public comment period (*http://www.epa.gov/pesticides/regulating/registration-status.html*).

IV. New Active Ingredients

1. *Bacillus thuringiensis Cry1Ac Protein and the Genetic Material (Vector PV–GMIR9) Necessary for Its Production in MON 87701 (OECD Unique Identifier: MON 87701–2) Soybean (Bt Cry1Ac). Docket ID Number:* EPA–HQ–OPP–2010–0023.

a. *Description of New Active Ingredient:* Monsanto Company submitted an application to register a pesticide product, MON 87701 (EPA File Symbol 524–LOU), containing the new active ingredient, *Bt* Cry1Ac.

b. *Regulatory Conclusions:* On September 9. 2010, EPA registered MON 87701 for use as a seed increase plant-incorporated protectant in soybean (EPA Reg. No. 524–594).

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments in response to the notice of receipt published on April 14, 2010 (75 FR 19388; FRL–8808–5). One comment was received during the 30-day public participation process occurring immediately prior to the final registration decision. Monsanto Company noted several technical corrections needed to be made to the proposed decision and risk assessment document (i.e., Biopesticides Registration Action Document or ''BRAD'') posted for public participation. Monsanto also requested a longer expiration date (five vs. two years) for its registration. In response, EPA updated the BRAD and granted the MON 87701 registration for three years. The revised BRAD is posted to the docket with this notice.

Contact: Mike Mendelsohn, (703) 308–8715, *mendelsohn.mike@epa.gov.*

2. *Bacteriophage of Clavibacter michiganensis subspecies michiganensis (Bacteriophage of Cmm). Docket ID Number:* EPA–HQ–OPP–2009–0539.

a. *Description of New Active Ingredient:* Interregional Research Project Number 4 of Rutgers University, on behalf of OmniLytics, Inc., submitted an application to register a pesticide product, AgriPhage—CMM (EPA File Symbol 67986–A), containing the new active ingredient, bacteriophage of *Cmm.*

b. *Regulatory Conclusions:* On September 30, 2011, EPA registered Agriphage—CMM (EPA Reg. No. 67986–6) for field and greenhouse uses on tomato.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Analysis of Samples (OCSPP Test Guideline 885.1400) and Storage Stability (OCSPP Test Guideline 830.6317) within one year of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Denise Greenway, (703) 308–8263, *greenway.denise@epa.gov.*

3. *Chromobacterium subtsugae strain PRAA4–1^T. Docket ID Number:* EPA–HQ–OPP–2010–0058.

a. *Description of New Active Ingredient:* Marrone Bio Innovations, Inc. submitted applications to register two pesticide products, MBI–203 TGAI (EPA File Symbol 84059–O) and MBI–203 EP (EPA File Symbol 84059–RN), containing the new active ingredient, *Chromobacterium subtsugae* strain PRAA4–1^T.

b. *Regulatory Conclusions:* On August 26, 2011, EPA registered MBI–203 TGAI (EPA Reg. No. 84059–9) for manufacturing use, and MBI–203 EP Bioinsecticide (EPA Reg. No. 84059–10) for use on agricultural and greenhouse crops, including vegetables, fruit, flowers, bedding plants, ornamentals, and turf.

c. *Missing Data and Conditions for Submission:* For MBI–203 EP Bioinsecticide (EPA Reg. No. 84059–10), EPA is requiring submission of data on Analysis of Samples (OCSPP Test Guideline 885.1400), Storage Stability (OCSPP Test Guideline 830.6317), and Corrosion Characteristics (OCSPP Test Guideline 830.6320) by September 1, 2012.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Jeannine Kausch, (703) 347–8920, *kausch.jeannine@epa.gov.*

4. *3,7-Dimethyl-2,6–Octadienal (Citral). Docket ID Number:* EPA–HQ–OPP–2010–0804.

a. *Description of New Active Ingredient:* Bedoukian Research, Inc. submitted an application to register a pesticide product, Bedoukian Citral Technical (EPA File Symbol 52991–EA), containing the new active ingredient, Citral.

b. *Regulatory Conclusions:* On August 23, 2011, EPA registered Bedoukian Citral Technical (EPA Reg. No. 52991–26) for manufacturing use.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) within 12 months of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Leonard Cole, (703) 305–5412, *cole.leonard@epa.gov.*

5. *(E,Z,Z)-3,8,11-Tetradecatrienyl Acetate. Docket ID Number:* EPA–HQ–OPP–2010–0040.

a. *Description of New Active Ingredient:* ISCA Technologies, Inc. submitted applications to register two pesticide products, ISCA Tuta MP (EPA File Symbol 80286–RT) and SPLAT Tuta™ (EPA File Symbol 80286–RA), containing the new active ingredient, (E,Z,Z)-3,8,11–Tetradecatrienyl Acetate.

b. *Regulatory Conclusions:* On September 1, 2010, EPA registered ISCA Tuta MP (EPA Reg. No. 80286–17) for manufacturing use, and SPLAT Tuta™ (EPA Reg. No. 80286–16) for use on all crops as a mating disrupter for South American tomato leafminer (*Tuta absoluta*).

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) for both products within 1 year of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Menyon Adams, (703) 347–8496, *adams.menyon@epa.gov.*

6. *(E,Z)-2,13-Octadecadien-1-yl and (E,Z)-2,13-Octadecadien-1-ol. Docket ID Number:* EPA–HQ–OPP–2011–0247.

a. *Description of New Active Ingredients:* Pacific Biocontrol Corporation submitted an application to register a pesticide product, Isomate® DWB (EPA File Symbol 53575–UN), containing the new active ingredients, (E,Z)-2,13-Octadecadien-1-yl and (E,Z)-2,13-Octadecadien-1-ol.

b. *Regulatory Conclusions:* On August 23, 2011, EPA registered Isomate® DWB (EPA Reg. No. 53575–40) for use on pome fruit, stone fruit, tree nut, and ornamental nursery crops.

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Gina Burnett, (703) 605–0513, *burnett.gina@epa.gov.*

7. *Isopropyl Myristate. Docket ID Number:* EPA–HQ–OPP–2010–0082.

a. *Description of New Active Ingredient:* Piedmont Animal Health LLC submitted an application to register a pesticide product, Resultix™ (EPA

File Symbol 86865–R), containing the new active ingredient, Isopropyl Myristate.

b. *Regulatory Conclusions:* On August 25, 2011, EPA registered Resultix™ (EPA Reg. No. 86865–1) for treatment of ticks on cats and dogs.

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Cheryl Greene, (703) 308–0352, *greene.cheryl@epa.gov.*

8. *Oregano Oil. Docket ID Number:* EPA–HQ–OPP–2008–0019.

a. *Description of New Active Ingredient:* Moss Buster LLC submitted an application to register a pesticide product, Moss Buster® (EPA File Symbol 84316–R), containing the new active ingredient, Oregano Oil.

b. *Regulatory Conclusions:* On March 14, 2011, EPA registered Moss Buster® (EPA Reg. No. 84316–1) to control moss on surfaces (e.g., patios, walls, and rooftops).

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) within 1 year of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Leonard Cole, (703) 305–5412, *cole.leonard@epa.gov.*

9. *Paecilomyces fumosoroseus strain FE 9901. Docket ID Number:* EPA–HQ–OPP–2010–0093.

a. *Description of New Active Ingredient:* Technology Sciences Group, Inc., on behalf of Natural Industries, Inc., submitted applications to register two pesticide products, NoFly™ WP (EPA File Symbol 73314–A) and NoFly™ Technical (EPA File Symbol 73314–T), containing the new active ingredient, *Paecilomyces fumosoroseus* strain FE 9901.

b. *Regulatory Conclusions:* On May 12, 2011, EPA registered NoFly™ Technical (EPA Reg. No. 73314–7) for manufacturing use, and NoFly™ WP (EPA Reg. No. 73314–6) for use on nonfood greenhouse and nursery crops to control whiteflies, aphids, thrips, psyllids, mealybugs, leafhoppers, plant bugs, weevils, grasshoppers, Mormon crickets, locusts, and beetles.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of the following data:

i. Analysis of Samples (OCSPP Test Guideline 885.1400), Storage Stability (OCSPP Test Guideline 830.6317), and Corrosion Characteristics (OCSPP Test Guideline 830.6320) for both products within 18 months of registration;

ii. Stability to Normal and Elevated Temperatures, Metals and Metal Ions (OCSPP Test Guideline 830.6313) for NoFly™ WP within 12 months of registration; and

iii. Additional confirmatory data on the Acute Injection Toxicity/Pathogenicity (Intraperitoneal) study (OCSPP Test Guideline 885.3200) for NoFly™ Technical within 6 months of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Kathleen Martin, (703) 308–2857, *martin.kathleen@epa.gov.*

10. *Penta-Termanone. Docket ID Number:* EPA–HQ–OPP–2009–0333.

a. *Description of New Active Ingredient:* Bayer Environmental Science submitted an application to register a pesticide product, Penta-Termanone™ Technical (EPA File Symbol 432–RLNU), containing the new active ingredient, Penta-Termanone.

b. *Regulatory Conclusions:* On July 15, 2011, EPA registered Penta-Termanone™ Technical (EPA Reg. No. 432–1504) for manufacturing use.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) within 1 year of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Menyon Adams, (703) 347–8496, *adams.menyon@epa.gov.*

11. *Pseudomonas fluorescens strain CL145A. Docket ID Number:* EPA–HQ–OPP–2011–0568.

a. *Description of New Active Ingredient:* Marrone Bio Innovations, Inc. submitted applications to register two pesticide products, MOI–401 TGAI (EPA File Symbol 84059–U) and MOI–401 EP (EPA File Symbol 84059–L), containing the new active ingredient, *Pseudomonas fluorescens* strain CL145A.

b. *Regulatory Conclusions:* On July 29, 2011, EPA registered MOI–401 TGAI (EPA Reg. No. 84059–4) for manufacturing use, and MOI–401 EP (EPA Reg. No. 84059–5) for use in enclosed static or flowing water infrastructures infested with zebra and/or quagga mussels.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) for MOI–401 TGAI (EPA Reg. No. 84059–4), and Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) for MOI–401 (EPA Reg. No. 84059–5) by January 29, 2012.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Ann Sibold, (703) 305–6502, *sibold.ann@epa.gov.*

12. *Trichoderma asperellum strain T34. Docket ID Number:* EPA–HQ–OPP–2010–0247.

a. *Description of New Active Ingredient:* Wagner Regulatory Associates, Inc., on behalf of Biocontrol Technologies, S.L., submitted an application to register a pesticide product, T34 Biocontrol (EPA File Symbol 87301–R), containing the new active ingredient, *Trichoderma asperellum* strain T34.

b. *Regulatory Conclusions:* On October 20, 2011, EPA registered T34 Biocontrol (EPA Reg. No. 87301–1) for nonfood, greenhouse use.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Acute Injection Toxicity/Pathogenicity (OCSPP Test Guideline 885.3200) by October 20, 2012.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Michael Glikes, (703) 305–6231, *glikes.michael@epa.gov.*

13. *Typhula phacorrhiza strain 94671. Docket ID Number:* EPA–HQ–OPP–2010–0090.

a. *Description of New Active Ingredient:* Technology Sciences Group, Inc., on behalf of Agrium Advanced Technologies RP, Inc., submitted applications to register two pesticide products, Nivalis (EPA File Symbol 84888–E) and Nivalis Technical (EPA File Symbol 84888–R), containing the new active ingredient, *Typhula phacorrhiza* strain 94671.

b. *Regulatory Conclusions:* On November 2, 2010, EPA registered Nivalis Technical (EPA Reg. No. 84888–1) for manufacturing use, and Nivalis (EPA Reg. No. 84888–2) for use to control grey snow mold and pink snow mold on golf course turf where continuous snow cover persists for 90 days or longer.

c. *Missing Data and Conditions for Submission:* EPA is requiring submission of data on Storage Stability (OCSPP Test Guideline 830.6317) and Corrosion Characteristics (OCSPP Test Guideline 830.6320) for both products within one year of registration.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Denise Greenway, (703) 308–8263, *greenway.denise@epa.gov.*

V. New Uses for Registered Active Ingredients

1. *Cydia pomonella granulovirus (CpGV). Docket ID Number:* EPA–HQ–OPP–2010–0059.

a. *Description of New Use:* Certis USA LLC submitted an application to amend the pesticide product, CYD–X® (EPA Reg. No. 70051–44), containing the active ingredient, CpGV, to allow for new use on apple, pear, plum, prune, and walnut in residential settings.

b. *Regulatory Conclusions:* EPA approved the requested registration amendment on April 6, 2010 (CYD–X®, EPA Reg. No. 70051–44).

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Jeannine Kausch, (703) 347–8920, *kausch.jeannine@epa.gov*.

2. *Isaria fumosorosea (formerly Paecilomyces fumosoroseus) Apopka strain 97. Docket ID Number:* EPA–HQ–OPP–2010–0088.

a. *Description of New Use:* Certis USA LLC submitted applications to amend two pesticide products, PFR–97™ MUP (EPA Reg. No. 70051–17) and PFR–97™ 20% WDG (EPA Reg. No. 70051–19), containing the active ingredient, *Isaria fumosorosea* Apopka strain 97, to allow for new use on all food commodities. These submissions required the concurrent establishment of an exemption from the requirement of a tolerance for residues of *Isaria fumosorosea* Apopka strain 97.

b. *Regulatory Conclusions:* EPA approved the requested registration amendments on September 20, 2011 (PFR–97™ MUP, EPA Reg. No. 70051–17; PFR–97™ 20% WDG, EPA Reg. No. 70051–19).

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Shanaz Bacchus, (703) 308–8097, *bacchus.shanaz@epa.gov*.

3. *Metarhizium anisopliae strain F52. Docket ID Number:* EPA–HQ–OPP–2010–0081.

a. *Description of New Use:* Novozymes Biologicals, Inc. submitted applications to amend three pesticide products: TAE–001 Technical Bioinsecticide (EPA Reg. No. 70127–7), Taenure Granular Bioinsecticide (EPA Reg. No. 70127–8), and TICK–EX EC Bioinsecticide (EPA Reg. No. 70127–10), containing the active ingredient, *Metarhizium anisopliae* strain F52, for new use on all food commodities. These submissions required the concurrent establishment of an exemption from the requirement of a tolerance for residues of *Metarhizium anisopliae* strain F52.

b. *Regulatory Conclusions:* EPA approved the requested registration amendments on April 28, 2011 (TAE–001Technical Bioinsecticide, EPA Reg. No. 70127–7; Taenure Granular Bioinsecticide, EPA Reg. No. 70127–8; TICK–EX EC Bioinsecticide, EPA Reg. No. 70127–10).

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Shanaz Bacchus, (703) 308–8097, *bacchus.shanaz@epa.gov*.

4. *Sodium Ferric Ethylenediaminetetraacetate (Sodium Ferric EDTA). Docket ID Number:* EPA–HQ–OPP–2010–0182.

a. *Description of New Use:* Walter G. Talarek, P.C., on behalf of W. Neudorff GmbH KG, submitted applications to register three pesticide products: Ferroxx MP (EPA File Symbol 67702–GR), Slug Exx (EPA File Symbol 67702–GE), and Ferroxx (EPA File Symbol 67702–GG), containing the active ingredient, Sodium Ferric EDTA, to allow for new use on all food commodities. These submissions required the concurrent establishment of an exemption from the requirement of a tolerance for residues of Sodium Ferric EDTA.

b. *Regulatory Conclusions:* On March 29, 2011, EPA registered Ferroxx MP (EPA Reg. No. 67702–31) for manufacturing use, and Slug Exx (EPA Reg. No. 67702–32) and Ferroxx (EPA Reg. No. 67702–33) for use on all food commodities to control slugs and snails.

c. *Missing Data and Conditions for Submission:* None.

d. *Response to Comments:* EPA received no comments on this action.

Contact: Andrew Bryceland, (703) 305–6928, *bryceland.andrew@epa.gov*.

List of Subjects

Environmental protection, Chemicals, Pests and pesticides.

Dated: March 8, 2012.

W. Michael McDavit,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2012–6583 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9649–9]

Radionuclide National Emission Standards for Hazardous Air Pollutants; Notice of Construction Approvals Issued

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the Construction Approvals issued in 2011 by EPA Region 8 for the construction or modification of sources subject to the Radionuclide National Emission Standards for Hazardous Air Pollutants (NESHAP).

FOR FURTHER INFORMATION CONTACT: For questions about the Approvals or this notice, contact Dr. Angelique Diaz at EPA by phone at: (303) 312–6344, or by email at: *diaz.angelique@epa.gov.* An electronic copy of each Approval is available through the Internet and can be found at *www.epa.gov/region8/air.*

SUPPLEMENTARY INFORMATION:

I. Background

The General Provisions to the Radionuclide NESHAP in 40 CFR part 61, subpart A, require a source owner or operator to submit an application for approval of construction or modification, pursuant to 40 CFR 61.07. Sources submitting applications in 2010 and 2011 submitted them under this provision and include sources subject to 40 CFR part 61, subpart B, National Emission Standards for Radon Emissions from Underground Uranium Mines (Subpart B) and 40 CFR part 61, subpart W, National Emission Standards for Radon Emissions from Operating Mill Tailings (Subpart W). EPA Region 8 issued three approvals in 2011 under 60 CFR 61.08. Today's notice comprises a summary of the three approvals.

The following summaries are for those Construction Approvals issued by EPA Region 8 during the 2011 calendar year; each summary provides the title of the Approval and a brief description. These summaries are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the Construction Approval. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of section 307(b)(1) of the Clean Air Act. For example, this notice does not make the Construction Approval for a particular source into a nationwide rule. Neither does it purport to make any document that was previously non-binding into a binding document.

Approval for Whirlwind Mine

On August 4, 2011, the EPA issued a Construction Approval to Energy Fuels for their Whirlwind Underground Uranium Mine. The mine is regulated under 40 CFR part 61, subpart B. The mine is expected to produce up to 50,000 tons per year of ore and over 100,000 tons over the lifetime of the mine. The Whirlwind Mine is located at 30100 5/10 Road, Gateway, Colorado 81522. The Approval and background

document for the Approval are available on the Internet and can be found at: *http://www.epa.gov/region8/air/whirlwind.html.*

Approval for Piñon Ridge

On October 26, 2011, the EPA issued a Construction Approval to Energy Fuels for Tailings Cell A and the Phase I Evaporation Ponds at the proposed Piñon Ridge Uranium Mill. Tailings Cell A and the Phase I Evaporation Ponds are regulated under 40 CFR part 61, subpart W. The proposed Mill is situated in Montrose County, Colorado on an 880 acre private parcel, in Paradox Valley, approximately 12 miles west of Naturita. The Approval and background document, as well as EPA's response to public input, are available on the Internet and can be found at: *http://www.epa.gov/region8/air/pinonridge.html.*

Approval for Lost Creek

On December 20, 2011, the EPA issued a Construction Approval to Ur-Energy USA Inc., for the two holding ponds at the proposed Lost Creek In-Situ Recovery Project. The holding ponds at the Lost Creek facility are subject to 40 CFR part 61, subpart W. The proposed Lost Creek facility is located in Sweetwater County, Wyoming. The Approval and background document for the Approval are available on the Internet and can be found at: *http://www.epa.gov/region8/air/lostcreek.html.*

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

Dated: March 9, 2012.

Jonathan Edwards,

Acting Director, Office of Radiation and Indoor Air.

[FR Doc. 2012–6585 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9650–2]

Clean Air Act Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Nominations to the Clean Air Act Advisory Committee.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Clean Air Act Advisory Committee (CAAAC). Applications are due by May 1, 2012 and vacancies are anticipated to be filled by October 2012. Sources in addition to this **Federal Register** Notice may also be utilized in the solicitation of nominees.

DATES: All nominations should be received by May 1, 2012.

Background: The Clean Air Act Advisory Committee provides advice, information and recommendations on policy and technical issues associated with implementation of the Clean Air Act Amendments of 1990. The programs falling under the purview of the committee include: National Ambient Air Quality Standards, emissions from vehicles and vehicle fuels, air toxic emissions, operating permits and collecting fees, and carrying out new and expanded compliance authorities. Members are appointed by the EPA Administrator for two-year terms with the possibility of reappointment to a second and third term. The CAAAC usually meets 2–3 times annually with workgroups meeting more frequently. The average workload for the members is approximately 5 to 8 hours per month.

EPA is seeking nominations from academia, industry, non-governmental/environmental organizations, state and local government agencies, tribal governments, unions, trade associations, and utilities. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. Although we are unable to offer compensation or an honorarium for your services, you may receive travel and per diem allowances, according to applicable federal travel regulations.

The following criteria will be used to evaluate nominees:

—Background and experiences that would help members contribute to the diversity of perspectives on the committee (e.g., geographic, economic, social, cultural, educational, and other considerations.
—Experience working at the national level on local governments issues.
—Experience working with air quality policy issues.
—Executive management level experience with membership in broad-based networks.
—Excellent interpersonal, oral and written communication, and consensus-building skills.
—Ability to volunteer time to attend meetings 2–3 times a year, participate in teleconference meetings, attend listening sessions with the Assistant Administrator or other senior-level officials, develop policy recommendations to the Administrator, and prepare reports and advice letters.

A nomination form is available at the CAAAC Web site *www.epa.gov/air/caaac.* Nominations should be submitted by May 1, 2012 and must include a resume and a short biography describing the professional and educational qualifications of the nominee as well as the nominee's current business address, email address, and daytime telephone number. Interested candidates may self-nominate.

To help the Agency in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

ADDRESSES: Submit nominations to: Pat Childers, Designated Federal Officer, Office of Air and Radiation, U.S. Environmental Protection Agency (6102A), 1200 Pennsylvania Avenue NW.,Washington, DC 20460. You may also email nominations with subject line CAAAC Membership 2012 to *childer.pat@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Pat Childers Designated Federal, Officer at (202) 564–1082.

Dated: March 15, 2012.

Pat Childers,

Designated Federal Officer, Clean Air Act Advisory Committee.

[FR Doc. 2012–6795 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9649–5; CERCLA–04–2012–3768; CERCLA–04–2012–3767; CERCLA–04–2012–3766; CERCLA–04–2012–3765]

Florida Petroleum Reprocessors Superfund Site; Davie, Broward County, FL; Notice of Settlements

AGENCY: Environmental Protection Agency.

ACTION: Notice of Settlements.

SUMMARY: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into four (4) settlements for past response costs concerning the Florida Petroleum Reprocessors Superfund Site located in Davie, Broward County, Florida.

DATES: The Agency will consider public comments on the settlements until April 20, 2012. The Agency will consider all comments received and may modify or withdraw its consent to the settlements if comments received disclose facts or considerations which indicate that the settlements are inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments by Site name Florida Petroleum Reprocessors by one of the following methods:

- *www.epa.gov/region4/superfund/programs/enforcement/enforcement.html.*
- Email. *Painter.Paula@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: February 29, 2012.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management, Branch Superfund Division.

[FR Doc. 2012–6794 Filed 3–20–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2012–0087]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 94–07 Exporters Certificate for Use with a Short Term Export Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank is requesting an emergency approval of Ex-Im Bank form EIB 94–07, Exporter's Certificate For Use With A Short Term Export Credit Insurance Policy. Ex-Im Bank's financial institution policy holders provide this form to U.S. exporters, who certify to the eligibility of their exports for Ex-Im Bank support. The completed forms are held by the financial institution policy holders, only to be submitted to Ex-Im Bank in the event of a claim filing. A requirement of Ex-Im Bank's policies is that the insured financial institution policy holder obtains a completed Exporter's Certificate at the time it provides financing for an export. Ex-Im Bank believes that EIB 94–07 requires emergency approval in order to continue operation of its short term financial institution programs. It is an integral component of the program and is heavily used. Lack of an emergency approval of this form would preclude our ability to continue operation of its short term financial institution programs.

The Exporters Certificate for Use with a Short Term Export Credit Insurance Policy is a requirement of Ex-Im Bank's policies. The form can be viewed at *www.exim.gov/pub/pending/eib94–07.pdf.*

DATES: Comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Arnold Chow, Export-Import Bank of the United States, 811 Vermont Avenue NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 94–07, Exporters Certificate for Use with a Short Term Export Credit Insurance Policy.

OMB Number: 3048–xxx.

Type of Review: Regular.

Need and Use: Ex-Im Bank developed the referenced form to obtain exporter certification regarding the export transaction, U.S. content, non-military use, non-nuclear use, compliance with Ex-Im Bank's country cover policy, and their eligibility to participate in USG programs. These details are necessary to determine the legitimacy of claims submitted. It also provides the financial institution policy holder a check on the export transaction's eligibility, at the time it is fulfilling a financing request.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 2,500.

Estimated Time per Respondent: 10 minutes.

Number of Forms Reviewed by Ex-Im Bank: 23. Note Ex-Im Bank only reviews this form when a claim is submitted. In Fiscal Year 2011, 23 claims were filed.

Government Annual Burden Hours: 2 hours.

Government Cost: $77.44.

Frequency of Reporting or Use: As needed.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–6787 Filed 3–20–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before April 20, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a

copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0568.

Title: Sections 76.970, 76.971 and 76.975, Commercial Leased Access Rates, Terms and Conditions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, State, Local or Tribal Government.

Number of Respondents and Responses: 4,030 respondents; 11,970 responses.

Estimated Time per Response: 2 minutes–10 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 612 of the Communications Act of 1934, as amended.

Total Annual Burden: 59,671 hours.

Total Annual Cost: $74,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 76.970(h) requires cable operators to provide the following information within 15 calendar days of a request regarding leased access (for systems subject to small system relief, cable operators are required to provide the following information within 30 days of a request regarding leased access):

(a) A complete schedule of the operator's full-time and part-time leased access rates;

(b) How much of the cable operator's leased access set-aside capacity is available;

(c) Rates associated with technical and studio costs;

(d) If specifically requested, a sample leased access contract; and

(e) Operators must maintain supporting documentation to justify scheduled rates in their files.

47 CFR 76.971 requires cable operators to provide billing and collection services to leased access programmers unless they can demonstrate the existence of third party billing and collection services which, in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased access programmers.

47 CFR 76.975(b) requires that persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission.

47 CFR 76.975(c) requires that petitioners attach a copy of the final accountant's report to their petition where the petition is based on allegations that a cable operator's leased access rates are unreasonable.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–6730 Filed 3–20–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10153, the Tattnall Bank Reidsville, GA

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for The Tattnall Bank, (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of The Tattnall Bank on December 04, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.2, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Federal Deposit Insurance Corporation.

Dated: March 15, 2012.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–6729 Filed 3–20–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 3, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *William Bradley Giblet and Lita Giblet, both of Hydro, Oklahoma, and Gaylon Vogt, Weatherford, Oklahoma,* to acquire control of Ryan Bancshares, Inc., parent of The First State Bank, both in Ryan, Oklahoma.

Board of Governors of the Federal Reserve System, March 16, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–6801 Filed 3–20–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9996–N3]

Early Retiree Reinsurance Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice establishes a timeframe by which plan sponsors participating in the Early Retiree Reinsurance Program (ERRP) are expected to use ERRP reimbursement funds. Sponsors are expected to use such funds as soon as possible, but not later than December 31, 2014.

DATES: *Effective Date:* This notice is effective March 16, 2012.

FOR FURTHER INFORMATION CONTACT: David Mlawsky, (410) 786–6851.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010) (the Affordable Care Act), included a provision that established the temporary Early Retiree Reinsurance Program (ERRP) which provides reimbursement to eligible sponsors of employment-based plans for a portion of the costs of providing health coverage to early retirees (and eligible spouses, surviving spouses, and dependents of such retirees), during the period beginning on the date on which the program is established, and ending on January 1, 2014. Section 1102(a)(l) of the Affordable Care Act required the Secretary to establish the program within 90 days of enactment of the law (by June 21, 2010). In the May 5, 2010 **Federal Register** (75 FR 24450), we published an interim final regulation with comment period, implementing the program as of June 1, 2010. Section 1102(e) of the Affordable Care Act appropriates funding of $5 billion for the temporary program.

Consistent with section 1102(c)(4) of the Affordable Care Act, the rule at 45 CFR 149.200 states:

> A sponsor must use the proceeds under this program to—(1) reduce the sponsor's health benefit premiums or health benefit costs, (2) reduce health benefit premium contributions, copayments, deductibles, coinsurance, or other out-of-pocket costs, or any combination of these costs, for plan participants, or (3) reduce any combination of the costs in (a)(1) and (a)(2) of this section. Proceeds under this program must not be used as general revenue for the sponsor.

We have published several guidance documents that further clarify this section of the rule (see the *Guidance on Complying with the Prohibition on Using Early Retiree Reinsurance Program Reimbursements as General Revenue* under the Regulations and Guidance section of *www.errp.gov,* and the Common Questions under the Use of Reimbursement section at *www.errp.gov*).

We have provided the available ERRP funds to reimburse plan sponsors' eligible early retiree health care costs with the expectation that plan sponsors will use the funds in an allowable manner, as outlined in 45 CFR 149.200, as soon as possible after receiving ERRP funds. In February 2012, we released Common Question 800–13, which provided the date, December 31, 2014, by which plan sponsors are expected to use the received funds.

II. Provisions of This Notice

Section 1102(c)(4) of the Affordable Care Act, immediately following its discussion of how ERRP reimbursements may be used, states: ''The Secretary shall develop a mechanism to monitor the appropriate use of such payments by such entities.'' We believe that one necessary component of such a mechanism is a deadline by when plan sponsors are expected to use ERRP reimbursements. Thus, one of the Common Questions we have published to clarify the ERRP rule at 45 CFR 149.200 sets forth our expectation as to when a plan sponsor that has received ERRP reimbursement will use that reimbursement (Common Question 800–13). This notice reiterates and formalizes our expectation that a sponsor will use ERRP reimbursement funds as soon as possible, but not later than December 31, 2014. We believe this deadline is consistent with the January 1, 2014 statutory end date of the ERRP, and also affords plan sponsors the flexibility and time they may need in order to appropriately use ERRP reimbursement.

Common Question 800–13 also states, and we reiterate in this notice, that a sponsor is not required to use ERRP reimbursement funds by the end of the plan year in which they are received. Sponsors may use ERRP reimbursement funds in a manner permitted under the statute, regulation, and other ERRP program guidance.

III. Collection of Information Requirements

This document does not impose any new information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995. However, the information collection requirements associated with the ERRP are currently approved under OMB control number 0938–1087, with an expiration date of September 30, 2014.

Authority: Sections 1102(a)(l) and 1102(c)(4) of the Affordable Care Act (42 U.S.C. 18002(a)(l) and(c)(4)).

Dated: March 13, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–6728 Filed 3–16–12; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Standards for Private Laboratory Analytical Packages and Introduction to Laboratory Related Portions of the Food Modernization Safety Act for Private Laboratory Managers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meetings.

The Food and Drug Administration (FDA) is announcing two meetings entitled ''Standards for Private Laboratory Analytical Packages and Introduction to Laboratory Related Portions of the Food Modernization Safety Act for Private Laboratory Managers.'' The topic to be discussed is the quality standards expected in all analytical packages and an introduction to sections of the Food Safety Modernization Act of January 6, 2011, that affect laboratories.

Date and Time: The meetings will be held on April 3, 2012, from 1 p.m. to 4:30 p.m. in Bothell, WA, and on April 5, 2012, from 1 p.m. to 4:30 p.m. in Oakland, CA.

Location: The meeting in Bothell, WA, will be held at the FDA Seattle District Office, 22201 23rd Dr. SE., Bothell, WA 98021. The Oakland, CA, meeting will be held in the R. Dellums Federal Building, Conference Room A/B, 2nd Floor North, 1301 Clay St., Oakland, CA 94612.

Contact: R.V. Asmundson, Food and Drug Administration, 1301 Clay St., Suite 1180N, Oakland, CA 94612–5217, 510–287–2715, FAX: 510–287–3739, email: *rod.asmundson@fda.hhs.gov.*

Registration: Send registration information (including name, title, firm

name, address, telephone, FAX, and email) to the contact person by March 27, 2012.

If you need special accommodations due to a disability, please contact Nguyen Ngoc-Lan (*nguyen.ngoc-lan@fda.hhs.gov*) for the Bothell, WA, meeting or Bernadette Thiry (*bthiry@mmcor.com*) for the Oakland, CA, meeting by March 27, 2012.

Dated: March 16, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–6800 Filed 3–20–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2005–20118]

Extension of Agency Information Collection Activity Under OMB Review: Maryland-Three Airports: Enhanced Security Procedures at Certain Airports in the Washington, DC, Area

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0029, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on January 5, 2012, 77 FR 513. This collection requires individuals to submit information that will allow TSA to conduct a terrorist threat assessment that could allow a pilot to operate an aircraft to, from, or between the three Maryland airports that are located within the Washington, DC, Metropolitan Area Flight Restricted Zone (Maryland-Three airports), or allow an individual to serve as an airport security coordinator at one of these three airports.

DATES: Send your comments by April 20, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3651; email *TSAPRA@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Maryland-Three Airports: Enhanced Security Procedures at Certain Airports in the Washington, DC, Area.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0029.

Form(s): Personal Identification Number Issuance Form.

Affected Public: Maryland-Three airports and individuals who seek to operate an aircraft to or from one of the three Maryland airports, or to serve as an airport security coordinator at one of these three airports.

Abstract: Part 1562 of 49 CFR sets forth security measures that permit flight operations at the Maryland-Three airports (College Park Airport, Potomac Airfield, and Washington Executive/Hyde Field). TSA requires applicants seeking to fly to, from, or between the Maryland-Three airports, or seeking to serve as security coordinators in one of these airports, to submit personal information and fingerprints. TSA will use the applicant's information and fingerprints to conduct a security threat assessment. An applicant will not receive TSA's approval to fly to, from, or between the Maryland-Three airports, or to serve as a security coordinator in one of these airports, if the applicant does not successfully complete the security threat assessment.

Number of Respondents: 312.

Estimated Annual Burden Hours: An estimated 6,473 hours annually.

Issued in Arlington, Virginia, on March 15, 2012.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–6738 Filed 3–20–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: JADE Act

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0133.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: JADE Act. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 1947) on January 12, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 20, 2012.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: 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 affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: JADE Act.

OMB Number: 1651–0133.

Form Number: None.

Abstract: The Tom Lantos Block Burmese JADE Act of 2008 (JADE Act) prohibits the importation of ''Burmese covered articles'' (jadeite, rubies, and articles of jewelry containing jadeite or rubies mined or extracted from Burma), and sets forth conditions for the importation of ''non-Burmese covered articles'' (jadeite, rubies, and articles of jewelry containing jadeite or rubies mined or extracted from a country other than Burma).

In order to implement the provisions of this Act, CBP requires that the importer enter the specific HTSUS subheading for jadeite, rubies or articles containing jadeite or rubies on the CBP Form 7501, *Entry Summary,* which serves as the importer's certification. In addition, at the time of entry, the importer must have in his or her possession a certification from the exporter certifying that the conditions of the JADE Act have been met. Importers must keep this certification in their records and make it available to CBP upon request.

This information collection is authorized by Public Law 110–286 and provided for by 19 CFR 12.151. Guidance regarding how to comply with the JADE Act is on the CBP Web site at: *http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/entry_summary/laws/public_law/jade_act.ctt/jade_act.pdf.*

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: 22,197.

Estimated Number of Annual Responses per Respondent: 20.

Estimated Total Annual Responses: 443,940.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 74,005.

Dated: March 15, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–6762 Filed 3–20–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2012–N053; FXES11130200000F5–123–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. The Act and the National Environmental Policy Act also require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before April 20, 2012.

ADDRESSES: Marty Tuegel, Section 10 Coordinator, by U.S. mail at Division of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM at (505) 248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6651.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–64115A

Applicant: Bureau of Land Management, Yuma, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona.

Permit TE–64595A

Applicant: Gulf South Research Corporation, Baton Rouge, Louisiana.

Applicant requests a new permit for research and recovery purposes to collect genetic material from Sneed Pincushion cactus (*Coryphantha sneedii sneedii*) and Lee Pincushion cactus (*Coryphantha sneedii leei*) within New Mexico and Texas.

Permit TE–64968A

Applicant: Apex Companies, LLC, Oklahoma City, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys, bait aways, trapping and relocation of American burying beetle (*Nicrophorus americaus*) within Oklahoma, Texas, South Dakota, Nebraska, Kansas, and Arkansas.

Permit TE–841353

Applicant: Loomis Partners, Inc., Austin, Texas.

Applicant requests an amendment to a current permit for capture, removal, and release of Houston Toad (*Bufo houstonensis*) related to FEMA operations within Bastrop County, Texas.

Permit TE–227185

Applicant: Andrew Eastty, San Diego, California.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona, New Mexico, and Texas.

Permit TE–144755

Applicant: Reagan Smith Energy Solutions, Inc., Oklahoma City, Oklahoma.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys, mist netting, and trapping for gray bat (*Myotis grisescens*) and Indiana bat (*Myotis sodalis*) within Arkansas, Texas, Louisiana, Alabama, Mississippi, Kentucky, Florida, South Carolina, Georgia, Oklahoma, North Carolina, and Tennessee.

Permit TE–800611

Applicant: SWCA Environmental Consultants, San Antonio, Texas.

Applicant requests an amendment to a current permit for capture, removal, and release of Houston Toad (*Bufo houstonensis*) related to FEMA operations within Bastrop County, Texas.

Permit TE–66060A

Applicant: Janine A. Spencer, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit TE–840214

Applicant: Luminant Power, Dallas, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of interior least tern (*Sterna antillarum*) at Turlington Mine (Freestone County), Kossee Mine (Robertson and Limestone Counties), and Bremond Mine (Robertson County) within Texas.

Permit TE–65178A

Applicant: Jennifer L. Reidy, Columbia, Missouri.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys, point counts, nest searches, nest monitoring, mist netting, and banding of golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

Permit TE–66055A

Applicant: The Navajo Nation dba The Navajo Nation Zoological & Botanical Park, Window Rock, Arizona.

Applicant requests a new permit for research and recovery purposes to hold and exhibit Razorback sucker (*Xyrauchen texanus*), and Colorado pikeminnow (*Ptychocheilus lucius*) at the zoo in Arizona.

Permit TE–821577

Applicant: Arizona Game and Fish Department, Phoenix, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Meda fulgida*) in Arizona.

Permit TE–815409

Applicant: New Mexico Department of Game and Fish, Santa Fe, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of loach minnow (*Tiaroga cobitis*) and spikedace (*Meda fulgida*) in New Mexico.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: March 13, 2012.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2012–6777 Filed 3–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2012–N057: 40120–1112–0000–F2]

Endangered and Threatened Wildlife and Plants; Receipt of Applications for Incidental Take Permits; Availability of Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Sarasota County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of incidental take permit (ITP) applications and a Habitat Conservation Plan (HCP). Walter and Marilyn Krieseder, Brian and Pamela Sullivan, and Fritz and Ping Faulhaber (applicants) request ITPs under the Endangered Species Act of 1973, as amended (Act). The applicants anticipate taking approximately 0.43 acres of nesting habitat of endangered and threatened sea turtle species in Sarasota County, Florida, for the construction of a shoreline armoring structure. The applicants' HCP describes the minimization and mitigation measures proposed to address the effects of the project on nesting sea turtles.

DATES: Written comments on the ITP applications and HCP should be sent to the South Florida Ecological Services Office (see **ADDRESSES**) and should be received on or before April 20, 2012.

ADDRESSES: You may request documents by email, U.S. mail, or fax (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

Email: Trish_Adams@fws.gov. Use ''Attn: Permit numbers TE65165A–0, TE65167A–0, and TE65168A–0'' as your message subject line.

Fax: Trish Adams, (772) 562–4288, Attn: Permit numbers TE65165A–0, TE65167A–0, and TE65168A–0.

U.S. mail: Trish Adams, HCP Coordinator, South Florida Ecological Services Field Office, Attn: Permit numbers TE65165A–0, TE65167A–0, and TE65168A–0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, HCP Coordinator, South Florida Ecological Services Office, Vero Beach, Florida (see **ADDRESSES**); telephone: 772–562–3909, extension 232.

SUPPLEMENTARY INFORMATION: The applicants anticipate taking beach nesting habitat of the threatened loggerhead sea turtle (*Caretta caretta*), endangered leatherback sea turtle (*Dermochelys coriacea*), endangered green sea turtle (*Chelonia mydas*), endangered hawksbill sea turtle (*Eretmochelys imbricata*), and endangered Kemp's ridley sea turtle (*Lepidochelys kempii*) in Sarasota County, Florida. The Service listed both the leatherback and hawksbill sea turtle as endangered on June 2, 1970 (35 FR 8491), and the Kemp's Ridley sea turtle as endangered on December 2, 1970 (35 FR 18320). The Service listed the loggerhead as threatened and the green sea turtle as endangered in the same final rule, on July 28, 1978 (43 FR 32800).

Applicants' Proposed Project

We have received applications for incidental take permits, along with a proposed habitat conservation plan. The applicants request 5-year permits under section 10(a)(1)(B) of the Act (87 Stat. 884; 16 U.S.C. 1531 *et seq.*). If we approve the permits, the applicants anticipate taking a total of 0.43 acres of sea turtle nesting habitat for the installation of a geotextile dune core system (an engineered dune feature constructed with tiered sand-filled geotextile containers as its core that is regularly maintained with 3 feet of beach compatible sand), dune crossovers (a stairway over the engineered dune to the beach), and native vegetation; post-construction maintenance throughout the life of the project (e.g., ongoing placement and regular maintenance of sand cover); and response to Emergency Management Events (e.g., events triggered by exposure or less than 3 feet of sand cover over the core). The project is located at latitude 27.1563, longitude –82.4848, Sarasota County, Florida. The project includes Sarasota County Parcels 0159–25–0006, 0159–24–0003, and 0159–24–0001. Parts of these parcels include sea turtle nesting habitat.

The applicants propose to mitigate for potential take of sea turtles as a result of the project through implementation of a predator control program. The applicants will contract with the U.S. Department of Agriculture to implement a trap and removal program targeting raccoons; this program would begin during the first nesting season post ITP issuance. The applicants' ability to financially cover the costs of implementing the HCP—such as mitigation, sea turtle monitoring, physical monitoring, maintenance of sand coverage, and removal of the dune core container system—are assured by: (a) Funds that will be placed annually in an escrow managed by the Coastal Engineer of Record (CEOR) in an amount equal to the estimated costs of mitigation, sea turtle monitoring, HCP Coordinator, and physical monitoring; and (b) a Financial Assurance Agreement between applicants, the State of Florida, and Sarasota County that is guaranteed by a major financial institution(s) in accordance with Chapter 62B–56.090 F.A.C.

All annual fees are to be paid into an escrow account managed by the CEOR. The account will be managed in accordance with a Joint Maintenance Agreement signed by each applicant. Approximately $243,900 has been committed for physical and biological monitoring, sand placement construction, and mitigation over the course of the requested 5-year permit. In addition, $122,500 has been committed for anticipated removal/restoration costs for the entire project, including the small portion of the dune core system located on the Crouse (2315 Cay Key Road) and Meekison (2207 Casey Key Road) properties, to tie into the seawalls on these properties.

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' project, including the proposed minimization and mitigation measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITPs is a ''low-effect'' action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1), and as defined in our Habitat Conservation Planning Handbook (November 1996).

We base our determination that issuance of the ITPs qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the project would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the project, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our environmental action statement and associated Low-Effect Screening Form, the applicants' proposed project qualifies as a ''low-effect'' project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

Next Steps

The Service will evaluate the HCP and comments received to determine whether the applications meet the requirements of section 10(a) of the Act. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITPs complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITPs. If it is determined that the requirements of the Act are met, the ITPs will be issued for the incidental take of loggerhead, green, leatherback, hawksbill, and Kemp's Ridley sea turtles.

Submitting Comments

If you wish to submit comments or information, you may do so by any one of several methods. Please reference permit numbers TE65165A–0, TE65167A–0, and TE65168A–0 in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also submit comments via email to *trish_adams@fws.gov.* Please also include your name and return address in your email message. If you do not receive a confirmation from us that we have received your email message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the Service office listed under **ADDRESSES**.

Availability of Public Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: March 15, 2012.

Larry Williams,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. 2012–6776 Filed 3–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2012–N230; 1265–0000–10137–S3]

Kootenai National Wildlife Refuge, Boundary County, ID; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact for the environmental assessment for the Kootenai National Wildlife Refuge (NWR/refuge). In this final CCP, we describe how we will manage the refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and finding of no significant impact (FONSI) for the environmental assessment (EA) by any of the following methods. You may request a hard copy or CD–ROM.

Agency Web Site: Download a copy of the document at *http://www.fws.gov/pacific/planning.*

Email: *FW1PlanningComments@fws.gov.* Include ''Kootenai NWR FCCP/EA'' in the subject line.

Fax: Attn: Dianna Ellis, Refuge Manager, (208) 267–3888.

U.S. Mail: Dianna Ellis, Refuge Manager, Kootenai National Wildlife Refuge, 287 Westside Road, Bonners Ferry, ID 83805.

In-Person Viewing or Pickup: Call (208) 267–3888 to make an appointment during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dianna Ellis, Refuge Manager, (208) 267–3888.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we announce the completion of the CCP process for Kootenai National Wildlife Refuge. The Service started this process through a notice of intent in the **Federal Register** (74 FR 8102; February 23, 2009). We released the draft CCP/EA to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (76 FR 48877; August 9, 2011).

Kootenai NWR encompasses 2,774 acres along the lower Kootenai River in Boundary County, Idaho. Habitat types on the refuge include seasonal, semipermanent, and permanent wetlands; floodplain forests; coniferous forests; managed pastures; and croplands. The refuge was established under the Migratory Bird Conservation Act ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.'' The refuge provides important habitat for waterbirds, migratory landbirds, and raptors; a variety of mammals including white-tailed deer, elk, and moose; and bull trout, which is listed as a threatened species under the Federal Endangered Species Act.

We announce our CCP decision and the availability of a FONSI for Kootenai NWR in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act) and National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We prepared an analysis of environmental impacts, which we included in an EA that accompanied the draft CCP.

The CCP will guide us in managing and administering the refuges for the next 15 years. Alternative 2, as described in the draft CCP, is the basis for the final CCP.

Background

The Refuge Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including opportunities for compatible hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

CCP Alternatives, Including Selected Alternative

Our draft CCP/EA (76 FR 48877; August 9, 2011) discussed several issues. To address these, we developed and evaluated the following alternatives.

Alternative 1 (No Action)

Under Alternative 1, we analyzed the following ongoing actions:

• Continuing to manage wetlands, croplands, and grasslands for migratory waterfowl, shorebirds, deer, and elk.

• Growing 200 acres of grain crops annually.

• Maintaining existing riparian and forest habitat; minimal management of instream habitat.

• Allowing waterfowl hunting on the 740-acre hunt area, 4 days per week, in accordance with the State's season. A 200-yard no-shooting area (91 acres) would continue along the auto tour route to provide for safety.

• Allowing big game and upland game (grouse) hunting on the 295 acres of timber on the west side of Lions Den and Westside Roads.

• Allowing fishing from the banks of Myrtle Creek only.

• Providing a 4.5-mile auto tour route that is open year-round to vehicles, walking, bicycling, jogging, dog walking (on leash only), cross-country skiing, and snowshoeing as weather and road conditions permit.

• Providing slightly over 5 miles of trails that are open to walking, jogging, and dog walking (on leash only) year-round, except for Island Pond Trail, which would be closed on hunt days during the waterfowl hunting season.

• Providing an Environmental Education Center for teacher-led, and occasionally staff-led, programs.

Alternative 2 (Selected Action)

Alternative 2, our preferred alternative, represents a balanced approach among the many competing needs at the refuge. An emphasis on managing wetlands, croplands, and grasslands for migratory waterfowl, shorebirds, deer, and elk would continue. The Service will pursue measures to improve habitat quality and restore native habitats, such as:

• Repairing and improving the existing water management infrastructure to increase the refuge's ability to manage wetlands.

• Increasing the acreage of moist-soil wetlands from 10–20 acres (current) to 75–100 acres to provide natural food sources for waterfowl. Once moist soil habitat is established, 50–75 acres of croplands would be restored to native upland grassland or wet meadow, while 125–200 acres of small grains and green browse would continue to be provided annually for migratory waterfowl.

• Maintaining 200 acres of existing riparian habitat and restoring 35–50 acres of native riparian and grassland habitats. White-tailed deer and elk populations would be managed, in consultation with the Idaho Department of Fish and Game (IDFG), through special permit hunts in order to protect restored riparian habitat.

• Suppressing wildfires and thinning forests to maintain an open understory and reduce ladder fuels.

• Working with partners to examine the feasibility of restoring degraded stream habitats for the benefit of native fish.

• Initiating a land protection plan study to analyze alternatives for possible refuge boundary expansion to include 120 acres of floodplain owned by the Idaho Department of Lands.

The refuge would continue to provide opportunities for compatible wildlife-dependent recreation, including waterfowl hunting, wildlife observation and photography, big game and upland game hunting, environmental education, and interpretation. Waterfowl hunting will continue be permitted 4 days per week, in accordance with the State's season. Current fishing regulations would continue (fishing is allowed from the banks of Myrtle Creek only). The 4.5-mile auto tour route will remain open year round to vehicles, walking, bicycling, jogging, dog walking (on leash only), cross-country skiing, and snowshoeing as weather and road conditions permit. A number of changes would be implemented to improve the quality of and access to these programs, increase public safety, and reduce disturbance to wildlife, including:

• The waterfowl hunt area will be reduced to 582 acres due to increasing the size of the 200-yard non-shooting area to include the area along the Deep Creek Trail (266 acres) to provide for safety. Overall, waterfowl hunting opportunities will be the same as under current management because the non-shooting area is rarely hunted.

• The location of fixed blinds and free-roam hunt areas would be adjusted as necessary based on habitat quality, waterfowl use of wetlands, and data from hunter surveys.

• An additional ADA-accessible blind will be constructed on the north hunt unit. South Pond will be open to hunting from the ADA blind only.

• Big game, upland game (grouse only), and turkey hunting will be allowed west of Lions Den Road (173 acres). Big game and upland game hunting will be discontinued west of Westside Road (122 acres). To reduce damage to riparian vegetation on the refuge flats, special permit and/or depredation hunts will be developed for white-tailed deer and elk, in consultation with Idaho Department of Fish and Game, if monitoring demonstrates a need for population control. Overall, opportunities for big game and upland game hunting will increase compared to current management.

• Wildlife observation, photography, walking, cross-country skiing, and snowshoeing will be allowed on four trails (3.7 miles total) year round, weather permitting. The Island Pond Trail will be closed to reduce disturbance to waterfowl.

• Environmental education programs will increase.

Alternative 3

This alternative was analyzed but not selected. Under Alternative 3, actions to protect, maintain, and restore habitat for priority species are the same as under Alternative 2, except that fewer areas would be planted to crops since more acres are managed as moist soil wetlands. The acreage in crops and moist soil would be intermediate between Alternatives 1 and 2.

Waterfowl, big game, upland game, and turkey hunting would be the same as in Alternative 2. As in Alternative 2, special permit hunts for white-tailed deer and elk on the refuge flats would be developed to reduce damage to riparian vegetation. Catch-and-release fishing would be allowed from the banks of Myrtle Creek using single, barbless, non-baited hooks only.

The 4.5-mile auto tour route would remain open year-round to vehicles, walking, bicycling, jogging, dog walking (on leash only), cross-country skiing, and snowshoeing as weather and road conditions permit. Wildlife observation, photography, walking, cross-country skiing, and snowshoeing would be allowed on five trails (4.8 miles total) year round, weather permitting. The Island Pond Trail would be closed, but the 1.1-mile Kootenai River Trail would be reopened. Environmental education programs would increase.

Comments

We solicited comments on the draft CCP/EA from August 9, 2011, to September 12, 2011 (76 FR 48877; August 9, 2011). To address the public comments we received, responsive changes and clarifications were made to the final CCP where appropriate. These changes are summarized in the FONSI.

Selected Alternative

After considering the public comments, we have selected Alternative 2 for implementation. The goals, objectives, and strategies under Alternative 2 best achieve the purpose and need for the CCP while maintaining balance among the varied management

needs and programs. Alternative 2 addresses the refuge purposes, issues, and relevant mandates, and is consistent with principles of sound fish and wildlife management.

Dated: November 10, 2011.

Hugh Morrison,

Acting Regional Director, Pacific Region, Portland, Oregon.

[FR Doc. 2012–6250 Filed 3–20–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–HPPC–0206–9480; 4350–HAMP–409]

General Management Plan/Final Environmental Impact Statement, Hampton National Historic Site, Maryland

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement for the General Management Plan (Final GMP/EIS) for Hampton National Historic Site (NHS), Maryland. The Final GMP/EIS identifies Alternative 3 as the NPS preferred alternative for the new GMP for Hampton NHS. When approved, the GMP will provide guidance to park management for administration, development, and interpretation of park resources over the next 20 years.

DATES: The NPS will execute a Record of Decision (ROD) no sooner than 30 days after the date of publication by the Environmental Protection Agency of a Notice of Availability of the Final GMP/EIS in the **Federal Register**.

ADDRESSES: The Final GMP/EIS is available for online at the NPS Planning, Environment, and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/hamp*), and the park's Web site (*http://www.nps.gov/hamp*). Printed hardcopies can be viewed at the following locations:

Hampton National Historic Site, 535 Hampton Lane, Towson, Maryland 21286.

Fort McHenry National and Historic Shrine, End of East Fort Avenue, Baltimore, Maryland 21230.

Towson Branch Library/Baltimore County Library, 320 York Avenue, Towson, Maryland 21204.

Baltimore County Tourism Office and Towson Chamber of Commerce, 44 West Chesapeake Avenue, Towson, Maryland 21204.

FOR FURTHER INFORMATION CONTACT: Tina Orcutt, Superintendent, Hampton National Historic Site, 535 Hampton Road, Towson, Maryland 21286–1397, (410) 823–1309 ext. 101.

SUPPLEMENTARY INFORMATION: The NPS prepared a Draft GMP/EIS to evaluate alternatives to guide the development and future management of Hampton NHS. Alternative 1 would continue current management direction and visitor experience. Alternative 2 would remove post-1948 development and consolidate administrative functions in an effort to recreate the feeling of the Hampton Estate near the end of its period of greatest significance (mid to late 19th century). Alternative 3, the NPS preferred alternative, would expand the visitor experience to include the entire story of the park from the 19th century through the changes of activity and ownership in the 20th century; broaden the stories to include all those who lived and worked at the mansion, the plantations and related Ridgely family enterprises; and provide visitor services and accommodate park operations within the historic and modern buildings existing on the property now. Alternative 3 was also identified as the Environmentally Preferred Alternative. The Draft GMP/EIS was available for public and agency review from October 11, 2010, through December 24, 2010. Printed copies of the Draft GMP/EIS were available at the locations listed above and online at the NPS PEPC Web site (*http://parkplanning.nps.gov/hamp*). Three public open houses were held in November, 2010.

The Final GMP/EIS responds to, and incorporates, agency and public comments received on the Draft GMP/EIS. Agency and public comments with NPS responses are provided on page 135 of the Final GMP/EIS. After careful review of all comments received, Alternative 3 remains the NPS preferred alternative for the new GMP for Hampton NHS. The public release of the Final GMP/EIS will be followed by a no-action period that will end no sooner than 30 days from the date of publication by the Environmental Protection Agency of a Notice of Availability of the Final GMP/EIS in the **Federal Register**. After the 30-day no action period, a Record of Decision will be prepared to document the selected alternative and set forth any stipulations for implementation of the GMP.

Dated: January 27, 2012.

Dennis R. Reidenbach,

Regional Director, Northeast Region, National Park Service.

[FR Doc. 2012–6757 Filed 3–20–12; 8:45 am]

BILLING CODE 4312–56–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Yakima River Basin Conservation Advisory Group Charter Renewal

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal.

SUMMARY: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the charter for the Yakima River Basin Conservation Advisory Group (CAG). The purpose of the CAG is to provide recommendations to the Secretary of the Interior and the State of Washington on the structure and implementation of the Yakima River Basin Water Conservation Program.

The basin conservation program is structured to provide economic incentives with cooperative Federal, State, and local funding to stimulate the identification and implementation of structural and nonstructural cost-effective water conservation measures in the Yakima River basin. Improvements in the efficiency of water delivery and use will result in improved streamflows for fish and wildlife and improve the reliability of water supplies for irrigation.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy McCoy, Manager, Yakima River Basin Water Enhancement Project, telephone 509–575–5848, extension 209.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463, as amended). The certification of renewal is published below.

Certification

I hereby certify that Charter renewal of the Yakima River Basin Conservation Advisory Group is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Ken Salazar,

Secretary of the Interior.

[FR Doc. 2012–6768 Filed 3–20–12; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1189 (Final)]

Large Power Transformers From Korea: Scheduling of the Final Phase of an Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1189 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Korea of large power transformers, provided for in subheading 8504.23.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* February 16, 2012.

FOR FURTHER INFORMATION CONTACT: Stefania Pozzi Porter (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of large power transformers from Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 14, 2011, by ABB Inc., Cary, NC; Delta Star Inc., Lynchburg, VA; and Pennsylvania Transformer Technology Inc., Cannonsburg, PA.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on June 20, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on July 10, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 3, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 6, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 27, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 17, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before July 17, 2012. On July 30, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 1, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as ''large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes 60 megavolt amperes), whether assembled or unassembled, complete or incomplete. Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The ''active part'' of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: The steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT. The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.''

rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: March 15, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–6815 Filed 3–20–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[DN 2884]

Certain Audiovisual Components and Products Containing the Same; Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Audiovisual Components and Products Containing the Same,* DN 2884; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of LSI Corporation and Agere Systems Inc. on March 12, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audiovisual components and products containing the same. The complaint names as respondents Funai Electric Company, Ltd of Japan; Funai Corporation, Inc. of NJ; P&F USA, Inc. of GA; Funai Service Corporation of OH; MediaTek Inc. of Taiwan; MediaTek USA Inc. of CA; MediaTek Wireless, Inc. (USA) of MA; Ralink Technology Corporation of Taiwan; Ralink Technology Corporation (USA) of CA; and Realtek Semiconductor Corporation of Taiwan.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2884'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf).* Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such

treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: March 12, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–6848 Filed 3–20–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[DN 2884]

Certain Audiovisual Components and Products Containing the Same; Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Audiovisual Components and Products Containing the Same,* DN 2884; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of LSI Corporation and Agere Systems Inc. on March 12, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain audiovisual components and products containing the same. The complaint names as respondents Funai Electric Company, Ltd of Japan; Funai Corporation, Inc. of NJ; P&F USA, Inc. of GA; Funai Service Corporation of OH; MediaTek Inc. of Taiwan; MediaTek USA Inc. of CA; MediaTek Wireless, Inc. (USA) of MA; Ralink Technology Corporation of Taiwan; Ralink Technology Corporation (USA) of CA; and Realtek Semiconductor Corporation of Taiwan.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2884'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: March 12, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–6812 Filed 3–20–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–810]

Certain Navigation Products, Components Thereof, and Related Software; Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation on the Basis of a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 9) granting a joint motion to terminate the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Amanda S. Pitcher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 3, 2011, based on a complaint filed by Furuno Electric Co., Ltd. of Hyogo, Japan and Furuno U.S.A., Inc. of Camas, Washington. 76 FR 68209 (Nov. 3, 2011). The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain navigation products, components thereof, and related software by reason of infringement of certain claims of U.S. Patent Nos. 6,084,565; 7,095,367; 7,089,094; and 7,161,561. The notice of investigation named Honeywell International Inc. of Morristown, New Jersey; and Skyforce Avionics Ltd. of West Sussex, United Kingdom as respondents.

On February 14, 2012, the ALJ issued the subject ID, granting a joint motion by all of the parties to terminate the investigation. The ALJ found that the settlement agreement complies with the requirements of Commission Rule 210.21(b) (19 CFR 210.21(b)) and that terminating the investigation would not be contrary to the public interest. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID. Accordingly, this investigation is terminated in its entirety.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: March 13, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–6836 Filed 3–20–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Curriculum Development for MET, ECCP, and ICMS Training Project

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, partnerships of organization and groups, or individuals to enter into a cooperative agreement for a 12-month project period to develop curricula, pilot them, and participate in the planning for the delivery of three closely related training programs. These training programs, together with other training components being developed separately, will ultimately be delivered at the beginning of 2013 as part of the training correctional staff and treatment providers will receive during the Second Chance Act/Demonstration Field Experiment (SCA/DFE). This project is a joint effort being carried out by the Bureau of Justice Assistance (BJA), the National Institute of Justice (NIJ), and NIC. To successfully integrate the entire project, these three programs will be developed together and piloted during the first 6 months of this award. Also during this six-month period and for the remainder of the project, the awardee will participate in the planning for the delivery of each training component to staff and treatment providers at the DFE sites.

The three training curricula to be developed under this award are as follows:

Training #1

The first training to be developed will be Effective Core Correctional Practices (ECCP), which will be based on similar programs developed in recent years (such as STICS, EPICS, STARR and the like). This competency-based curriculum will be used to train line level staff using an integrated case management approach within a desistance framework in working with parolees.

Training #2

The second training will focus on the basics of Integrated Case Management and Supervision (ICMS), with an additional focus on supervision officers working with community service providers to coordinate and track services received by parolees.

Training #3

The third training will be on the use of Motivational Enhancement Therapy (MET) by treatment providers working with parolees. This revised MET curriculum will be an adaptation of the traditional MET's emphasis on substance abuse to include a broader focus on criminal thinking and behavior.

The SCA/DFE will be a multi-year effort and awardees under this solicitation will also be eligible to continue to participate in the project with additional funding to be awarded in 2013. Tasks under that future award will include training delivery, quality assurance, follow-up coaching, refresher training, monitoring the fidelity of the training, and other technical assistance to the SCA/DFE sites. Because the selection of the SCA/DFE sites is ongoing, the details of these tasks will be defined as part of the planning process which will in turn inform the future work.

DATES: Applications must be received by 4 p.m. EDT on Monday, April 23, 2012.

Submissions: Applicants are strongly encouraged to submit their proposals electronically via *http://www.grants.gov.* Applications may also be submitted to: Director, National

Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants submitting proposals non-electronically should provide an original and three unbound copies of all documents. The original proposal should be submitted with the applicant's signatures in blue ink. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date. Faxed applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: All technical or programmatic questions concerning this announcement, including additional information about the background or format of the training, should be directed to Christopher A. Innes, Ph.D., Chief, Research and Information Services Division, National Institute of Corrections. He can be reached by calling (202) 514–0098 or by email at *cinnes@bop.gov*. Questions, answers, and additional information on this solicitation will be posted and updated regularly on *http://nicic.gov/* during the time this solicitation remains open.

Related Solicitation

Please note that NIC has issued a second separate, but closely related solicitation titled, ''Development of Core Correctional Practice Curriculum'' which concerns the development of blended learning materials for ECCP training. Two separate awards will be made through these two solicitations. Applicants may submit a separate proposal in response to the second solicitation, but the award under this solicitation will be made independently and each project will be managed separately.

SUPPLEMENTARY INFORMATION: The Bureau of Justice Assistance issued a request for proposals titled, ''Second Chance Act Demonstration Field Experiment: Fostering Desistance through Effective Supervision'', seeking agencies interested in participating in an innovative intervention using a desistance approach as part of a randomized controlled trial experiment in prisoner reentry. BJA anticipates that it will make awards to up to four sites for what is expected to be a three-year project. The selection of the demonstration sites is in progress and sites will be expected to fully implement the intervention early in 2013. The BJA solicitation closed on February 23, 2012 and the applications from the sites to participate in the project are under review. Applicants responding to this solicitation are strongly encouraged to familiarize themselves with the description of the project and research design in the BJA solicitation. Please visit the Office of Justice Programs (OJP) SCA DFE site at: *http://www.ojp.usdoj.gov/funding/scadfe.htm* and for the full text of the BJA solicitation, see: *http://www.ojp.usdoj.gov/BJA/grant/12SecondChanceDFEsol.pdf*.

Please note that the BJA solicitation provided specific numbers of days expected for the on-site training. However, the length of each training program is subject to modification as necessary. Applicant should propose training program designs that are of adequate length to deliver the program content, but are encouraged to consider blended learning strategies to keep the on-site portion of the training to a reasonable limit.

The SCA/DFE is a multi-site, multi-year project that will provide a rigorous test of a reentry model designed to: (1) Improve offenders' motivation to change; (2) address cognitive and behavioral functioning regarding criminal thinking and behaviors; and (3) address core factors that affect offender performance while under community supervision following release from prison. For this project, only offenders who are assessed as moderate- to high-risk for re-offending will be recruited to participate. To qualify for a SCA/DFE award, sites must have in place a reentry program that includes assessing offenders and using the results to tailor reentry plans to individuals.

As described in the BJA solicitation, NIC has the responsibility of organizing and delivering all of the training for line staff and community-based service providers. Line staff will receive ECCP training (training #1), which should include skills building in relationships, coaching, problem-solving, motivational enhancement, role clarification and the use of authority, and using reinforcement and disapproval effectively. Line staff will also receive training in the key elements from the ICMS approach (training #2) that are focused on using risk and needs assessments to match appropriate treatment or programming options, coordinated services, follow-up, and community collaboration.

Treatment providers will receive training on using MET in working with parolees (training #3). Both groups will receive education and training in the desistence model (this training is being developed under a separate cooperative agreement). All of the training developed under this award will also be designed to complement NIC's Thinking for a Change (T4C) cognitive behavioral training program. NIC has recently revised the T4C training (see *http://nicic.gov/T4c* for full information on this training). In the SCA/DFE design, parolees will receive the T4C program as part of the intervention (that training will be delivered by NIC), in conjunction with MET.

The SCA/DFE project sites will also receive program quality assurance assessment, and feedback/coaching or technical assistance as needed throughout the project. Awardees under this solicitation will participate in the planning for the coordination and delivery of these additional services and will also be eligible to receive future funding to assist in the delivery of these services to the SCA/DFE sites.

Statement of Work

(1) Design and pilot a curriculum for Effective Core Correctional Practices (ECCP) Training: The awardee under this solicitation will be responsible for the development and piloting of an ECCP curriculum designed to be delivered to staff at the SCA/DFE sites. In recent years, several curricula have been developed to train line-level correctional staff in working with people under correctional supervision. These include Strategic Training Initiative in Community Supervision (STICS) by Public Safety Canada, Effective Practices in Community Supervision (EPICS) by the University of Cincinnati Corrections Institute, and Strategic Techniques Aimed at Reducing Re-arrest (STARR) from the Administrative Office of the United States Courts, Office of Probation and Pretrial Services as well others. These approaches for individual offender interventions use somewhat differing combinations of cognitive-behavioral techniques, motivational enhancement, cognitive restructuring, relationship building, and role clarification. The ECCP training program to be developed by the awardee under this solicitation will combine these elements and blend them with ICMS approaches and the Desistance Model. The awardee under this solicitation will develop both a curriculum and facilitators manual for Training for Trainers (T4T) and the curriculum for the training program the trainers will deliver to line staff.

(2) Design and pilot a curriculum for Integrated Case Management (ICMS). The awardee under this solicitation will be responsible for the development and piloting of an ICMS curriculum designed to be delivered to staff at the SCA/DFE sites. The key elements from the ICMS approach that are most important to the project are assessment, matching treatment or programming, coordinated services, follow-up, and community collaboration. The training

should be modeled after NIC's Transition from Prison to the Community Project's materials. These include the TPC Case Management Handbook: An Integrated Case Management (ICM) Approach and the TPC Reentry Handbook: Implementing the NIC Transition from Prison to the Community Model (see *http://nicic.gov/TPJC* for both documents). The ICMS training program to be developed by the awardee under this solicitation will combine these elements and blend them with ECCP and the Desistance Model. The awardee under this solicitation will develop both a curriculum and facilitators manual for Training for Trainers (T4T) and the curriculum for the training program the trainers will deliver to line staff.

(3) Design and pilot a curriculum for Motivational Enhancement Training (MET): The awardee under this solicitation will be responsible for the development and piloting of an MET curriculum designed to be delivered to treatment providers at the SCA/DFE sites. Motivational Enhancement Therapy (MET) is an approach that has proven effective, particularly in working with people with substance abuse issues. It is a short intervention that begins with the assumption that clients will be better able to change their behavior when they develop a sense of intrinsic motivation and feel themselves able to make significant changes in their life. The approach is based primarily on Motivational Interviewing techniques developed by William R. Miller and Stephen Rollnick (1991). It is derived from a number of sources, including stages of change theory (Prochaska and DiClemente, 1984), other strength-based, client-centered approaches, and research on clinical practices that are associated with client success.

In their book on the principles of motivational interviewing, Miller and Rollnick identified five strategies to use in employing this approach; (1) Expressing empathy and acceptance through respect and support instead of confrontation; (2) helping clients see the contrast between their behavior and their own desired goals; (3) avoiding arguments by letting the client talk about changing; (4) managing resistance by empathetically reflecting the client's resistance to change; and (5) supporting self-efficacy by helping the client believe that he or she can change.

MET was designed as a standardized approach in Project MATCH, a nine-site clinical trial of patient-treatment matching sponsored by the National Institute of Alcohol Abuse and Alcoholism (see Miller *et al.,* 1995). The MET strategy is not designed to train clients through a step by step process of change. Instead, it can be used to prepare a client for a more structured intervention to follow. The MET approach differs from cognitive-behavioral treatment strategies that teach specific skills and, in the SCA/DFE project, parolees will receive the Thinking for a Change program while at the same time working with treatment providers using skills they developed in the MET training. Under the cooperative agreement to be awarded under this solicitation, the awardee will develop a curriculum and assist in the planning for the delivery of training, with follow up coaching as necessary, to the treatment providers at each of the SCA/DFE sites. While the original MET training focused on substance abuse issues, this curriculum should be more broadly tailored to offenders. A typical MET intervention is structured around four sessions with the client. The awardee under this solicitation will work closely with NIC, the Federal partners, subject matter experts, and the evaluation team to design an MET approach appropriate for the SCA/DFE intervention which may differ from the traditional four session structure. Applicants are encouraged to include their ideas on this subject in their proposals.

The revised MET intervention developed under this solicitation should be compatible with a focus on criminal thinking and behaviors to blend seamlessly with the subject in NIC's T4C program (such as antisocial/pro-criminal attitudes, values and beliefs; criminal associates; temperament and personality factors; family factors; low levels of education, vocational or financial achievement; and substance use) and the other components of the intervention included in the ECCP and crime desistance. The awardee under this solicitation will develop both a curriculum and facilitators manual for Training for Trainers (T4T) and the curriculum for the training program the trainers will deliver to line staff. MET References: Miller, W. R., & Rollnick, S. (1991). Motivational interviewing: Preparing people to change addictive behavior. New York: Guilford; Miller, W. R., Zweben, A., DiClemente, C. C., & Rychtarik, R. G. (1995). Motivational enhancement therapy (MET) manual. (Vol. 2). Project MATCH Monograph Series. Rockville, MD: National Institute on Alcohol Abuse and Alcoholism; Prochaska, J. O., & DiClemente, C. C. (1984). The transtheoretical approach: Crossing traditional boundaries of therapy. Homewood, IL: Dow Jones-Irwin.

Tasks to be performed under this cooperative agreement include; (1) Creation of curricula for ECCP training. The awardee under this solicitation will develop both a trainer for trainers (T4T) program and a training curriculum for line staff for the trainers to deliver on-site. The curricula should allow for the use of blended elements, including classroom or individual instruction, e-courses, virtual instructor led training and coaching/feedback. The curriculum must use NIC's Instructional Theory into Practice (ITIP) model (see *http://nicic.gov/Training/NICWBT16* and *http://nicic.gov/Library/010714).* In addition to developing the ECCP curricula, the awardee will also develop and deliver a facilitator's manual and any other supplementary material necessary for the delivery of the training.

(2) Creation of curricula for ICMS training. The awardee under this solicitation will develop both a trainer for trainers (T4T) program and a training curriculum for line staff for the trainers to deliver on-site. The curricula should allow for the use of blended elements, including classroom or individual instruction, e-courses, virtual instructor led training and coaching/feedback. The curriculum must use NIC's Instructional Theory into Practice (ITIP) model (see *http://nicic.gov/Training/NICWBT16* and *http://nicic.gov/Library/010714).* In addition to developing the ICMS curricula, the awardee will also develop and deliver a facilitator's manual and any other supplementary material necessary for the delivery of the training.

(3) Creation of a curriculum to train service providers in the use of MET that can be delivered as on-site training. The awardee under this solicitation will develop both a trainer for trainers (T4T) program and a training curriculum for line staff for the trainers to deliver. The curriculum should allow for the use of blended elements, including classroom or individual instruction, e-courses, virtual instructor led training, and coaching/feedback. The curriculum must use NIC's Instructional Theory into Practice (ITIP) model (see *http://nicic.gov/Training/NICWBT16* and *http://nicic.gov/Library/010714*). In addition to developing the MET curricula, the awardee will also develop and deliver a facilitator's manual and any other supplementary material necessary for the delivery of the training. For the MET training, this should include a revision of the personal feedback report commonly used in MET sessions.

(4) Pilot testing of all of the curricula and revisions to each curriculum after

the pilot. The design of the pilots and curricula revisions will be carried out in consultation with NIC and the other Federal partners, subject matter experts, and the evaluation team.

(5) Development, in consultation with NIC staff, Federal partners, subject matter experts, and the evaluation team, of instruments to aid in the evaluation of the training under this project, including knowledge tests.

(6) Participation in development and planning meetings with NIC staff, Federal partners, subject matter experts, and the evaluation team to coordinate the curriculum development and planning for training delivery. Awardee expenses for these meeting are limited to the awardee's own project team's costs of travel, lodging, meals, incidental expenses, and compensation. Awardees should plan on up to four, two-day meetings. (For budgeting purposes, applicants may assume that 2 meetings will take place at the NIC National Corrections Academy in Aurora, Colorado, and two at NIC's offices in Washington, DC) To conform to DOJ rules, all project team members who may be attending these planning meetings must be listed by name in the proposal. Participation in other planning and coordination meetings will take place as necessary throughout the life of the project through teleconferences and WebEx meetings as required.

(7) Delivery of a full report on the project together with the final, edited versions of all materials developed during the project in a design and format appropriate for public dissemination. A draft of these materials must be submitted prior to the end of the project and follow NIC's specific requirements for documents or other media.

Specific Requirements: Documents or other media that are produced under this award must follow these guidelines: Prior to the preparation of the final draft of any document or other media, the awardee must consult with NIC's Writer/Editor concerning the acceptable formats for manuscript submissions and the technical specifications for electronic media. The awardee must follow the guidelines listed herein, as well as follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements,'' which can be found on our Web site at *www.nicic.gov/cooperativeagreements*.

All final documents and other media submitted under this project will be posted on the NIC Web site and must meet the Federal Government's requirement for accessibility (i.e., 508 PDF or HTML files). The awardee must provide descriptive text interpreting all graphics, photos, graphs, and/or multimedia to be included with or distributed alongside the materials and must provide transcripts for all applicable audio/visual works.

Application Requirements: Applications should be concisely written, typed, double spaced, and reference the project by the ''NIC Opportunity Number'' and Title in this announcement. The package must include: a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); a program narrative, not to exceed 30 pages, in response to the statement of work, and a budget narrative explaining projected costs. Applicants may submit a description of the project teams' qualifications and expertise relevant to the project, but should not attach lengthy resumes. Large attachments to the proposal describing the organization or examples of other past work are discouraged.

The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://nicic.gov/Downloads/General/certif-frm.pdf*. Failure to supply all required forms with the application package may result in disqualification of the application from consideration.

Authority: Pub. L. 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving all seven of the goals of this solicitation. The award under this solicitation will be based on best value and quality of the work as defined under the scope of work outlined above. Funds may only be used for the activities that are directly linked to the tasks of the project.

This project will be a collaborative venture with the NIC's National Corrections Academy and its Research and Information Services Division.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. Proposals which fail to provide sufficient information to allow evaluation under the criteria below may be judged non-responsive and disqualified.

The criteria for the evaluation of each application will be as follows:

Programmatic (40%)

Are all of the seven project tasks adequately discussed? Is there a clear statement of how each task will be accomplished, to include: major sub-tasks, the strategies to be employed, required staffing, and other required resources? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational (35%)

Does the proposed project staff possess the skills, knowledge, and expertise necessary to complete the tasks listed under the scope of work? Does the applicant organization, group, or individual have the organizational capacity to achieve all seven project tasks? Are the proposed project management and staffing plans realistic and sufficient to complete the project within the project time frame?

Project Management/Administration (25%)

Does the applicant identify reasonable objectives, milestones, and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project, and a clear structure to insure effective coordination? Is the proposed budget realistic, provide sufficient cost detail/narrative, and represent good value relative to the anticipated results?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR). A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1). Registration in the CRR can be done online at the CCR Web site: *http://www.bpn.gov/ccr*. A CCR Handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 12RE05. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and

outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2012–6849 Filed 3–20–12; 8:45 am]

BILLING CODE 4410–36–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Submission for OMB Review, Comment Request, Proposed Collection: Let's Move Museums, Let's Move Gardens

AGENCY: Institute of Museum and Library Services, The National Foundation for The Arts snd The Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces that the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before April 16, 2012.

OMB is particularly interested in comments that help the agency to:

- 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 submissions of responses.

ADDRESSES: Mamie Bittner, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington, DC 20036. Telephone: 202/653–4630. Email: *mbittner@imls.gov* or by or by teletype (TTY/TDD) for persons with hearing difficulty at 202/653–4614.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 17,500 museums. The Institute's mission is to create strong libraries and museums that connect people to information and ideas. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development. IMLS conducts policy research, analysis, and data collection to extend and improve the Nation's museum, library, and information services. The policy research, analysis, and data collection is used to: Identify national needs for and trends in museum, library, and information services; measure and report on the impact and effectiveness of museum, library, and information services throughout the United States; identify best practices; and develop plans to improve museum, library, and information services of the United States and strengthen national, State, local, regional, and international communications and cooperative networks. (20 U.S.C. chapter 72, 20 U.S.C. § 9108).

Abstract: The Call for Participation for Let's Move Museums, Let's Move Gardens will collect information museums programs, exhibitions and food service that are targeted at fighting childhood obesity. The information will be used to provide accountability and to share best practices in public health programs.

Current Actions: This notice proposes clearance of the *Let's Move* Museums, *Let's Move* Gardens collection. The 60-day notice for the *Let's Move* Museums, *Let's Move* Gardens collection was published in the **Federal Register** on November 16, 2011 (FR vol. 76, No. 221, pg. 71080). No comments were received.

Agency: Institute of Museum and Library Services.

Title: Let's Move Museums, *Let's Move* Gardens.

OMB Number: TBD.

Agency Number: 3137.

Frequency: Annual.

Affected Public: Museums, state, local, tribal government and not-for-profit institutions.

Number of Respondents: 2,000.

Estimated Time per Respondent: .17.

Total Annual Costs to Respondents: $6,069.

Total Annualized to Federal Government: $55,120.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, 202/395–7316.

Dated: March 15, 2012.

Kim Miller,

Management Analyst.

[FR Doc. 2012–6741 Filed 3–20–12; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978, Public Law 95–541. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by April 20, 2012. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as

directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application: 2012–016

1. *Applicant:* Lockheed Martin Corporation, Information Systems & Global Solutions (I&GS), Engineering Services Segment, Celia Lang, Program Director (Principal in Charge), 7400 South Tucson Way, Centennial, CO 80112.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Areas (ASPAs). The applicant plans to only transit through the marine ASPAs (ASPA 145—Port Foster, Deception Caldera, ASPA 152—Western Bransfield Strait, and ASPA 153—Eastern Dallmann Bay) when truly necessary. The areas' management plans allow transit through the areas so long as doing so does not jeopardize the values to be protected in each ASPA.

Location

ASPA 145—Port Foster, Deception Caldera, ASPA 152—Western Bransfield Strait, and ASPA 153—Eastern Dallmann Bay.

Dates

April 1, 2012 to March 31, 2017.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2012–6803 Filed 3–20–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On February 9 and February 13, 2012 respectively, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on March 16, 2012 to:

Robert A. Blanchette, Permit No. 2012–013;

H. William Detrich, III, Permit No. 2012–014;

Laurie Connell, Permit No. 2012–015.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012–6802 Filed 3–20–12; 8:45 am]

BILLING CODE 7555–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; Cancellation

OPIC March 21, 2012 Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in Conjunction with each Board meeting was published in the **Federal Register** (77 FR 13158) on March 5, 2012. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing scheduled for 2 p.m., March 21, 2012 in conjunction with OPIC's March 29, 2012 Board of Directors meeting has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, or via email at *Connie.Downs@opic.gov.*

Dated: March 19, 2011.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2012–6889 Filed 3–19–12; 11:15 am]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: SF 3104, Application for Death Benefits Under the Federal Employees Retirement System; and SF 3104B, Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0172, Application for Death Benefits under the Federal Employees Retirement System and Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until May 21, 2012. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Quinta Spear, Deputy Assistant Director, Retirement Operations, Retirement Services, 1900 E Street NW., US 300, Washington, DC 20415, or sent via electronic mail to *Leslie.Parker@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: SF 3104, Application for Death Benefits under

the Federal Employees Retirement System, is needed to collect information so that OPM can pay death benefits to the survivors of Federal employees and annuitants. SF 3104B, Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death, is needed for deaths in service so that survivors can make the needed elections regarding health benefits, military service and payment of the death benefit.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management

Title: Application for Death Benefits under the Federal Employees Retirement System and Documentation and Elections in Support of Application for Death Benefits When Deceased Was an Employee at the Time of Death.

OMB Number: 3206–0172.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: SF 3104 = 12,734 and SF 3104B = 4,017.

Estimated Time per Respondent: 60 minutes.

Total Burden Hours: 16,751.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–6783 Filed 3–20–12; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2012–18; Order No. 1289]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to enter into an additional International Business Reply Service contract. This document invites public comments on the request and addresses several related procedural steps.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

DATES: *Comments are due:* March 23, 2012.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On March 14, 2012, the Postal Service filed a notice announcing that it has entered into an additional International Business Reply Service (IBRS) contract.[1] The Postal Service asserts that the instant contract is functionally equivalent to the IBRS 3 baseline contract originally filed in Docket Nos. MC2011–21 and CP2011–59 and supported by Governors' Decision No. 08–24 (IBRS 3 baseline contract). *Id.,* Attachment 3. The notice explains that Order No. 684, which established IBRS Competitive Contracts 3 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1–2.

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5, and states that the instant contract is also in compliance with Order No. 178. The instant contract is the successor to the contract found by the Commission to be eligible for inclusion in the IBRS Competitive Contract 3 (MC2011–21) product in Docket No. CP2011–61. *Id.* at 2. It is scheduled to become effective on April 1, 2012, and will remain in effect until 1 year after its effective date, unless termination of the agreement occurs earlier. *Id.* The instant contract may be terminated by either party upon 30 days' written notice. *Id.,* Attachment 1 at 4.

In support of its notice, the Postal Service filed four attachments as follows:

- Attachment 1—A redacted copy of the contract and applicable annexes;
- Attachment 2—A certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—A redacted copy of Governors' Decision No. 08–24, which establishes prices and classifications for IBRS contracts, a description of applicable IBRS contracts, formulas for prices, an analysis of the formulas, a certification as to the formulas for prices offered under applicable IBRS contracts, and certification of the Governors' vote; and
- Attachment 4—An application for non-public treatment of materials to maintain redacted portions of the contract and file supporting documents under seal.

The notice enumerates the reasons why the instant IBRS Competitive Contract allegedly fits within the Mail Classification Schedule language for IBRS Competitive Contract 3. The Postal Service identifies general contract terms that distinguish the instant contract from the IBRS 3 baseline contract, such as (1) a revised sentence in Article 15 stating that the Postal Service may be required to file information in connection with the contract in other Commission dockets; and (2) an additional Article 30 concerning intellectual property, co-branding, and licensing. *Id.* at 5. The Postal Service states that the differences affect neither the fundamental service that the Postal Service is offering nor the fundamental structure of the contract. *Id.*

The Postal Service concludes that its filing demonstrates that the new IBRS contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the IBRS 3 baseline contract filed in Docket Nos. MC2011–21 and CP2011–59. *Id.* at 6. Therefore, it requests that the instant contract be included within the IBRS Competitive Contract 3 (MC2011–21) product. *Id.*

II. Notice of Filing

The Commission establishes Docket No. CP2012–18 for consideration of matters related to the contract identified in the Postal Service's notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3633 and 39 CFR 3015.5. Comments are due no later than March 23, 2012. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.*

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2012–18 for consideration of matters raised by the Postal Service's notice.

2. Comments by interested persons in this proceeding are due no later than March 23, 2012.

[1] Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, March 14, 2012 (Notice).

3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–6784 Filed 3–20–12; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–48; File No. S7–03–12]

Privacy Act of 1974: Systems of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notice to revise two existing systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission (''Commission'' or ''SEC'') proposes to revise two existing systems of records. The two existing systems of records are ''Administrative Audit System (SEC–14)'' last published in the **Federal Register** Volume 63, Number 47 on Wednesday, March 11, 1992 and ''Fitness Center Membership, Payment, and Fitness Records (SEC–48)'', last published in the **Federal Register** Volume 64, Number 77 on Thursday, April, 22, 1999.

DATES: The proposed systems will become effective April 30, 2012 unless further notice is given. The Commission will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To be assured of consideration, comments should be received on or before April 20, 2012.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–03–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–03–12. This file number should be included on the subject line if email is used. To help us 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/other.shtml*). Comments are also 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Todd Scharf, Acting Chief Privacy Officer, Office of Information Technology, 202–551–8800.

SUPPLEMENTARY INFORMATION: The Commission proposes to revise two existing systems of records, ''Administrative Audit System (SEC–14)'' and ''Fitness Center Membership, Payment, and Fitness Records (SEC–48)''. As described in the last published notice, the Administrative Audit System (SEC–14) records are used to ensure that all obligations and expenditures other than those in the pay and leave system are in conformance with laws, existing rules and regulations, and good business practice, and to maintain subsidiary records at the proper account and/or organizational level where responsibility for control of costs exists. Minor administrative changes to SEC–14 have been incorporated to reflect the Commission's current address in the following sections: Notification, Access and Contesting Records Procedures. Substantive changes to the notice have been made to the following sections: (1) System Name, reflecting the new title: ''SEC Financial and Acquisition Management System''; (2) System Location reflecting the addition of a new off-site location of the records; (3) Categories of individuals reflecting the types of individuals whose personally identifiable information is contained in the system; (4) Categories of Records, adding new types of individually identifiable information; (5) Routine Uses, adding certain standard routine uses as applicable to this system of records (those numbered 1 through 10); and (6) Record Source, reflecting the sources from which records are received.

As described in the last published notice, the Fitness Center Membership, Payment, and Fitness Records (SEC–48) system is used to enable SEC Fitness Center staff to track fitness center membership, fee payments, and the physical fitness of members and to allow the SEC to provide a variety of health and fitness resources to its employees. Minor administrative changes to SEC–48 have been incorporated to reflect the Commission's current address in the following sections: System Location; and Notification, Access and Contesting Records Procedures. Substantive changes to the notice have been made to the following sections: (1) System Name, reflecting the new title: ''SEC Employee's Health and Fitness Program Records''; and (2) Routine Use, adding standard routine uses as applicable to this system.

The Commission has submitted a report of the amended existing systems of records to the appropriate Congressional committees and to the Director of the Office of Management and Budget (''OMB'') as required by 5 U.S.C. 552a(r) (Privacy Act of 1974) and guidelines issued by OMB on December 12, 2000 (65 FR 77677).

Accordingly, the Commission is proposing amendment of two existing systems of records to read as follows:

SEC–14

SYSTEM NAME:

SEC Financial and Acquisition Management System

SYSTEM LOCATION:

1. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Files may also be maintained in the Commission's Regional Offices.

2. Federal Aviation Administration, Mike Munroney Aeronautical Center, AMZ–740, 6500 S. MacArthur Blvd., Headquarters Bldg. 1, Oklahoma City, OK 73169.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees, contractors, vendors, interns, customers and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee personnel information: Limited to SEC employees, and includes name, address, Social Security number (SSN); Business-related information: Limited to contractors/vendors and customers, and includes name of the company/agency, point of contact,

telephone number, mailing address, email address, contract number, CAGE code, vendor number (system unique identifier), DUNS number, and TIN, which could be a SSN in the case of individuals set up as sole proprietors; and Financial information: Includes financial institution name, lockbox number, routing transit number, deposit account number, account type, debts (e.g., unpaid bills/invoices, overpayments, etc.), and remittance address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3501, et seq. and 31 U.S.C. 7701(c). Where the employee identification number is the social security number, collection of this information is authorized by Executive Order 9397.

PURPOSE(S):

Serves as the core financial system and integrates program, financial and budgetary information. Records are collected to ensure that all obligations and expenditures other than those in the pay and leave system are in conformance with laws, existing rules and regulations, and good business practice, and to maintain subsidiary records at the proper account and/or organizational level where responsibility for control of costs exists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Commission as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To appropriate agencies, entities, and persons when (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the SEC 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 this system or other systems or programs (whether maintained by the SEC or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the SEC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

2. To other federal, state, local, or foreign law enforcement agencies; securities self-regulatory organizations; and foreign financial regulatory authorities to assist in or coordinate regulatory or law enforcement activities with the SEC.

3. In any proceeding where the federal securities laws are in issue or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity.

4. To a federal, state, local, tribal, foreign, or international agency, if necessary to obtain information relevant to the SEC's decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit.

5. To produce summary descriptive statistics and analytical studies, as a data source for management information, in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

6. To any persons during the course of any inquiry, examination, or investigation conducted by the SEC's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

7. To interns, grantees, experts, contractors, and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs, including by performing clerical, stenographic, or data analysis functions, or by reproduction of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

8. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

9. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.

10. To a commercial contractor in connection with benefit programs administered by the contractor on the Commission's behalf, including, but not limited to, supplemental health, dental, disability, life and other benefit programs.

11. To the OMB in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

12. To the Treasury, Government Accountability Office, or other appropriate agencies to provide appropriate audit documentation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc. Paper records and records on computer disc are stored in locked file rooms and/or file cabinets.

RETRIEVABILITY:

Records may be retrieved by a name of employee, social security number (SSN) for employees, SSN/Tax Identification Number (TIN) for vendors doing business with the SEC, Name for both employees and vendors, Vendor Number (system unique) for both employees and vendors, DUNS/DUNS + 4.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24 hour security guard service. The records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times. Access is limited to those personnel whose official duties require access. Computerized records are safeguarded through use of access codes and information technology security. Contractors and other recipients providing services to the Commission are contractually obligated to maintain equivalent safeguards.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the United States Securities and Exchange Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, Office of Financial Management, Securities and

Exchange Commission, 100 F Street NE., Washington, DC 20549–6041.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–5100.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–5100.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures above.

RECORD SOURCE CATEGORIES:

The information maintained in Department of Transportation, (DOT)/ Enterprise Service Center (ESC): Purchase orders, vouchers, invoices, contracts, and electronic records; Department of Interior (DOI)/Federal Personnel Payroll System (FPPS): Travel applications, disgorgement information, or other paper records submitted by employees, vendors, and other sources, including claims filed by witnesses in SEC actions; Delphi-Prism: FedTraveler, Department of the Interior (DOI) Payroll System, Bureau of Public Debt, and EDGAR Momentum.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

SEC–48

SYSTEM NAME:

Fitness Center Membership, Payment, and Fitness Records SEC Employee's Health and Fitness Program Records.

SYSTEM LOCATION:

Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

Aquila Fitness Consulting Systems, Ltd., 429 Lenox Avenue, Suite 4W21, Miami Beach, FL 33139–6532.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees who voluntarily sign up for membership benefits for SEC fitness programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may contain employee name, division, office address, email address, home address, home and cell telephone numbers, date of birth, health pre-screening questions, membership number, fee and payment information (including electronic debit information), and fitness progress charts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, et seq.

PURPOSE(S):

The system enables SEC Fitness Center staff to track Fitness Center membership, fee payments, and the physical fitness of members. The primary use of these records is to allow the SEC to provide a variety of health and fitness resources to its employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Commission as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To appropriate agencies, entities, and persons when (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the SEC 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 this system or other systems or programs (whether maintained by the SEC or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the SEC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

2. To produce summary descriptive statistics and analytical studies, as a data source for management information, in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

3. To interns, grantees, experts, contractors, and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs, including by performing clerical, stenographic, or data analysis functions, or by reproduction of records by electronic or other means. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

4. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.

6. To a commercial contractor in connection with benefit programs administered by the contractor on the Commission's behalf, including, but not limited to, supplemental health, dental, disability, life and other benefit programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases and/or on computer disc. Paper records and records on computer disc are stored in locked file rooms and/or file cabinets.

RETRIEVABILITY:

Records are retrieved by the individual's name or membership number.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24 hour security guard service. The records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times. Access is limited to those personnel whose official duties require access. Computerized records are safeguarded through use of access codes and information technology security. Contractors and other recipients providing services to the Commission are contractually obligated to maintain equivalent safeguards.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the United States Securities and Exchange Commission and as approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director, Office of Human Resources, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–5100.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–5100.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

All information is provided by Fitness Center members.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: March 15, 2012.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–6788 Filed 3–20–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66601; File No. SR–CME–2012–07]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Additional Series of Credit Default Index Swaps Available for Clearing

March 15, 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 March 9, 2012, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(4)(i)[4] thereunder.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

* * * * *

CHICAGO MERCANTILE EXCHANGE INC. RULEBOOK

Rule 100—80203—No Change.

CME Chapter 802 Rules: Appendix I

Appendix 1

CDX INDICES

CDX Index	Series	Termination date (scheduled termination)
CDX North American Investment Grade (CDX.NA.IG)	9	20 Dec 2012. 20 Dec 2014. 20 Dec 2017.
CDX North American Investment Grade (CDX.NA.IG)	10	20 Jun 2013. 20 Jun 2015. 20 Jun 2018.
CDX North American Investment Grade (CDX.NA.IG)	11	20 Dec 2011. 20 Dec 2013. 20 Dec 2015. 20 Dec 2018.
CDX North American Investment Grade (CDX.NA.IG)	12	20 Jun 2012. 20 Jun 2014. 20 Jun 2016. 20 Jun 2019.
CDX North American Investment Grade (CDX.NA.IG)	13	20 Dec 2012. 20 Dec 2014. 20 Dec 2016. 20 Dec 2019.
CDX North American Investment Grade (CDX.NA.IG)	14	20 Jun 2013. 20 Jun 2015. 20 Jun 2017. 20 Jun 2020.
CDX North American Investment Grade (CDX.NA.IG)	15	20 Dec 2013. 20 Dec 2015. 20 Dec 2017. 20 Dec 2020.
CDX North American Investment Grade (CDX.NA.IG)	16	20 Jun 2014. 20 Jun 2016. 20 Jun 2018. 20 Jun 2021.
CDX North American Investment Grade (CDX.NA.IG)	17	20 Dec 2014. 20 Dec 2016. 20 Dec 2018.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(i).

CDX INDICES—Continued

CDX Index	Series	Termination date (scheduled termination)
		20 Dec 2021.
CDX North American Investment Grade (CDX.NA.IG)	*18*	*20 Dec 2014.*
		20 Dec 2016.
		20 Dec 2018.
		20 Dec 2021.
CDX North American High Yield (CDX.NA.HY)	11	20 Dec 2013.
CDX North American High Yield (CDX.NA.HY)	12	20 Jun 2014.
CDX North American High Yield (CDX.NA.HY)	13	20 Dec 2014.
CDX North American High Yield (CDX.NA.HY)	14	20 Jun 2015.
CDX North American High Yield (CDX.NA.HY)	15	20 Dec 2015.
CDX North American High Yield (CDX.NA.HY)	16	20 Jun 2016.
CDX North American High Yield (CDX.NA.HY)	17	20 Dec 2016.
CDX North American High Yield (CDX.NA.HY)	*18*	*20 Jun 2017.*

* * * * *

Rule 80301—End—No change

* * * * *

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

CME offers clearing services for certain credit default swap index products. Currently, CME offers clearing of the Markit CDX North American Investment Grade Series 9, 10, 11, 12, 13, 14, 15, 16 and 17 and also offers clearing of the Markit CDX North American High Yield Series 11, 12, 13, 14, 15, 16 and 17.

The proposed rule changes that are the subject of this filing are intended to expand CME's Markit CDX North American Investment Grade and Markit CDX North American High Yield product offerings by incorporating the upcoming Series 18 for both sets of index products.

The proposed rule changes that are the subject of this filing became immediately effective upon filing this proposed rule change with the Commission. CME notes that it has also certified the proposed rule changes that are the subject of this filing to its primary regulator for swaps, the Commodity Futures Trading Commission (''CFTC''). The text of the CME proposed rule change is included above, with additions italicized and deletions in brackets.

The proposed CME rule change merely incorporates one additional series to CME's existing offering of broad-based Markit CDX North American Investment Grade and CDX North American High Yield credit default swaps. As such, the proposed amendments simply effect changes to an existing service of a registered clearing agency that (1) do not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (2) do not significantly affect the respective rights or obligations of the clearing agency or persons using its clearing agency services. Therefore, the proposed rule change is therefore properly filed under Section 19(b)(3)(A) and Rule 19b–4(f)(4)(i) thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited and does not intend to solicit comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(4)(i) of Rule 19b–4 thereunder and therefore became effective on filing. At any time within sixty days of the filing of such 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 may be submitted by using the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2012–07 on the subject line.
- Paper comments should be sent 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–CME–2012–07. 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/files/SEC_19b-4_x12-07x.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CME–2012–07 and should be submitted on or before April 11, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6763 Filed 3–20–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66609; File No. SR–CBOE–2012–024]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Telemarketing Rules

March 15, 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 March 2, 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 substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 9.24, *Telephone Solicitation,* to revise and add provisions that are substantially similar to Federal Trade Commission (''FTC'') rules that prohibit deceptive and other abusive telemarketing acts or practices.[3] The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 9.24, *Telephone Solicitation,*[4] to revise and add provisions that are substantially similar to FTC rules that prohibit deceptive and other abusive telemarketing acts or practices.[5] Rule 9.24 requires Trading Permit Holders to, among other things, maintain do-not-call lists, limit the hours of telephone solicitations, and not use deceptive and abusive acts and practices in connection with telemarketing. The Commission directed CBOE to enact these telemarketing rules in accordance with the Telemarketing Consumer Fraud and Abuse Prevention Act of 1994 (''Prevention Act'').[6] The Prevention Act requires the Commission to promulgate, or direct any national securities exchange or registered securities association to promulgate, rules substantially similar to the FTC rules[7] to prohibit deceptive and other abusive telemarketing acts or practices, unless the Commission determines either that the rules are not necessary or appropriate for the protection of investors or the maintenance of orderly markets, or that existing federal securities laws or Commission rules already provide for such protection.[8]

In 1997, the Commission determined that telemarketing rules promulgated and expected to be promulgated by self-regulatory organizations, together with the other rules of the self-regulatory organizations, the federal securities laws and the Commission's rules thereunder, satisfied the requirements of the Prevention Act because, at the time, the applicable provisions of those laws and rules were substantially similar to the FTC's telemarketing rules.[9] CBOE amended Rule 9.24 at that time in response to the Commission's determination.[10] Since 1997, the FTC has amended its telemarketing rules in light of changing telemarketing practices and technology.[11]

[3] The proposed rule change is substantially similar in all material respects to Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 3230 (Telemarketing), which the Commission recently approved. *See* Securities Exchange Act Release No. 66279 (Jan. 30, 2012), 77 FR 5611 (Feb. 3, 2012) (SR–FINRA–2011–059) (approval order of proposed rule change to adopt telemarketing rule). The proposed rule change amends the name of Rule 9.24 from *Telephone Solicitation* to *Telemarketing.*

[4] The Exchange adopted Rule 9.24, effective December 13, 2005, in response to the recommendations of an industry task force, comprised of representatives from various industry regulatory and self-regulatory organizations, formed to review broker-dealer telemarketing practices and compliance with the Telephone Consumer Protection Act of 1991 (''TCPA''), 47 U.S.C. 227, as well as with Federal Communications Commission (''FCC'') rules and regulations that implemented the TCPA. *See* Securities Exchange Act Release No. 36588 (Dec. 13, 1995), 60 FR 65703 (Dec. 20, 21995) (SR–CBOE–1995–063) (order approving adoption of Rule 9.24).

[5] The proposed rule change also amends Appendix A to the CBOE Stock Exchange, LLC (''CBSX'') Rules to explicitly incorporate proposed Rule 9.24 CBSX Rules. CBSX is a stock trading facility of CBOE.

[6] 15 U.S.C. 6101–6108.

[7] 16 CFR 310.1–.9. The FTC adopted these rules under the Prevention Act in 1995. *See* Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995).

[8] 15 U.S.C. 6102.

[9] *See Telemarketing and Consumer Fraud and Abuse Prevention Act; Determination that No Additional Rulemaking Required,* Securities Exchange Act Release No. 38480 (Apr. 7, 1997), 62 FR 18666 (Apr. 16, 1996). The Commission also determined that some provisions of the FTC's telemarketing rules related to areas already extensively regulated by existing securities laws or activities not applicable to securities transactions *See id.*

[10] *See* Securities Exchange Act Release No. 39010 (Sept. 3, 1997), 62 FR 47712 (Sept. 10, 1997) (SR–CBOE–1997–039) (order granting accelerated approval of amendments to Rule 9.24).

[11] *See, e.g.,* Federal Trade Commission, *Telemarketing Sales Rule,* 73 FR 51164 (Aug. 29, 2008) (amendments to the *Telemarketing Sales Rule* relating to prerecorded messages and call abandonments); and Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) (amendments to the *Telemarketing Sales Rule*

As mentioned above, the Prevention Act requires the Commission to promulgate, or direct any national securities exchange or registered securities association to promulgate, rules substantially similar to the FTC rules to prohibit deceptive and other abusive telemarketing acts or practices.[12] In May 2011, Commission staff directed CBOE to conduct a review of its telemarketing rule and propose rule amendments that provide protections that are at least as strong as those provided by the FTC's telemarketing rules.[13] Commission staff had concerns ''that the [self-regulatory organization] rules overall have not kept pace with the FTC's rules, and thus may no longer meet the standards of the [Prevention] Act.'' [14]

The proposed rule change, as directed by the Commission staff, amends and adopts provisions in Rule 9.24 that are substantially similar to the FTC's current rules that prohibit deceptive and other abusive telemarketing acts or practices as described below.[15]

Telemarketing Restrictions

The proposed rule change amends the telemarketing restrictions in Rule 9.24(a) to provide that no Trading Permit Holder or associated person [16] may make an outbound telephone call [17] to:

(1) Any person's residence at any time other than between 8 a.m. and 9 p.m. local time at the called person's locations;

(2) Any person that previously has stated that he or she does not wish to receive any outbound telephone calls made by or on behalf of the Trading Permit Holder;[18] or

(3) Any person who has registered his or her telephone number on the FTC's national do-not-call registry.

The proposed rule change is substantially similar to the FTC's provisions regarding abusive telemarketing acts or practices.[19] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[20]

Caller Disclosures

The proposed rule change amends Rule 9.24(b) to delete the phrase ''for the purpose of telemarketing,'' which concept is included in the proposed definition of ''outbound telephone call.'' [21] The proposed rule change also provides that the telephone number that a caller provides to a person as the number at which the caller may be contacted may not be a 900 number or any other number for which charges exceed local or long-distance transmission charges.[22]

Exceptions

The proposed rule change amends Rule 9.24(c) to provide that the prohibition in paragraph (a)(1) [23] does not apply to outbound telephone calls by a Trading Permit Holder or an associated person if:

(1) The Trading Permit Holder has received that person's express prior written consent;

(2) The Trading Permit Holder has an established business relationship [24] with the person; or

(3) The person is a broker or dealer.

This amendment deletes the exception related to existing customers and replaces it with the exception for proposed defined term ''established business relationships,'' the definition of which is substantially similar to the FTC's definition of that term.[25]

establishing requirements for sellers and telemarketers to participate in the national do-not-call registry).

[12] *See supra* note 8.

[13] *See* Letter from Robert W. Cook, Director, Division of Trading and Markets, Securities and Exchange Commission, to William J. Brodsky, Chairman and Chief Executive Officer of CBOE Holdings, Inc. (May 12, 2011).

[14] *Id.*

[15] The proposed rule change is also substantially similar to FINRA Rule 3230. *See supra* note 3.

[16] An ''associated person'' is any partner, officer, director, or branch manager of a Trading Permit Holder (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Trading Permit Holder, or any employee of a Trading Permit Holder. *See* Rule 1.1(qq).

[17] An ''outbound telephone call'' is a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor. A ''telemarketer'' is any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor. A ''customer'' is any person who is or may be required to pay for goods or services through telemarketing. A ''donor'' means any person solicited to make a charitable contribution. A ''person'' is any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity. ''Telemarketing'' means consisting of or relating to a plan, program, or campaign involving at least one outbound telephone call, for example cold-calling. The term does not include the solicitation of sales through the mailing of written marketing materials, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the marketing materials and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term ''further solicitation'' does not include providing the customer with information about, or attempting to sell, anything promoted in the same marketing materials that prompted the customer's call. A ''charitable contribution'' means any donation or gift of money or any other thing of value, for example a transfer to a pooled income fund. *See* proposed Rule 9.24(n)(3), (11), (16), (17), (20), and (21); *see also* FINRA Rule 3230(m)(11), (14), (16), (17), and (20); and 16 CFR 310.2(f), (l), (n), (v), (w), (cc), and (dd).

[18] This restriction was previously included under Rule 9.24(d). *See* the discussion below under Item 3(a), *Trading Permit Holder's Firm-Specific Do-Not-Call List.*

[19] *See* 16 CFR 310.4(b)(1)(iii)(A) and (B) and (c); *see also* FINRA Rule 3230(a). The proposed rule change also deletes language in Rule 9.24(a) regarding the purpose of an outbound telephone call and the definition of telemarketing, which are now included in the proposed definitions of those terms. *See* proposed Rule 9.24(n)(16) and (21) and *supra* note 17. In addition, the proposed rule change amends Rule 9.24(a) to delete an exception to the telemarketing restriction that permits outbound telephone calls to a person with the person's prior consent and moves that exception to proposed Rule 9.24(c). *See* the discussion below under Item 3(a), *Exceptions.*

[20] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4628; and Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995) at 43855.

[21] *See* proposed Rule 9.24(n)(16) and *supra* note 17.

[22] *See* proposed Rule 9.24(b); *see also* FINRA Rule 3230(d)(4). The proposed rule change is substantially similar to the FCC's regulations regarding call disclosures. *See* 47 CFR 64.1200(d)(4).

[23] The proposed rule change amends Rule 9.24(c) to provide that the exception in that paragraph will apply only to the prohibition in proposed paragraph (a)(1) and will no longer apply to the requirement in paragraph (b) regarding caller disclosures. The Exchange believes that even if a Trading Permit Holder satisfies the exception in paragraph (c), the Trading Permit Holder should still make the caller disclosures required by paragraph (b) to the called person to ensure that the called person receives sufficient information regarding the purpose of the call.

[24] An ''established business relationship'' is a relationship between a Trading Permit Holder and a person if (a) the person has made a financial transaction or has a security position, a money balance, or account activity with the Trading Permit Holder or at a clearing firm that provides clearing services to the Trading Permit Holder within the 18 months immediately preceding the date of an outbound telephone call; (b) the Trading Permit Holder is the broker-dealer of record for an account of the person within the 18 months immediately preceding the date of an outbound telephone call; or (c) the person has contacted the Trading Permit Holder to inquire about a product or service offered by the Trading Permit Holder within the three months immediately preceding the date of an outbound telephone call. A person's established business relationship with a Trading Permit Holder does not extend to the Trading Permit Holder's affiliated entities unless the person would reasonably expect them to be included. Similarly, a person's established business relationship with a Trading Permit Holder's affiliate does not extend to the Trading Permit Holder unless the person would reasonably expect the Trading Permit Holder to be included. The term ''account activity'' includes, but is not limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the Trading Permit Holder. The term ''broker-dealer of record'' refers to the broker or dealer identified on a customer's account application for accounts held directly at a mutual fund or variable insurance product issuer. *See* proposed Rule 9.24(n)(1), (4), and (12); *see also* 16 CFR 310.2(o) and FINRA Rule 3230(m)(1), (4), and (12).

[25] *See id.; see also* FINRA Rule 3230(a).

Trading Permit Holder's Firm-Specific Do-Not-Call List

The proposed rule change amends Rule 9.24(d) to provide that each Trading Permit Holder must make and maintain a centralized list of persons who have informed the Trading Permit Holder or any of its associated persons that they do not wish to receive outbound telephone calls.[26] The proposed rule change replaces the term ''solicitations'' with the proposed term ''outbound telephone calls,'' the definition of which is substantially similar to the FTC's definition of that term.[27] The proposed rule change also deletes the prohibition on making outbound telephone calls to persons on the Trading Permit Holder's firm-specific do-not-call list and moves this prohibition to proposed Rule 9.24(a)(2), as described above.

Proposed Rule 9.24(d)(2) adopts procedures that Trading Permit Holders must institute to comply with Rule 9.24(a) and (b) prior to engaging in telemarketing. These procedures must meet the following minimum standards:

(1) Trading Permit Holders must have a written policy for maintaining their firm-specific do-not-call lists.

(2) Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the Trading Permit Holder's firm-specific do-not-call list.

(3) If a Trading Permit Holder receives a request from a person not to receive calls from that Trading Permit Holder, the Trading Permit Holder must record the request and place the person's name, if provided, and telephone number on its firm-specific do-not-call list at the time the request is made.[28]

(4) Trading Permit Holders or associated persons making an outbound telephone call must make the caller disclosures set forth in Rule 9.24(b).

(5) In the absence of a specific request by the person to the contrary, a person's do-not-call request shall apply to the Trading Permit Holder making the call, and shall not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the call and the product being advertised.

(6) A Trading Permit Holder making outbound telephone calls must maintain a record of a person's request not to receive further calls.

Inclusion of this requirement to adopt these procedures will not create any new obligations on Trading Permit Holders, as they are already subject to identical provisions under FCC telemarketing regulations.[29]

Do-Not-Call Safe Harbors

Proposed Rule 9.24(e) provides for certain exceptions to the telemarketing restriction set forth in proposed Rule 9.24(a)(3), which prohibits outbound telephone calls to persons on the FTC's national do-not-call registry.

First, proposed Rule 9.24(e)(1) provides that a Trading Permit Holder or associated person making outbound telephone calls will not be liable for violating proposed Rule 9.24(a)(3) if:

(1) The Trading Permit Holder has an established business relationship with the called person; however, a person's request to be placed on the Trading Permit Holder's firm-specific do-not-call list terminates the established business relationship exception to the national do-not-call registry provision for that Trading Permit Holder even if the person continues to do business with the Trading Permit Holder;

(2) The Trading Permit Holder has obtained the person's prior express written consent, which must be clearly evidenced by a signed, written agreement (which may be obtained electronically under the E-Sign Act [30]) between the person and the Trading Permit Holder that states that the person agrees to be contacted by the Trading Permit Holder and includes the telephone number to which the calls may be placed; or

(3) The Trading Permit Holder or associated person making the call has a personal relationship [31] with the called person.

The proposed rule change is substantially similar to the FTC's provision regarding an exception to the prohibition on making outbound telephone calls to persons on the FTC's do-not-call registry.[32] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[33]

Second, proposed Rule 9.24(e)(2) provides that a Trading Permit Holder or associated person making outbound telephone calls will not be liable for violating proposed Rule 9.24(a)(3) if the Trading Permit Holder or associated person demonstrates that the violation is the result of an error and that as part of the Trading Permit Holder's routine business practice:

(1) The Trading Permit Holder has established and implemented written procedures to comply with Rule 9.24(a) and (b);

(2) The Trading Permit Holder has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to the preceding clause;

(3) The Trading Permit Holder has maintained and recorded a list of telephone numbers that it may not contact in compliance with Rule 9.24(d); and

(4) The Trading Permit Holder uses a process to prevent outbound telephone calls to any telephone number on the Trading Permit Holder's firm-specific do-not-call list or the national do-not-call registry, employing a version of the national do-not-call registry obtained from the FTC no more than 31 days prior to the date any call is made, and maintains records documenting this process.

The proposed rule change is substantially similar to the FTC's safe harbor to the prohibition on making outbound telephone calls to persons on the FTC's national do-not-call registry.[34] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[35]

Wireless Communications

Proposed Rule 9.24(f) clarifies that the provisions set forth in Rule 9.24 are applicable to Trading Permit Holders and associated persons making outbound telephone calls to wireless telephone numbers.[36]

[26] The proposed rule change also renumbers this provision as paragraph (d)(1).

[27] *See* 16 CFR 310.4(b)(1)(iii)(A) and *supra* note 17; *see also* FINRA Rule 3230(a)(2). Additionally, this proposed rule change replaces a reference to the term ''member'' with ''Trading Permit Holder,'' which conforms to the term currently used in CBOE's Rules.

[28] Trading Permit Holders must honor a person's do-not-call request within a reasonable time from the date the request is made, which may not exceed 30 days from the date of the request. If these requests are recorded or maintained by a party other than the Trading Permit Holder on whose behalf the outbound telephone call is made, the Trading Permit Holder on whose behalf the outbound telephone call is made will still be liable for any failures to honor the do-not-call request.

[29] *See* 47 CFR 64.1200(d); *see also* FINRA Rule 3230(d).

[30] 15 U.S.C. 7001 *et seq.*

[31] The term ''personal relationship'' means any family member, friend, or acquaintance of the person making an outbound telephone call. *See* proposed Rule 9.24(n)(18); *see also* FINRA Rule 3230(m)(18).

[32] *See* 16 CFR 310.4(b)(1)(iii)(B); *see also* FINRA Rule 3230(b).

[33] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4628; and Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995) at 43854.

[34] *See* 16 CFR 310.4(b)(3); *see also* FINRA Rule 3230(c).

[35] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4628; and Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995) at 43855.

[36] *See also* FINRA Rule 3230(e).

Outsourcing Telemarketing

Proposed Rule 9.24(g) states that if a Trading Permit Holder uses another entity to perform telemarketing services on its behalf, the Trading Permit Holder remains responsible for ensuring compliance with Rule 9.24. The proposed rule change also provides that an entity or person to which a Trading Permit Holder outsources its telemarketing services must be appropriately registered or licensed, where required.[37]

Billing Information

The proposed rule change reletters Rule 9.24(e) as Rule 9.24(h) and provides that, for any telemarketing transaction, no Trading Permit Holder or associated person may submit billing information[38] for payment without the express informed consent of the customer. Proposed Rule 9.24(h) requires that each Trading Permit Holder or associated person must obtain the express informed consent of the person to be charged and to be charged using the identified account.

If the telemarketing transaction involves preacquired account information[39] and a free-to-pay conversion[40] feature, the Trading Permit Holder or associated person must:

(1) Obtain from the customer, at a minimum, the last four digits of the account number to be charged;

(2) Obtain from the customer an express agreement to be charged and to be charged using the identified account number; and

(3) Make and maintain an audio recording of the entire telemarketing transaction.

For any other telemarketing transaction involving preacquired account information, the Trading Permit Holder or associated person must:

(1) Identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and

(2) Obtain from the customer an express agreement to be charged and to be charged using the identified account number.

The proposed rule change is substantially similar to the FTC's provision regarding the submission of billing information.[41] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[42]

Caller Identification Information

Proposed Rule 9.24(i) provides that Trading Permit Holders that engage in telemarketing must transmit caller identification information[43] and are explicitly prohibited from blocking caller identification information. The telephone number provided must permit any person to make a do-not-call request during normal business hours. These provisions are similar to the caller identification provision in the FTC rules.[44] Inclusion of these caller identification provisions in this proposed rule change will not create any new obligations on Trading Permit Holders, as they are already subject to identical provisions under FCC telemarketing regulations.[45]

Unencrypted Consumer Account Numbers

Proposed Rule 9.24(j) prohibits a Trading Permit Holder or associated person from disclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing. The proposed rule change is substantially similar to the FTC's provision regarding unencrypted consumer account numbers.[46] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[47] Additionally, the proposed rule change defines ''unencrypted'' as not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. The proposed definition is substantially similar to the view taken by the FTC.[48]

Abandoned Calls

Proposed Rule 9.24(k) prohibits a Trading Permit Holder or associated person from abandoning[49] any outbound telephone call. The abandoned calls prohibition is subject to a ''safe harbor'' under proposed Rule 9.24(k)(2) that requires a Trading Permit Holder or associated person:

(1) To employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues;

(2) For each outbound telephone call placed, to allow the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call;

(3) Whenever a Trading Permit Holder or associated person is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, promptly to play a prerecorded message stating the name and telephone number of the Trading Permit Holder or associated person on whose behalf the call was placed; and

(4) To maintain records documenting compliance with the ''safe harbor.''

The proposed rule change is substantially similar to the FTC's provisions regarding abandoned calls.[50] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[51]

Prerecorded Messages

Proposed Rule 9.24(l) prohibits a Trading Permit Holder or associated person from initiating any outbound telephone call that delivers a prerecorded message without a person's express written agreement[52] to receive

[37] *See also* FINRA Rule 3230(f).

[38] The term ''billing information'' means any data that enables any person to access a customer's or donor's account, such as a credit or debit card number, a brokerage, checking, or savings account number, or a mortgage loan account number. *See* proposed Rule 9.24(n)(3).

[39] The term ''preacquired account information'' means any information that enables a Trading Permit Holder or associated person to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged. *See* proposed Rule 9.24(n)(19).

[40] The term ''free-to-pay conversion'' means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period. *See* proposed Rule 9.24(n)(13).

[41] *See* 16 CFR 310.4(a)(7); *see also* FINRA Rule 3230(i).

[42] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4616.

[43] Caller identification information includes the telephone number and, when made available by the Trading Permit Holder's telephone carrier, the name of the Trading Permit Holder.

[44] *See* 16 CFR 310.4(a)(8); *see also* FINRA Rule 3230(g).

[45] *See* 47 CFR 64.1601(e).

[46] *See* 16 CFR 310.4(a)(6); *see also* FINRA Rule 3230(h).

[47] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4615.

[48] *See id.* at 4616.

[49] An outbound telephone call is ''abandoned'' if the called person answers it and the call is not connected to a Trading Permit Holder or associated person within two seconds of the called person's completed greeting.

[50] *See* 16 CFR 310.4(b)(1)(iv) and (b)(4); *see also* FINRA Rule 3230(j).

[51] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4641.

[52] The express written agreement must: (a) Have been obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the Trading Permit Holder to place prerecorded calls to such person; (b) have been obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service; (c) evidence the

Continued

such calls. The proposed rule change also requires that all prerecorded outbound telephone calls provide specified opt-out mechanisms so that a person can opt out of future calls. The prohibition does not apply to a prerecorded message permitted for compliance with the ''safe harbor'' for abandoned calls under proposed Rule 9.24(k)(2). The proposed rule change is substantially similar to the FTC's provisions regarding prerecorded messages.[53] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[54]

Credit Card Laundering

Proposed Rule 9.24(m) prohibits credit card laundering, the practice of depositing into the credit card system [55] a sales draft that is not the result of a credit card transaction between the cardholder [56] and the Trading Permit Holder. Except as expressly permitted, the proposed rule change prohibits a Trading Permit Holder or associated person from:

(1) Presenting to or depositing into the credit card system for payment, a credit card sales draft [57] generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the Trading Permit Holder;

(2) Employing, soliciting, or otherwise causing a merchant,[58] or an employee, representative or agent of the merchant to present to or to deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the Trading Permit Holder; or

(3) Obtaining access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement [59] or the applicable credit card system.

The proposed rule change is substantially similar to the FTC's provision regarding credit card laundering.[60] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[61]

Definitions

Proposed Rule 9.24(n) adopts the following definitions, which are substantially similar to the FTC's definitions of these terms: ''Acquirer,'' ''billing information,'' ''caller identification service,'' ''cardholder,'' ''charitable contribution,'' ''credit,'' ''credit card,'' ''credit card sales draft,'' ''credit card system,'' ''customer,'' ''donor,'' ''established business relationship,'' ''free-to-pay conversion,'' ''merchant,'' ''merchant agreement,'' ''outbound telephone call,'' ''person,'' ''preacquired account information,'' ''telemarketer,'' and ''telemarketing.'' [62] The FTC provided a discussion of each definition when they were adopted pursuant to the Prevention Act.[63]

State and Federal Laws

The proposed rule change amends Rule 9.24, Interpretation and Policy .01 [64] to remind Trading Permit Holders and associated persons that engage in telemarketing that they also are subject to the requirements of relevant state and federal laws and rules, including the Prevention Act, the TCPA,[65] and the rules of the FCC relating to telemarketing practices and the rights of telephone consumers.[66]

Applicability to CBSX

The proposed rule change also amends Appendix A, *Applicability of Rules of the Exchange,* to the CBSX Rules to add Rule 9.24 to the list of CBOE Rules that apply to CBSX. The Introduction to the CBSX Rules provides that the trading of non-option securities on CBSX are subject to the Rules in Chapters 1 through 29 (including Rule 9.24) of the Exchange Rules to the same extent such Rules apply to the trading of the products to which those Rules apply, in some cases supplemented or replaced by the Rules in Chapters 50 through 54, except for Rules that have been replaced by rules in Chapters 50 through 54 and except where the context otherwise requires. Through this provision, the telemarketing restrictions in Rule 9.24 have always applied to CBSX Trading Permit Holders. The proposed rule change merely makes the applicability of Rule 9.24 to CBSX Trading Permit Holders explicit in Appendix A.

Announcement in Regulatory Circular

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date. The implementation date will be no later than 180 days following the effective date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[67] Specifically,

willingness of the called person to receive calls that deliver prerecorded messages by or on behalf of the Trading Permit Holder; and (d) include the person's telephone number and signature (which may be obtained electronically under the E-Sign Act).

[53] *See* 16 CFR 310.4(b)(1)(v); *see also* FINRA Rule 3230(k).

[54] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 73 FR 51164 (Aug. 29, 2008) at 51165.

[55] The term ''credit card system'' means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system. The term ''credit card'' means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit. The term ''credit'' means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment. *See* proposed Rule 9.24(n)(7), (8), and (10).

[56] The term ''cardholder'' means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued. *See* proposed Rule 9.24(n)(6).

[57] The term ''credit card sales draft'' means any record or evidence of a credit card transaction. *See* proposed Rule 9.24(n)(9).

[58] The term ''merchant'' means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. The term ''acquirer'' means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value. *See* proposed Rule 9.24(n)(2) and (14).

[59] The term ''merchant agreement'' means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. *See* proposed Rule 9.24(n)(15).

[60] *See* 16 CFR 310.3(c); *see also* FINRA Rule 3230(l).

[61] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995) at 43852.

[62] *See* proposed Rule 9.24(n)(2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (19), (20), and (21); and 16 CFR 310.2(a), (c), (d), (e), (f), (h), (i), (j), (k), (l), (n), (o), (p), (s), (t), (v), (w), (x), (cc), and (dd); *see also* FINRA Rule 3230(m)(2), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (19), and (20). The proposed rule change also adopts definitions of ''account activity,'' ''broker-dealer of record,'' and ''personal relationship'' that are substantially similar to FINRA's definitions of these terms. *See* proposed Rule 9.24(n)(1), (4), and (18) and FINRA Rule 3230(m)(1), (4), and (18); *see also* 47 CFR 64.1200(f)(14) (FCC's definition of ''personal relationship'').

[63] *See* Federal Trade Commission, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995) at 43843; and Federal Trade Commission, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) at 4587.

[64] *See also* FINRA Rule 3230, Supplementary Material .01, *Compliance with Other Requirements.*

[65] *See* 47 U.S.C. 227.

[66] *See* 47 CFR 64.1200.

[67] 15 U.S.C. 78f(b).

the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[68] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the proposed rule change will prevent fraudulent and manipulative acts and protect investors and the public interest by continuing to prohibit Trading Permit Holders from engaging in deceptive and other abusive telemarketing acts or practices. Additionally, the proposed rule change removes impediments to and perfects the mechanism for a free and open market and a national market system, because it provides consistency among telemarketing rules of national securities exchanges and FINRA, therefore making it easier for investors to comply with these rules. The proposed rule change to include Rule 9.24 in the list of Exchange Rules that apply to CBSX also protects investors by eliminating any potential confusion among investors as to whether Rule 9.24 applies to CBSX Trading Permit Holders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. Impose any significant burden on competition; and

C. 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)[69] of the Act and Rule 19b–4(f)(6)[70] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2012–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2012–024. 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 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–2012–024 and should be submitted on or before April 11, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[71]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6765 Filed 3–20–12; 8:45 am]

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[68] 15 U.S.C. 78f(b)(5).

[69] 15 U.S.C. 78s(b)(3)(A).

[70] 17 CFR 240.19b–4(f)(6).

[71] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66602; File No. SR–Phlx–2012–31]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Acceptable Complex Execution (''ACE'') Parameter Order Protection Feature

March 14, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 8, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1080, Commentary .08, Complex Orders on Phlx XL, by adopting new Rule 1080.08(i), which would establish an Acceptable Complex Execution Parameter (''ACE Parameter''), a price range outside of which a Complex Order (as defined below) will not be executed by the PHLX XL® automated options trading system[3] following a Complex Order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This proposal refers to ''PHLX XL'' as the Exchange's automated options trading system. In May 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as ''Phlx XL II.'' *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from ''Phlx XL II'' to ''PHLX XL'' for branding purposes.

Live Auction (''COLA''), as defined below.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish the ACE Parameter in order to prevent Complex Orders [4] from automatically executing at potentially erroneous prices. The ACE Parameter feature is designed to help maintain a fair and orderly market. The Exchange believes that the ACE Parameter feature will assist with the maintenance of fair and orderly markets by helping to mitigate the potential risk of executions at prices which are extreme and potentially erroneous.

The ACE Parameter feature is used to define a price range outside of which a Complex Order will not be executed following a COLA.[5] The ACE Parameter is a percentage defined by the Exchange on an issue-by-issue basis. The ACE Parameter percentage shall not be less than 3 percent. The ACE Parameter price range is based on the Complex National Best Bid or Offer (''cNBBO'') [6] at the time an order would be executed. A Complex Order to sell will not be executed at a price that is lower than the cNBBO bid by more than the ACE Parameter percentage. A Complex Order to buy will not be executed at a price that is higher than the cNBBO offer by more than the ACE Parameter percentage. A Complex Order or a portion of a Complex Order that cannot be executed within the ACE Parameter pursuant to the proposed rule will be placed on [sic] Exchange's Complex Limit Order Book (''CBOOK'').[7]

For example, assume the ACE parameter is set at 10%, and a PHLX XL participant submits a Complex Order with a strategy to buy Series A and buy Series B.

A complex order is received to buy 30 Series A and buy 30 Series B (30 units of the strategy) for a net debit of $8.40 and a COLA is initiated. At the end of the COLA, the market is:

NBBO for Series A is $4.50–$4.60, size 10 × 10.

NBBO for Series B is $2.90–$3.00, size 10 × 10.

cNBBO for the strategy is $7.40–$7.60.

Executions to buy the strategy (buy Series A and buy Series B) will occur up to $8.36 ($7.60 + [0.10 × $7.60]). Any remainder of the order will be placed on the CBOOK at $8.40.

The Exchange believes a minimum 3 percent level [8] is reasonable and appropriate because a marketable order that would deviate from the cNBBO by 3% or more may be indicative of an extreme or potentially erroneous price, and an Exchange participant would likely want to evaluate the affected Complex Order further following the COLA before receiving an automatic execution. The Exchange also believes that a 3 percent minimum is reasonable and appropriate in comparison to other price check parameters currently in existence on at least one other U.S. options exchange.[9]

The Exchange will issue an Options Trader Alert (''OTA'') to membership indicating the issue-by-issue ACE Parameter percentages. The Exchange will also maintain a list of ACE Parameter percentages on its Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general and with Section 6(b)(5) of the Act,[11] in that it is designed 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The ACE Parameter feature is designed to protect investors from extreme and potentially erroneous executions of their Complex Orders. The Exchange also believes the ACE Parameter feature should assist with the maintenance of fair and orderly markets by helping to mitigate the potential risks of receiving executions at prices that are extreme and potentially erroneous.

Finally, the proposed rule change should also make it easier for users to read and understand the operation of PHLX XL as it relates to the execution of Complex Orders, and will fully describe the operation of the new ACE Parameter feature, all to the benefit of

[4] For purposes of the electronic trading of Complex Orders on the Exchange, a Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy.

A Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying security (stock or Exchange Traded Fund Share (''ETF'')) coupled with the purchase or sale of options contract(s). The underlying security must be the deliverable for the options component of that Complex Order and represent exactly 100 shares per option for regular way delivery. Stock-option orders can only be executed against other stock-option orders and cannot be executed by the System against orders for the individual components. Member organizations may only submit Complex Orders with a stock/ETF component if such orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS. Member organizations submitting such Complex Orders with a stock/ETF component represent that such orders comply with the Qualified Contingent Trade Exemption. Members of FINRA or the NASDAQ Stock Market LLC (''NASDAQ'') are required to have a Uniform Service Bureau/Executing Broker Agreement (''AGU'') with Nasdaq Options Services LLC in order to trade Complex Orders containing a stock/ETF component; firms that are not members of FINRA or NASDAQ are required to have a Qualified Special Representative (''QSR'') arrangement with NOS in order to trade Complex Orders containing a stock/ETF component. The maximum number of components of a Complex Order is six. A stock-option order may include up to five options components (legs). *See* Exchange Rule 1080.08(a)(i).

[5] COLA is the automated Complex Order Live Auction process. *See* Exchange Rule 1080.08(e).

[6] *See* Exchange Rule 1080.08(a)(vi).

[7] *See* Exchange Rule 1080.08(f).

[8] For simplicity of explanation, the above example uses a 10% ACE Parameter, which is consistent with the 3% minimum in the proposed rule.

[9] The Exchange notes that the Chicago Board Options Exchange, Incorporated (''CBOE'') currently applies a no less than 3 percent ''acceptable percentage distance'' outside of which it will not execute complex orders. *See* Securities Exchange Act Release No. 66207 (January 20, 2012), 77 FR 4073 (January 26, 2012) (SR–CBOE–2012–004) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Automatic Execution and Complex Order Price Check Parameter Features) (''CBOE Notice'').

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

PHLX XL participants, and to the options markets as a whole.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) [13] thereunder.

Phlx has asked the Commission to accelerate the 30-day operative delay.[14] The Commission finds that accelerating the 30-day operative delay is consistent with the protection of investors and the public interest because the ACE Parameter is designed to prevent the automatic execution of Complex Orders at potentially extreme or erroneous prices.[15] Accordingly, the Commission designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2012–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2012–31. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx–2012–31, and should be submitted on or before April 11, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6764 Filed 3–20–12; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] The Commission notes that the ACE Parameter is substantially similar to a price check parameter adopted by another options exchange. *See* CBOE Rule 6.53C, Interpretation and Policy .08(e) and CBOE Notice, *supra* note 9.

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, 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 abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 3, 2012, and comments were due by March 5, 2012. No comments were received.

DATES: Comments must be submitted on or before April 20, 2012.

FOR FURTHER INFORMATION CONTACT: Cmdr Michael DeRosa, Maritime Administration, U.S. Merchant Marine Academy, 300 Steamboat Road, New York, NY 11024. Telephone: 516–726–5642; or email: *DeRosaM@USMMA.EDU.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: U.S. Merchant Marine Academy Candidate Application for Admission.

OMB Control Number: 2133–0010.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals desiring to become students at the U.S. Merchant Marine Academy.

Forms: KP 2–65.

Abstract: The collection consists of Parts I, II, and III of Form KP 2–65 (U.S. Merchant Marine Academy Candidate Application). Part I of the form is completed by individuals wishing to be admitted as students to the U.S. Merchant Marine Academy.

Annual Estimated Burden Hours: 12,500 hours.

ADDRESSES: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: MARAD Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira.submissions@omb.eop.gov.*

Comments Are Invited On: 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; the accuracy of the agency'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.

Authority: 49 CFR 1.66.

Dated: March 15, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–6743 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2012 0032]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MILKY WAY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 20, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0032. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, Email *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MILKY WAY is:

INTENDED COMMERCIAL USE OF VESSEL: ''UPZ Coastal Six Pack Charters.''

GEOGRAPHIC REGION: California.

The complete application is given in DOT docket MARAD–2012–0032 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 13, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–6742 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2012–0033]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KAMI KAY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 20, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0033. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, Email *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel KAMI KAY is:

INTENDED COMMERCIAL USE OF VESSEL: ''Charter vessel for day cruises in Galveston Bay.''

GEOGRAPHIC REGION: ''Texas.''

The complete application is given in DOT docket MARAD–2012–0033 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 13, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–6745 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2012–0030]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GALLANT; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 20, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0030. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, Email *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel GALLANT is:

INTENDED COMMERCIAL USE OF VESSEL: ''Provide sailing tours of the Portland Oregon Waterways as an uninspected passenger vessel and some bareboat charters.''

GEOGRAPHIC REGION: ''Oregon, Washington, California and Hawaii.''

The complete application is given in DOT docket MARAD–2012–0030 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 13, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–6752 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2012 0031]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel CLOUD NINE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 20, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0031. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W21–203,

Washington, DC 20590. Telephone 202–366–5979, Email *Joann.Spittle@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CLOUD NINE is: INTENDED COMMERCIAL USE OF VESSEL: ''Local and long range sailing charters.'' GEOGRAPHIC REGION: ''CA, WA, OR, HI.''

The complete application is given in DOT docket MARAD–2012–XXXX at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: March 13, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–6749 Filed 3–20–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline And Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before April 5, 2012.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC on March 13, 2012.

Donald Burger,

Chief, General Approvals and Permits.

MODIFICATION SPECIAL PERMITS

Application No.	Applicant	Regulation(s) affected	Nature of special permit thereof
10232–M	ITW Sexton Decatur, AL	49 CFR 173.304, 178.33(a)	To modify the special permit to authorize a higher burst pressure.
11458–M	Costco Wholesale Issaquah, WA	49 CFR 172.203(a) and 173.156(b)	To modify the special permit to authorize transportation in commerce as a limited quantity in addition to ORM–D.
12207–M	EMD Chemicals, Inc., Cincinnati, OH.	49 CFR 171.1(a)(1); 172.200(a); 172.302(c).	To modify the special permit to transport cargo tank shipments of hazardous materials crossing public highway roads.
14298–M	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 180.209(a) and (b)	To modify the special permit to authorize an additional Division 2.1 hazardous material, to increase maximum acceptance flaw size used on UE requalification and other miscellaneous revisions.
15220–M	GasCon (Pty) Ltd., Cape Town, South Africa.	49 CFR 178.274(b) and 178.277(b)(1).	To modify the special permit to increase the water capacity from 17000 liters (4500 USWG) liters min; to 45000 liters (11888 USWG) max.
15427–M	The Gillette Company (Former Grantee: The Proctor & Gamble Company) Boston, MA.	49 CFR 173.306(a) (3)(v)	To modify the special permit to authorize the manufacture, marking, sale and use of certain aerosol containers subject to the hot water bath test.
15442–M	Linde Gas North America LLC., Murray Hill, NJ.	49 CFR 180.212(a) and 180.212(b)(2).	To modify the special permit originally issued on an emergency basis to authorize on-going use.

MODIFICATION SPECIAL PERMITS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of special permit thereof
15531–M	National Aeronautics and Space Administration (NASA) Washington, DC.	49 CFR Section 173.302(a)	To modify the special permit originally issued on an emergency basis to authorize on-going use.

[FR Doc. 2012–6603 Filed 3–20–12; 8:45 am]

BILLING CODE M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 392 (Sub–No. 1X)]

Arkansas Midland Railroad Company, Inc.—Abandonment Exemption—in Phillips County, AK

Arkansas Midland Railroad Company, Inc. (AKMD) filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon an approximately 2.66-mile rail line known as the West Helena Industrial Lead extending from milepost 0.00 to milepost 2.66 at the end of the track, in Phillips County, Ark. The line traverses United States Postal Service Zip Codes 72342 and 72390.

AKMD has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 20, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 2, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 10, 2012 with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to AKMD's representative: Jeremy M. Berman, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

AKMD has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by March 26, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), AKMD shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by AKMD's filing of a notice of consummation by March 21, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: March 12, 2012.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–6307 Filed 3–20–12; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Open Meeting of the President's Advisory Council on Financial Capability

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: The President's Advisory Council on Financial Capability (''Council'') will convene for an open meeting on April 9, 2012, at the Department of Treasury, 1500 Pennsylvania Avenue NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public. The Council will: (1) Receive reports from the Council's subcommittees (Underserved and Community Empowerment, Research and Evaluation, Partnerships, and Youth) on their progress; and (2) hear from a panel of experts about the methods in which the Administration can work with the private sector in improving financial capability.

DATES: The meeting will be held on April 9, 2012, at 10 a.m. Eastern Time.

Submission of Written Statements: The public is invited to submit written statements to the Council. Written statements should be sent by any one of the following methods:

Electronic Statements: Email: *ofe@treasury.gov;* or

Paper Statements: Send paper statements to the Department of the Treasury, Office of Financial Education

and Financial Access, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

In general, the Department will make all statements available in their original format, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers, for public inspection and photocopying in the Department's library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. You can make an appointment to inspect statements by calling (202) 622–0990. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Louisa Quittman, Director, Office of Financial Education, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–5770 or *ofe@treasury.gov.*

SUPPLEMENTARY INFORMATION: On January 29, 2010, the President signed Executive Order 13530, creating the Council to assist the American people in understanding financial matters and making informed financial decisions, thereby contributing to financial stability. The Council is composed of two *ex officio* Federal officials and 14 non-governmental members appointed by the President with relevant backgrounds, such as financial services, consumer protection, financial access, and education. The role of the Council is to advise the President and the Secretary of the Treasury on means to promote and enhance individuals' and families' financial capability. The Council held its first meeting on November 30, 2010. At that meeting, the Chair recommended the establishment of five subcommittees to focus on the following strategic areas: National Strategy, Financial Access, Research and Evaluation, Partnerships, and Youth. The Council met again on April 21, 2011; July 12, 2011; November 8, 2011; and January 19, 2012. At the January 19, 2012, meeting, the Council presented an Interim Report to the President, which can be found at: *http://www.treasury.gov/resource-center/financial-education/Documents/PACFC%20Interim%20Report%2001-18-12%20Final.pdf.*

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the regulations thereunder, Louisa Quittman, Designated Federal Officer of the Council, has ordered publication of this notice that the Council will convene its sixth meeting on April 9, 2012, at the Department of Treasury, 1500 Pennsylvania Avenue NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public. Members of the public who plan to attend the meeting must RSVP with their name, organization represented (if any), phone number, and email address. To register, please go to *www.treasury.gov,* click on Resource Center, then Office of Financial Education and Financial Access, and then on the President's Advisory Council on Financial Capability by 5 p.m. Eastern Time on March 30, 2012. For entry into the building on the date of the meeting, attendees must present a government-issued ID, such as a driver's license or passport, which includes a photo. The purpose of the meeting is to receive an update from the Council's subcommittees on their progress. The Council will also hear from experts on financial capability and on how the federal government and the private sector can work together to improve the financial capability of Americans.

Dated: March 13, 2012.

Alastair Fitzpayne,

Executive Secretary, U.S. Department of the Treasury.

[FR Doc. 2012–6828 Filed 3–20–12; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8569

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8569, Geographic Availability Statement.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 927–9368, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Geographic Availability Statement.

OMB Number: 1545–0973.

Form Number: 8569.

Abstract: This form is used to collect information from applicants for the Senior Executive Service Candidate Development Program and other executive positions. The form states an applicant's minimum area of availability and is used for future job replacement consideration.

Current Actions: There are no changes being made to Form 8569 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and the Federal Government.

Estimated Number of Respondents: 500.

Estimated Total Annual Burden Hours: 84.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Office.

[FR Doc. 2012–6751 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to tax exempt housing bonds and 2008 housing legislation.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Joel Goldberger, at (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Exempt Housing Bonds and 2008 Housing Legislation.

OMB Number: 1545–2119.

Notice Number: Notice 2008–79.

Abstract: This notice provides guidance regarding certain provisions affecting tax-exempt bonds and related matters under the Housing Assistance Tax Act of 2008, Division C of Public Law No. 110–289, enacted on July 30, 2008 (''2008 Housing Act''). Section 3021 of the 2008 Housing Act amends §§ 143 and 146 of the Internal Revenue Code (''Code'') to provide a temporary $11 billion increase in the annual private activity bond volume cap under § 146 for qualified housing issues and to allow the use of qualified mortgage bonds to refinance certain subprime mortgage loans. (Except as otherwise provided, section references in this notice are to the Code.) This notice provides guidance on allocations, carryforwards, information reporting, and uses of this additional bond volume cap, and guidance on the use of qualified mortgage revenue bonds to refinance certain subprime mortgage loans. In addition, § 3005 of the 2008 Housing Act amends § 142(d)(2) of the Code to disregard basic housing allowance payments to military members at certain military bases for purposes of applicable low-income set-aside income limitations under § 42 and § 142. This notice lists certain affected military bases. Section 3023 of the 2008 Housing Act provides temporary authority to Federal Home Loan Banks to guarantee certain tax-exempt bonds. This notice provides guidance on tax-exempt bonds eligible for such guarantees.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: This is an extension of a currently approved collection.

Affected Public: State, local, or tribal governments.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–6754 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to energy efficient homes credit; manufactured homes.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Joel Goldberger at (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice 2008–36: Amplification of Notice 2006–28 Energy Efficient Homes Credit; Manufactured Homes.

OMB Number: 1545–1994.

Notice Number: Notice 2008–36.

Abstract: This notice supersedes Notice 2006–28 by substantially republishing the guidance contained in that publication. This notice clarifies the meaning of the terms equivalent rating network and eligible contractor, and permits calculation procedures other than those identified in Notice 2006–28 to be used to calculate energy consumption. Finally, this notice clarifies the process for removing software from the list of approved software and reflects the extension of the tax credit through December 31, 2008. Notice 2006–28, as updated, provided guidance regarding the calculation of heating and cooling energy consumption for purposes of determining the eligibility of a manufactured home for the New Energy Efficient Home Credit under Internal Revenue Code § 45L. Notice 2006–28 also provided guidance relating to the public list of software programs that may be used to calculate energy consumption. Guidance relating to dwelling units other than manufactured homes is provided in Notice 2008–35.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 15.

Estimated Average Time per Respondent: 4 hrs.

Estimated Total Annual Burden Hours: 60.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–6755 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8023

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8023, Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger, at (202) 927–9368, or at Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Elections Under Section 338 for Corporations Making Qualified Stock Purchases.

OMB Number: 1545–1428.

Form Number: 8023.

Abstract: Form 8023 is used by a corporation that acquires the stock of another corporation to elect to treat the purchase of stock as a purchase of the other corporation's assets. This election allows the acquiring corporation to depreciate these assets and claim a deduction on its income tax return. IRS uses Form 8023 to determine if the election is properly made and as a check against the acquiring corporation's deduction for depreciation. The form is also used to determine if the selling corporation reports the amount of sale in its income.

Current Actions: There are no changes being made to Form 8023 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 201.

Estimated Time per Respondent: 12 hr., 44 min.

Estimated Total Annual Burden Hours: 2,559.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 14, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–6756 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3949–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3949–A, Information Referral.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger, (202) 927–9368, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Joel.P.Goldberger@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Information Referral.

OMB Number: 1545–1960.

Form Number: 3949–A.

Abstract: Form 3949–A is used by certain taxpayer/investors to wishing to report alleged tax violations. The form will be designed capture the essential information needed by IRS for an initial evaluation of the report. Upon return, the Service will conduct the same back-end processing required under present IRM guidelines.

Submission of the information to be included on the form is entirely voluntary on the part of the caller and is not a requirement of the Tax Code.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 215,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 53,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 14, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–6760 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4876–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4876–A, Election to Be Treated as an Interest Charge DISC.

DATES: Written comments should be received on or before May 21, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger at (202) 927–9368, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election To Be Treated as an Interest Charge DISC.

OMB Number: 1545–0190.

Form Number: 4876–A.

Abstract: A domestic corporation and its shareholders must elect to be an interest charge domestic international sales corporation (IC–DISC). Form 4876–A is used to make the election. The IRS uses the information to determine if the corporation qualifies to be an IC–DISC.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,000.

Estimated Time per Response: 6 hrs., 22 minutes.

Estimated Total Annual Burden Hours: 6,360.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 10, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–6753 Filed 3–20–12; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing; Correction

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—March 26, 2012, Manassas, VA; Correction.

SUMMARY: The U.S.-China Commission published a notice in the **Federal Register** of March 13, 2012, concerning a public hearing on March 26, 2012. The document listed an incorrect Co-Chairman for the hearing.

FOR FURTHER INFORMATION CONTACT: Tim Lipka (202) 624–1407.

Correction

In the **Federal Register** of March 13, 2012, in FR Doc. 2012–5959, on page 14860, in the first column, line 9 should read:

''Wortzel and Jeffery Fiedler. Any''

Dated: March 15, 2012.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2012–6740 Filed 3–20–12; 8:45 am]

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Part II

Department of State

22 CFR Parts 120, 123, 124, *et al.*

Implementation of the Defense Trade Cooperation Treaty Between the United States and the United Kingdom; Final Rule

DEPARTMENT OF STATE

22 CFR Parts 120, 123, 124, 126, 127, and 129

RIN 1400–AC95

[Public Notice 7828]

Implementation of the Defense Trade Cooperation Treaty Between the United States and the United Kingdom

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to implement the Defense Trade Cooperation Treaty between the United States and the United Kingdom, and identify via a supplement the defense articles and defense services that may not be exported pursuant to the Treaty. This final rule implements only the Defense Trade Cooperation Treaty between the United States and the United Kingdom. The final rule implementing the Defense Trade Cooperation Treaty between the United States and Australia will be published later in the year once that treaty enters into force. Additionally, the Department of State amends the section pertaining to the Canadian exemption to reference the new supplement, and, with regard to Congressional certification, the Department of State adds Israel to the list of countries and entities that have a shorter certification time period and a higher dollar value reporting threshold.

DATES: This rule is effective upon the entry into force of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (Treaty Doc. 110–7). We will publish a rule document in the **Federal Register** announcing the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Sarah Heidema, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2809 or Email *DDTCResponseTeam@state.gov.* Attn: Regulatory Change—Treaties.

SUPPLEMENTARY INFORMATON: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to implement the Defense Trade Cooperation Treaty between the United States and the United Kingdom, and identify via a supplement the defense articles and defense services that may not be exported pursuant to the Treaty. This final rule implements only the Defense Trade Cooperation Treaty between the United States and the United Kingdom.

These final amendments affect parts 120, 123, 124, 126, 127, and 129, with a new section in part 126 describing the licensing exemptions pursuant to the Treaty.

On November 22, 2011 (76 FR 72246), the Department's Directorate of Defense Trade Controls (DDTC) published for public comment a proposed rule to amend the ITAR to implement the Defense Trade Cooperation Treaty between the United States and the United Kingdom, and the Defense Trade Cooperation Treaty between the United States and Australia, and to identify, via a supplement, the defense articles and defense services that may not be exported pursuant to the Treaties. However, this rule implements only the Treaty between the United States and the United Kingdom. The final rule implementing the Treaty between the United States and Australia will be published later in the year once that treaty enters into force. The proposed rule also sought to amend the section pertaining to the Canadian exemption to reference the new supplement, and, with regard to Congressional certification, add Israel to the list of countries and entities that have a shorter certification time period and a higher dollar value reporting threshold.

The proposed rule's comment period ended December 22, 2011. Fifteen (15) parties filed comments. Having thoroughly reviewed and evaluated the comments and the recommended changes, the Department has determined that it will, and hereby does, adopt the proposed rule, with changes noted and minor edits, and promulgates it as a final rule. The Department's evaluation of the written comments and recommendations follows:

The majority of commenting parties expressed support for the intent of the Treaty, to ease export licensing burdens with one of the U.S.'s closest allies. However, the commenting parties expressed concern that the exemption is overly complicated and its requirements too burdensome to be truly workable for industry. DDTC appreciates these comments and believes the clarifying edits made in this final rule make application of the exemption clear.

One commenting party requested § 123.9(a) clarify whether the United Kingdom government could deploy items received pursuant to the Treaty. DDTC has reviewed this request and has not made changes to this paragraph. Section 126.17(h) identifies the process by which items exported pursuant to the Treaty may be deployed by the United Kingdom government.

One commenting party requested edits to the note to § 123.9(a) to use the word ''knowledge.'' DDTC rejected this request because the language in the note is sufficient, but has added clarifying language to the note.

Three commenting parties suggested that DDTC delete the reference to defense services in § 123.9(b) and (c). DDTC accepts this request and has deleted the reference.

One commenting party requested clarification of the addition and use of the word ''destination'' in § 123.9 (c). The term ''destination'' is added because while the end-user may remain the same, the destination may change, therefore requiring authorization from DDTC.

One commenting party sought clarification of whether § 123.9(c)(4) set up a different process for a retransfer request if such were submitted for articles received under the new § 126.17. Section 123.9(c)(4)does not set up a new process; it identifies who may submit a retransfer request and is language reflective of Section 9(3) of the Implementing Arrangement.

Three commenting parties noted that the proposed revised text of § 123.26 appeared to conflict with provisions of § 123.22. DDTC has considered these comments and has revised § 123.26 to clarify that its requirements are consistent with those of § 123.22.

One commenting party requested that DDTC delete the requirement in § 123.26 to record the time of the transaction. DDTC accepts this suggestion and has removed the text accordingly.

One commenting party requested § 126.5(b) be revised to reference screening programs developed pursuant to § 126.18. Guidance for using § 126.18 is available on DDTC's Web site and is not appropriate to add to this section. Therefore, no edits were made to this section.

Two commenting parties noted that the proposed rule changed the word ''or'' to ''for'' in § 126.5(b). DDTC has corrected this typographical error, and that text in the first sentence again reads, ''or for return to the United States.''

One commenting party noted that by reserving § 126.5(c) and removing the items previously controlled there to Supplement No. 1, the requirement to obtain written certifications, as well as recordkeeping requirements, were removed. Clarification was requested as to whether this was intentional. DDTC has reviewed this section and confirms that the removal of these requirements

was inadvertent. Therefore, Supplement No. 1 has been revised to clarify that all previous requirements of the Canadian exemption, including those provided in paragraph (c), remain. There is no intention to change the requirements for using the Canadian exemption.

Several commenting parties requested additional guidance with various aspects of the new § 126.17. As part of Treaty implementation, DDTC will be posting Frequently Asked Questions (FAQs) on its Web site. These FAQs will address these requests for guidance.

Two commenting parties suggested that DDTC add a definition for defense articles to § 126.17(a)(1) to clarify that the definition also includes technical data for purposes of the exemption. DDTC does not believe this change is necessary as the definition in § 120.6 clearly identifies technical data as within the scope of the ''defense article'' definition. Unless specifically indicated otherwise, the use of the term ''defense article'' includes technical data.

One commenting party requested clarification of the term ''access'' as used in § 126.17(a)(1)(iv), indicating that it is common for U.S. Customs and Border Protection (CBP) to authorize a physical manipulation of a container, which would result in an intermediate consignee having access to an item in the shipment. DDTC believes the meaning of ''access'' is plain and does not see a need to revise this paragraph. A directive from a CBP official to open a container is not the type of access that would require a license from DDTC. Another party requested DDTC place a reference to paragraph (k), which discusses intermediate consignees, in this section. DDTC accepted this suggestion and has made corresponding changes.

One commenting party expressed concerns that the process by which the U.S. Government would obtain maintained records, as provided in § 126.17(a)(3)(vi) and other sections of the exemption, is unclear. These sections are not intended to identify the process by which record requests will be made. The process will be the same as for any request currently made under the ITAR. Therefore, DDTC has not revised these paragraphs.

One commenting party noted the language in § 126.17(a)(4) seemed to limit transfers just to exports to the United States. DDTC has revised this section to clarify that it applies to transfers within the Approved Community.

Two commenting parties requested DDTC change the word ''required'' to ''pursuant to'' in § 126.17(a)(4)(iii). This change has been rejected as the word ''required'' is a requirement of the Treaty.

Two commenting parties asked DDTC to clarify the requirements in § 126.17(a)(5) related to items delivered via the Foreign Military Sales program. DDTC has revised § 126.17(a)(5) to provide clarifying language.

Three commenting parties suggested DDTC include additional information in § 126.17(d) to explain the vetting process for the UK Community. DDTC does not accept this suggestion. The vetting requirements are identified in the Treaty and Implementing Arrangement, which are available on DDTC's Web site. One commenting party noted that there was no reference to Her Majesty's Government (HMG) entities and facilities in § 126.17(d). DDTC has revised this paragraph to also reference HMG.

Three commenting parties requested DDTC provide additional guidance with respect to identification of operations, programs and projects that cannot be publicly identified (i.e., are classified). DDTC has not added additional language to § 126.17(f)(2), but will provide additional guidance on its Web site for requesting confirmation of Treaty eligibility for classified programs.

One commenting party inquired whether DDTC will post on its Web site a complete list of U.S. Government contracts that are Treaty eligible. DDTC will not do so. The U.S. Department of Defense has updated the Defense Federal Acquisition Regulation Supplement (DFARS) and certain contract clauses, which will identify treaty eligibility when incorporated into a contract.

Three commenting parties requested clarifying language be added to § 126.17(g)(1) to indicate whether this paragraph applied to marketing to members of the Approved Community. These parties also requested clarification of the term ''identical type.'' Finally, parties requested that this paragraph be removed in its entirety. DDTC cannot remove this requirement as it is part of the Treaty's Exempted Technology List. DDTC, however, has revised the paragraph to indicate that marketing may be to members of the United Kingdom Community so long as it is for an approved Treaty end-use and it meets the other requirements of § 126.17(g)(1).

One commenting party recommended removal of § 126.17(g)(4) or, in the alternative, adding a parenthetical ''(or foreign equivalent)'' after ''Milestone B.'' DDTC cannot remove this paragraph as it is part of the Treaty's Exempted Technology List. DDTC considered adding a parenthetical to include foreign equivalents, but has decided to reject this suggestion as there is no equivalent in the UK to ''Milestone B.''

One commenting party requested changes to § 126.17(g)(5) to allow for the export of embedded exempted technologies in certain circumstances. DDTC is not, at this time, prepared to broaden this paragraph to include embedded exempted technologies.

Four commenting parties expressed concerns with § 126.17(g)(8) and the reference to the European Union Dual Use List. DDTC has revised this paragraph to clarify that any such items have been included in Supplement No. 1 to Part 126.

Two commenting parties raised concerns with the complexity of using § 126.17(h) with a diverse supply chain and requested clarification on the applicability of § 123.9(e) to this exemption. DDTC appreciates the diverse nature of global supply chains, but believes the mechanisms provided in § 126.17(h) are no more onerous than current retransfer or reexport requirements. Further, as indicated in § 126.17(h)(5), any retransfer, reexport, or change in end-use under § 126.17(h) shall be made in accordance with § 123.9, which includes § 123.9(e).

One commenting party requested definition of ''United Kingdom Armed Forces transmission channels'' in § 126.17(h)(7). This language is used in the Implementing Arrangement and DDTC believes § 126.17(h)(7) and the Implementing Arrangement are clear. Therefore, DDTC has not provided an additional definition.

Two commenting parties requested DDTC delete the words ''any citizen of such countries'' from § 126.17(h)(8). DDTC accepts this suggestion and has revised this paragraph accordingly.

Three commenting parties requested clarification as to the form a written request under § 126.17(i)(2)(i) should take. Parties should submit such requests in the form of a General Correspondence (GC), the required elements of which are identified in § 126.17(i)(2)(i).

One commenting party requested clarification as to the form a written request under § 126.17(i)(3) should take. Parties should also submit such requests in the form of a GC to DDTC.

Ten commenting parties expressed concerns with the marking requirements contained in § 126.17(j). Of most concern was a perception that the requirements of this section made using the exemption overly burdensome and costly. Various suggestions were provided ranging from removal of the paragraph, to rewording of certain sections. The majority of commenting

parties requested DDTC remove the requirement in § 126.17(j)(2) for exporters to remove Treaty markings. DDTC appreciates the concerns expressed. However, the requirements contained in 126.17(j) are reflective of the requirements in the Treaty and its Implementing Arrangement. DDTC has made some minor edits to provide clarity in this paragraph, but the requirement to remove certain markings will not be removed from the regulations at this time.

One commenting party requested DDTC edit the text of the statement required by § 126.17(j)(5) to indicate the items being exported were USML items and authorized only for export to the UK under the Treaty. DDTC accepts this suggestion and has revised the text accordingly.

One commenting party requested that registered brokers be included in paragraph § 126.17(k)(1)(ii). United Kingdom intermediate consignees must meet the requirements of § 126.17(k)(1)(ii). If a registered broker meets these requirements, then it may be an intermediate consignee for purposes of this exemption. However, simply being a registered broker does not automatically qualify an entity as a United Kingdom intermediate consignee.

Five commenting parties suggested DDTC clarify the language related to recordkeeping in § 126.17(l) and ensure that it is consistent with other recordkeeping provisions in the ITAR. DDTC concurs with the need to keep ITAR sections consistent and has updated § 123.26 to reference the recordkeeping requirements of § 126.17(l). DDTC has also made clarifying edits to § 126.17(l).

One commenting party suggested changing the word ''all'' in § 126.17(l)(1) to ''their'' to acknowledge that the U.S. exporter may not be aware or have record of a reexport/retransfer request submitted by a UK Community member. DDTC agrees with this request and has revised the paragraph accordingly.

One commenting party requested clarification of § 126.17(l)(1)(x) as to whether this referred to the USML category or security classification. This is intended to refer to security classification. DDTC has revised the paragraph accordingly.

One commenting party requested DDTC delete the reference to ''defense services'' in § 126.17(l)(2). DDTC accepted this request and has revised the paragraph accordingly.

Two commenting parties asked DDTC to clarify whether § 126.17(m) required exporters to submit negative reports. DDTC confirms that reporting requirements under § 126.17(m) are contingent on meeting the requirements of ITAR § 130.9.

Two commenting parties requested clarification on whether the congressional notification requirement under the Treaty is identical to that required under normal license authorization processes. DDTC confirms that the process will be the same.

Ten commenting parties expressed various concerns regarding the scope and wording of Supplement No. 1 to Part 126. In particular, comments indicated concern that the Supplement was too broad and possibly excluded too much to make the exemption useful. DDTC appreciates these comments, and has made clarifying edits to Supplement No. 1 to the extent possible within the confines of the Treaty, the Implementing Arrangements, and the Exempted Technology List.

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ITAR Part	**Final Change**
Part 120	Section 120.19 revised to clarify meaning of reexport or retransfer; §120.33 added and reserved for the Treaty between the United States and Australia; §120.34 added to provide definitions of the Defense Trade Cooperation Treaty between the United States and the UK; §120.35 added and reserved for the Treaty between the United States and Australia; §120.36 added to define the implementing arrangements pursuant to the Treaty between the United States and the UK.
Part 123	Clarifying edits made throughout section and references to § 126.17 added; Israel added to §123.9(e).
Part 124	§124.11revised to add Israel to the list of countries and entities subject to the 15-day time period regarding Congressional certification.
Part 126	Clarifying edits made throughout section; §126.5(b) revised to reference the new supplement to part 126, consequently, §§126.5(b)(1) – (21) are removed; §126.5(c) changed to "reserved" and procedures and exclusions for technical data and defense services moved to Supplement 1 and its notes; §126.16 added and reserved for the Treaty between the United States and Australia; §126.17 added to describe the exemption pursuant to the Defense Trade Cooperation Treaty between the United States and the

	UK; Supplement No. 1 to part 126 added.
Part 127	Clarifying edits made though out section; revised to make reference to §126.17.
Part 129	Sections 129.6(b)(2), 129.7(a)(1)(vii), and 129.7(a)(2) revised to include Israel in the listing of countries and entities.

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Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Nevertheless, as noted in the text above, the Department published this rule as a Notice of Proposed Rule Making on November 22, 2011 (76 FR 72246), with a 30-day comment period, and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function. This rule is effective upon the entry into force of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation (Treaty Doc. 110–7). Once the Treaty is in force, exports must be able to utilize the Treaty for qualifying exports of defense articles.

Regulatory Flexibility Act

Since this amendment is not subject to the notice-and-comment procedures of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13175

The Department of State has determined that this amendment will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

The Department is of the opinion that restricting defense articles exports is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive order 12866. However, the Department has nevertheless reviewed this regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 12988

The Department of State has reviewed this amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Paperwork Reduction Act

This amendment does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35. The burden or number of respondents to any of the existing OMB approved information collections is not expected to change annually as a result of this rule.

List of Subjects

22 CFR Parts 120, 123, 124, and 126

Arms and munitions, Exports.

22 CFR Part 127

Arms and munitions, Crime, Exports, Penalties, Seizures and forfeitures.

22 CFR Part 129

Arms and munitions, Exports, Brokering.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 120, 123, 124, 126, 127, and 129 are amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; E.O. 11958, 42 FR 4311; E.O. 13284, 68 FR 4075; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266.

■ 2. Section 120.1 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 120.1 General authorities and eligibility.

(a) Section 38 of the Arms Export Control Act (22 U.S.C. 2778), as amended, authorizes the President to control the export and import of defense articles and defense services. The statutory authority of the President to promulgate regulations with respect to exports of defense articles and defense services was delegated to the Secretary of State by Executive Order 11958, as amended. This subchapter implements that authority. Portions of this subchapter also implement the Defense Trade Cooperation Treaty between the United States and the United Kingdom. (Note, however, that the Treaty is not the source of authority for the prohibitions in part 127, but instead is the source of one limitation on the scope of such prohibitions.) By virtue of delegations of authority by the Secretary of State, these regulations are primarily administered by the Deputy Assistant Secretary of State for Defense Trade and Regional Security and the Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs.

* * * * *

(c) *Receipt of Licenses and Eligibility.* (1) A U.S. person may receive a license or other approval pursuant to this subchapter. A foreign person may not receive such a license or other approval, except as follows:

(i) A foreign governmental entity in the United States may receive an export license or other export approval;

(ii) A foreign person may receive a reexport or retransfer approval; and

(iii) A foreign person may receive a prior approval for brokering activities.

Requests for a license or other approval, other than by a person referred to in paragraphs (c)(1)(i) and (c)(1)(ii) of this section, will be considered only if the applicant has registered with the Directorate of Defense Trade Controls pursuant to part 122 or 129 of this subchapter, as appropriate.

(2) Persons who have been convicted of violating the criminal statutes enumerated in § 120.27 of this subchapter, who have been debarred pursuant to part 127 or 128 of this subchapter, who are subject to indictment or are otherwise charged (e.g., by information) for violating the criminal statutes enumerated in § 120.27 of this subchapter, who are ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from any agency of the U.S. Government, who are ineligible to receive an export license or other approval from any other agency of the U.S. Government, or who are subject to a Department of State policy of denial, suspension or revocation under § 126.7(a) of this subchapter, or to interim suspension under § 127.8 of this subchapter, are generally ineligible to be involved in activities regulated under this subchapter.

(d) The exemptions provided in this subchapter do not apply to transactions in which the exporter, any party to the export (as defined in § 126.7(e) of this subchapter), any source or manufacturer, broker or other participant in the brokering activities, is generally ineligible in paragraph (c) of this section, unless prior written authorization has been granted by the Directorate of Defense Trade Controls.

* * * * *

■ 3. Section 120.19 is revised to read as follows:

§ 120.19 Reexport or retransfer.

Reexport or *retransfer* means the transfer of defense articles or defense services to an end-use, end-user, or destination not previously authorized by license, written approval, or exemption pursuant to this subchapter.

■ 4. Section 120.28 is amended by revising paragraph (b)(2) to read as follows:

§ 120.28 Listing of forms referred to in this subchapter.

* * * * *

(b) * * *

(2) Electronic Export Information filed via the Automated Export System.

* * * * *

■ 5. Section 120.34 is added to read as follows:

§ 120.34 Defense Trade Cooperation Treaty between the United States and the United Kingdom.

Defense Trade Cooperation Treaty between the United States and the United Kingdom means the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington DC and London, June 21 and 26, 2007. For additional information on making exports pursuant to this Treaty, see § 126.17 of this subchapter.

■ 6. Section 120.36 is added to read as follows:

§ 120.36 United Kingdom Implementing Arrangement.

United Kingdom Implementing Arrangement means the Implementing Arrangement Pursuant to the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington DC, February 14, 2008, as it may be amended.

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

■ 7. The authority citation for part 123 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261, 112 Stat. 1920; Sec. 1205(a), Pub. L. 107–228.

■ 8. Section 123.4 is amended by revising paragraph (d) introductory text to read as follows:

§ 123.4 Temporary import license exemptions.

* * * * *

(d) *Procedures.* To the satisfaction of the Port Directors of U.S. Customs and Border Protection, the importer and exporter must comply with the following procedures:

* * * * *

■ 9. Section 123.9 is amended by revising paragraphs (a), (b), (c), (e) introductory text, (e)(1), (e)(3), and (e)(4), adding a note after paragraph (a), and removing and reserving paragraph (d), to read as follows:

§ 123.9 Country of ultimate destination and approval of reexports or retransfers.

(a) The country designated as the country of ultimate destination on an application for an export license, or in an Electronic Export Information filing where an exemption is claimed under this subchapter, must be the country of ultimate end-use. The written approval of the Directorate of Defense Trade Controls must be obtained before reselling, transferring, reexporting, retransferring, transshipping, or disposing of a defense article to any end-user, end-use, or destination other than as stated on the export license, or in the Electronic Export Information filing in cases where an exemption is claimed under this subchapter, except in accordance with the provisions of an exemption under this subchapter that explicitly authorizes the resell, transfer,

reexport, retransfer, transshipment, or disposition of a defense article without such approval. Exporters must determine the specific end-user, end-use, and destination prior to submitting an application to the Directorate of Defense Trade Controls or claiming an exemption under this subchapter.

Note to paragraph (a): In making the aforementioned determination, a person is expected to review all readily available information, including information readily available to the public generally as well as information readily available from other parties to the transaction.

(b) The exporter shall incorporate the following statement as an integral part of the bill of lading, airway bill, or other shipping documents, and the invoice whenever defense articles are to be exported or transferred pursuant to a license, other written approval, or an exemption under this subchapter, other than the exemptions contained in § 126.16 and § 126.17 of this subchapter (**Note:** for exports made pursuant to § 126.16 or § 126.17 of this subchapter, *see* § 126.16(j)(5) or § 126.17(j)(5)):

''These commodities are authorized by the U.S. Government for export only to [country of ultimate destination] for use by [end-user]. They may not be transferred, transshipped on a non-continuous voyage, or otherwise be disposed of, to any other country or end-user, either in their original form or after being incorporated into other end-items, without the prior written approval of the U.S. Department of State.''

(c) Any U.S. person or foreign person requesting written approval from the Directorate of Defense Trade Controls for the reexport, retransfer, other disposition, or change in end-use, end-user, or destination of a defense article initially exported or transferred pursuant to a license or other written approval, or an exemption under this subchapter, must submit all the documentation required for a permanent export license (*see* § 123.1 of this subchapter) and shall also submit the following:

(1) The license number, written authorization, or exemption under which the defense article or defense service was previously authorized for export from the United States (**Note:** For exports under exemptions at § 126.16 or § 126.17 of this subchapter, the original end-use, program, project, or operation under which the item was exported must be identified.);

(2) A precise description, quantity, and value of the defense article or defense service;

(3) A description and identification of the new end-user, end-use, and destination; and

(4) With regard to any request for such approval relating to a defense article or defense service initially exported pursuant to an exemption contained in § 126.16 or § 126.17 of this subchapter, written request for the prior approval of the transaction from the Directorate of Defense Trade Controls must be submitted: By the original U.S. exporter, provided a written request is received from a member of the Australian Community, as identified in § 126.16 of this subchapter, or the United Kingdom Community, as identified in § 126.17 of this subchapter (where such a written request includes a written certification from the member of the Australian Community or the United Kingdom Community providing the information set forth in § 126.17 of this subchapter); or by a member of the Australian Community or the United Kingdom Community, where such request provides the information set forth in this section. All persons must continue to comply with statutory and regulatory requirements outside of this subchapter concerning the import of defense articles and defense services or the possession or transfer of defense articles, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR parts 447, 478, and 479, which are unaffected by the Defense Trade Cooperation Treaty between the United States and the United Kingdom and continue to apply fully to defense articles and defense services subject to either of the aforementioned treaties and the exemptions contained in § 126.17 of this subchapter.

(d) [Reserved]

(e) Reexports or retransfers of U.S.-origin components incorporated into a foreign defense article to NATO, NATO agencies, a government of a NATO country, or the governments of Australia, Israel, Japan, New Zealand, or the Republic of Korea are authorized without the prior written approval of the Directorate of Defense Trade Controls, provided:

(1) The U.S.-origin components were previously authorized for export from the United States, either by a license, written authorization, or an exemption other than those described in either § 126.16 or § 126.17 of this subchapter;

* * * * *

(3) The person reexporting the defense article provides written notification to the Directorate of Defense Trade Controls of the retransfer not later than 30 days following the reexport. The notification must state the articles being reexported and the recipient government.

(4) The original license or other approval of the Directorate of Defense Trade Controls did not include retransfer or reexport restrictions prohibiting use of this exemption.

■ 10. Section 123.15 is amended by revising paragraphs (a)(1), (a)(2), and (b) to read as follows:

§ 123.15 Congressional certification pursuant to Section 36(c) of the Arms Export Control Act.

(a) * * *

(1) A license for the export of major defense equipment sold under a contract in the amount of $14,000,000 or more, or for defense articles and defense services sold under a contract in the amount of $50,000,000 or more, to any country that is not a member of the North Atlantic Treaty Organization (NATO), or Australia, Israel, Japan, New Zealand, or the Republic of Korea that does not authorize a new sales territory; or

(2) A license for export to a country that is a member country of NATO, or Australia, Israel, Japan, New Zealand, or the Republic of Korea, of major defense equipment sold under a contract in the amount of $25,000,000 or more, or for defense articles and defense services sold under a contract in the amount of $100,000,000 or more, and provided the transfer does not include any other countries; or

* * * * *

(b) Unless an emergency exists which requires the final export in the national security interests of the United States, approval may not be granted for any transaction until at least 15 calendar days have elapsed after receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1) involving NATO, or Australia, Israel, Japan, New Zealand, or the Republic of Korea or at least 30 calendar days have elapsed for any other country; in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, until at least 15 calendar days after the Congress receives such certification.

* * * * *

■ 11. Section 123.16 is amended by revising paragraphs (a), (b)(1)(iii), and (b)(2)(vi) to read as follows:

§ 123.16 Exemptions of general applicability.

(a) The following exemptions apply to exports of unclassified defense articles for which no approval is needed from

the Directorate of Defense Trade Controls. These exemptions do not apply to: Proscribed destinations under § 126.1 of this subchapter; exports for which Congressional notification is required (*see* § 123.15 of this subchapter); MTCR articles; Significant Military Equipment (SME); and may not be used by persons who are generally ineligible as described in § 120.1(c) of this subchapter. All shipments of defense articles, including but not limited to those to Australia, Canada, and the United Kingdom, require an Electronic Export Information (EEI) filing or notification letter. If the export of a defense article is exempt from licensing, the EEI filing must cite the exemption. Refer to § 123.22 of this subchapter for EEI filing and letter notification requirements.

(b) * * *

(1) * * *

(iii) The exporter identifies in the EEI filing by selecting the appropriate code that the export is exempt from the licensing requirements of this subchapter; and

* * * * *

(2) * * *

(vi) The exporter must certify on the invoice, the bill of lading, air waybill, or shipping documents that the export is exempt from the licensing requirements of this subchapter. This is done by writing ''22 CFR 123.16(b)(2) applicable.''

* * * * *

■ 12. Section 123.22 is amended by revising paragraphs (a) introductory text and (b)(2) introductory text to read as follows:

§ 123.22 Filing, retention, and return of export licenses and filing of export information.

(a) Any export, as defined in this subchapter, of a defense article controlled by this subchapter, to include defense articles transiting the United States, requires the electronic reporting of export information. The reporting of the export information shall be to the U.S. Customs and Border Protection using the Automated Export System (AES) or directly to the Directorate of Defense Trade Controls (DDTC). Any license or other approval authorizing the permanent export of hardware must be filed at a U.S. Port before any export. Licenses or other approvals for the permanent export of technical data and defense services shall be retained by the applicant who will send the export information directly to DDTC. Temporary export or temporary import licenses for such items need not be filed with the U.S. Customs and Border Protection, but must be presented to the U.S. Customs and Border Protection for decrementing of the shipment prior to departure and at the time of entry. The U.S. Customs and Border Protection will only decrement a shipment after the export information has been filed correctly using the AES. Before the export of any hardware using an exemption in this subchapter, the DDTC registered applicant/exporter, or an agent acting on the filer's behalf, must electronically provide export information using the AES (see paragraph (b) of this section). In addition to electronically providing the export information to the U.S. Customs and Border Protection before export, all the mandatory documentation must be presented to the port authorities (e.g., attachments, certifications, proof of AES filing; such as the Internal Transaction Number (ITN)). Export authorizations shall be filed, retained, decremented or returned to DDTC as follows:

* * * * *

(b) * * *

(2) *Emergency shipments of hardware that cannot meet the pre-departure filing requirements.* U.S. Customs and Border Protection may permit an emergency export of hardware by truck (e.g., departures to Mexico or Canada) or air, by a U.S. registered person, when the exporter is unable to comply with the Electronic Export Information (EEI) filing timeline in paragraph (b)(1)(i) of this section. The applicant, or an agent acting on the applicant's behalf, in addition to providing the EEI using the AES, must provide documentation required by U.S. Customs and Border Protection and this subchapter. The documentation provided to U.S. Customs and Border Protection at the port of exit must include the Internal Transaction Number (ITN) for the shipment and a copy of a notification to the Directorate of Defense Trade Controls stating that the shipment is urgent and must be accompanied by an explanation for the urgency. The original of the notification must be immediately provided to the Directorate of Defense Trade Controls. The AES filing of the export information must be made at least two hours prior to any departure by air from the United States. When shipping via ground, the AES filing must be made at the time when the exporter provides the articles to the carrier or at least one hour prior to departure from the United States, when the permanent export of the hardware has been authorized for export:

* * * * *

■ 13. Section 123.26 is revised to read as follows:

§ 123.26 Recordkeeping for exemptions.

Any person engaging in any export, reexport, transfer, or retransfer of a defense article or defense service pursuant to an exemption must maintain records of each such export, reexport, transfer, or retransfer. The records shall, to the extent applicable to the transaction and consistent with the requirements of § 123.22 of this subchapter, include the following information: A description of the defense article, including technical data, or defense service; the name and address of the end-user and other available contact information (e.g., telephone number and electronic mail address); the name of the natural person responsible for the transaction; the stated end-use of the defense article or defense service; the date of the transaction; the Electronic Export Information (EEI) Internal Transaction Number (ITN); and the method of transmission. The person using or acting in reliance upon the exemption shall also comply with any additional recordkeeping requirements enumerated in the text of the regulations concerning such exemption (e.g., requirements specific to the Defense Trade Cooperation Treaties in § 126.16 and § 126.17 of this subchapter).

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

■ 14. The authority citation for part 124 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261; Pub. L. 111–266.

■ 15. Section 124.11 is amended by revising paragraph (b) to read as follows:

§ 124.11 Congressional certification pursuant to Section 36(d) of the Arms Export Control Act.

* * * * *

(b) Unless an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, approval may not be granted until at least 15 calendar days have elapsed after receipt by the Congress of the certification required by 22 U.S.C. 2776(d)(1) involving the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Israel, Japan, New Zealand, or the Republic of Korea or at least 30 calendar days have elapsed for any other country. Approvals may not be granted when the

Congress has enacted a joint resolution prohibiting the export.

* * * * *

PART 126—GENERAL POLICIES AND PROVISIONS

■ 16. The authority citation for part 126 is revised to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp. p. 899; Sec. 1225, Pub. L. 108–375; Sec. 7089, Pub. L. 111–117; Pub. L. 111–266.

■ 17. Section 126.1 is amended by revising paragraph (e) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(e) *Final sales.* No sale, export, transfer, reexport, or retransfer and no proposal to sell, export, transfer, reexport, or retransfer any defense articles or defense services subject to this subchapter may be made to any country referred to in this section (including the embassies or consulates of such a country), or to any person acting on its behalf, whether in the United States or abroad, without first obtaining a license or written approval of the Directorate of Defense Trade Controls. However, in accordance with paragraph (a) of this section, it is the policy of the Department of State to deny licenses and approvals in such cases.

(1) *Duty to Notify:* Any person who knows or has reason to know of such a final or actual sale, export, transfer, reexport, or retransfer of such articles, services, or data must immediately inform the Directorate of Defense Trade Controls. Such notifications should be submitted to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls.

(2) [Reserved]

* * * * *

■ 18. Section 126.3 is revised to read as follows:

§ 126.3 Exceptions.

In a case of exceptional or undue hardship, or when it is otherwise in the interest of the United States Government, the Managing Director, Directorate of Defense Trade Controls, may make an exception to the provisions of this subchapter.

■ 19. Section 126.4 is amended by revising paragraph (d) to read as follows:

§ 126.4 Shipments by or for United States Government agencies.

* * * * *

(d) An Electronic Export Information (EEI) filing, required under § 123.22 of this subchapter, and a written statement by the exporter certifying that these requirements have been met must be presented at the time of export to the appropriate Port Directors of U.S. Customs and Border Protection or Department of Defense transmittal authority. A copy of the EEI filing and the written certification statement shall be provided to the Directorate of Defense Trade Controls immediately following the export.

■ 20. Section 126.5 is amended by revising paragraphs (a), (b), (d) introductory text, and Notes 1 and 2, and removing and reserving paragraph (c) to read as follows:

§ 126.5 Canadian exemptions.

(a) *Temporary import of defense articles.* Port Directors of U.S. Customs and Border Protection and postmasters shall permit the temporary import and return to Canada without a license of any unclassified defense articles (*see* § 120.6 of this subchapter) that originate in Canada for temporary use in the United States and return to Canada. All other temporary imports shall be in accordance with §§ 123.3 and 123.4 of this subchapter.

(b) *Permanent and temporary export of defense articles.* Except as provided in Supplement No. 1 to part 126 of this subchapter and for exports that transit third countries, Port Directors of U.S. Customs and Border Protection and postmasters shall permit, when for end-use in Canada by Canadian Federal or Provincial governmental authorities acting in an official capacity or by a Canadian-registered person, or for return to the United States, the permanent and temporary export to Canada without a license of unclassified defense articles and defense services identified on the U.S. Munitions List (22 CFR 121.1). The exceptions are subject to meeting the requirements of this subchapter, to include 22 CFR 120.1(c) and (d), parts 122 and 123 (except insofar as exemption from licensing requirements is herein authorized) and § 126.1, and the requirement to obtain non-transfer and use assurances for all significant military equipment. For purposes of this section, ''Canadian-registered person'' is any Canadian national (including Canadian business entities organized under the laws of Canada), dual citizen of Canada and a third country other than a country listed in § 126.1 of this subchapter, and permanent resident registered in Canada in accordance with the Canadian Defense Production Act, and such other Canadian Crown Corporations identified by the Department of State in a list of such persons publicly available through the Internet Web site of the Directorate of Defense Trade Controls and by other means.

(c) [Reserved](d) *Reexports/retransfer.* Reexport/retransfer in Canada to another end-user or end-use or from Canada to another destination, except the United States, must in all instances have the prior approval of the Directorate of Defense Trade Controls. Unless otherwise exempt in this subchapter, the original exporter is responsible, upon request from a Canadian-registered person, for obtaining or providing reexport/retransfer approval. In any instance when the U.S. exporter is no longer available to the Canadian end-user the request for reexport/retransfer may be made directly to the Directorate of Defense Trade Controls. All requests must include the information in § 123.9(c) of this subchapter. Reexport/retransfer approval is acquired by:

* * * * *

Notes to § 126.5:

1. In any instance when the exporter has knowledge that the defense article exempt from licensing is being exported for use other than by a qualified Canadian-registered person or for export to another foreign destination, other than the United States, in its original form or incorporated into another item, an export license must be obtained prior to the transfer to Canada.

2. Additional exemptions exist in other sections of this subchapter that are applicable to Canada, for example §§ 123.9, 125.4, and 124.2, that allow for the performance of defense services related to training in basic operations and maintenance, without a license, for certain defense articles lawfully exported, including those identified in Supplement No. 1 to part 126 of this subchapter.

■ 21. Section 126.7 is amended by revising the section heading and paragraphs (a)(3), (a)(7), and (e) introductory text to read as follows:

§ 126.7 Denial, revocation, suspension, or amendment of licenses and other approvals.

(a) * * *

(3) An applicant is the subject of a criminal complaint, other criminal charge (e.g., an information), or indictment for a violation of any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter; or

* * * * *

(7) An applicant has failed to include any of the information or documentation expressly required to support a license application,

exemption, or other request for approval under this subchapter, or as required in the instructions in the applicable Department of State form or has failed to provide notice or information as required under this subchapter; or

* * * * *

(e) *Special definition.* For purposes of this subchapter, the term ''Party to the Export'' means:

* * * * *

22. Section 126.13 is amended by revising paragraphs (a) introductory text, (a)(1), and (a)(4) to read as follows:

§ 126.13 Required information.

(a) All applications for licenses (DSP–5, DSP–61, DSP–73, and DSP–85), all requests for approval of agreements and amendments thereto under part 124 of this subchapter, and all requests for other written authorizations (including requests for retransfer or reexport pursuant to § 123.9 of this subchapter) must include a letter signed by a responsible official empowered by the applicant and addressed to the Directorate of Defense Trade Controls, stating whether:

(1) The applicant or the chief executive officer, president, vice-presidents, other senior officers or officials (e.g., comptroller, treasurer, general counsel) or any member of the board of directors is the subject of a criminal complaint, other criminal charge (e.g., an information), or indictment for or has been convicted of violating any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter since the effective date of the Arms Export Control Act, Public Law 94–329, 90 Stat. 729 (June 30, 1976);

* * * * *

(4) The natural person signing the application, notification or other request for approval (including the statement required by this subchapter) is a citizen or national of the United States, has been lawfully admitted to the United States for permanent residence (and maintains such lawful permanent residence status) under the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a), section 101(a)20, 60 Stat. 163), or is an official of a foreign government entity in the United States, or is a foreign person making a request pursuant to § 123.9 of this subchapter.

* * * * *

■ 23. Section 126.17 is added to read as follows:

§ 126.17 Exemption pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom.

(a) *Scope of exemption and required conditions.* (1) *Definitions.* (i) An *export* means, for purposes of this section only, the initial movement of defense articles or defense services from the United States Community to the United Kingdom Community.

(ii) A *transfer* means, for purposes of this section only, the movement of a previously exported defense article or defense service by a member of the United Kingdom Community within the United Kingdom Community, or between a member of the United States Community and a member of the United Kingdom Community.

(iii) *Retransfer and reexport* have the meaning provided in § 120.19 of this subchapter.

(iv) *Intermediate consignee* means, for purposes of this section, an entity or person who receives defense articles, including technical data, but who does not have access to such defense articles, for the sole purpose of effecting onward movement to members of the Approved Community (*see* paragraph (k) of this section).

(2) Persons or entities exporting or transferring defense articles or defense services are exempt from the otherwise applicable licensing requirements if such persons or entities comply with the regulations set forth in this section. Except as provided in Supplement No. 1 to part 126 of this subchapter, Port Directors of U.S. Customs and Border Protection and postmasters shall permit the permanent and temporary export without a license from members of the U.S. Community to members of the United Kingdom Community (*see* paragraph (d) of this section regarding the identification of members of the United Kingdom Community) of defense articles and defense services not listed in Supplement No. 1 to part 126, for the end-uses specifically identified pursuant to paragraphs (e) and (f) of this section. The purpose of this section is to specify the requirements to export, transfer, reexport, retransfer, or otherwise dispose of a defense article or defense service pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom. All persons must continue to comply with statutory and regulatory requirements outside of this subchapter concerning the import of defense articles and defense services or the possession or transfer of defense articles, including, but not limited to, regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives found at 27 CFR parts 447, 478, and 479, which are unaffected by the Defense Trade Cooperation Treaty between the United States and the United Kingdom and continue to apply fully to defense articles and defense services subject to either of the aforementioned treaties and the exemptions contained in § 126.17 of this subchapter.

(3) *Export.* In order for an exporter to export a defense article or defense service pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom, all of the following conditions must be met:

(i) The exporter must be registered with the Directorate of Defense Trade Controls and must be eligible, according to the requirements and prohibitions of the Arms Export Control Act, this subchapter, and other provisions of United States law, to obtain an export license (or other forms of authorization to export) from any agency of the U.S. Government without restriction (*see* paragraphs (b) and (c) of this section for specific requirements);

(ii) The recipient of the export must be a member of the United Kingdom Community (*see* paragraph (d) of this section regarding the identification of members of the United Kingdom Community). United Kingdom non-governmental entities and facilities that become ineligible for such membership will be removed from the United Kingdom Community;

(iii) Intermediate consignees involved in the export must not be ineligible, according to the requirements and prohibitions of the Arms Export Control Act, this subchapter, and other provisions of United States law, to handle or receive a defense article or defense service without restriction (*see* paragraph (k) of this section for specific requirements);

(iv) The export must be for an end-use specified in the Defense Trade Cooperation Treaty between the United States and the United Kingdom and mutually agreed to by the U.S. Government and the Government of the United Kingdom pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and the Implementing Arrangement thereto (United Kingdom Implementing Arrangement) (*see* paragraphs (e) and (f) of this section regarding authorized end-uses);

(v) The defense article or defense service is not excluded from the scope of the Defense Trade Cooperation Treaty between the United States and the United Kingdom (*see* paragraph (g) of this section and Supplement No. 1 to part 126 of this subchapter for specific information on the scope of items excluded from export under this exemption) and is marked or identified, at a minimum, as ''Restricted USML'' (*see* paragraph (j) of this section for

specific requirements on marking exports);

(vi) All required documentation of such export is maintained by the exporter and recipient and is available upon the request of the U.S. Government (*see* paragraph (l) of this section for specific requirements); and

(vii) The Department of State has provided advance notification to the Congress, as required, in accordance with this section (*see* paragraph (o) of this section for specific requirements).

(4) *Transfers.* In order for a member of the Approved Community (i.e., the U.S. Community and United Kingdom Community) to transfer a defense article or defense service under the Defense Trade Cooperation Treaty within the Approved Community, all of the following conditions must be met:

(i) The defense article or defense service must have been previously exported in accordance with paragraph (a)(3) of this section or transitioned from a license or other approval in accordance with paragraph (i) of this section;

(ii) The transferor and transferee of the defense article or defense service are members of the United Kingdom Community (*see* paragraph (d) of this section regarding the identification of members of the United Kingdom Community) or the United States Community (*see* paragraph (b) of this section for information on the United States Community/approved exporters);

(iii) The transfer is required for an end-use specified in the Defense Trade Cooperation Treaty between the United States and the United Kingdom and mutually agreed to by the United States and the Government of United Kingdom pursuant to the terms of the Defense Trade Cooperation Treaty between the United States and the United Kingdom and the United Kingdom Implementing Arrangement (*see* paragraphs (e) and (f) of this section regarding authorized end-uses);

(iv) The defense article or defense service is not identified in paragraph (g) of this section and Supplement No. 1 to part 126 of this subchapter as ineligible for export under this exemption, and is marked or otherwise identified, at a minimum, as ''Restricted USML'' (*see* paragraph (j) of this section for specific requirements on marking exports);

(v) All required documentation of such transfer is maintained by the transferor and transferee and is available upon the request of the U.S. Government (*see* paragraph (l) of this section for specific requirements); and

(vi) The Department of State has provided advance notification to the Congress in accordance with this section (*see* paragraph (o) of this section for specific requirements).

(5) This section does not apply to the export of defense articles or defense services from the United States pursuant to the Foreign Military Sales program. Once such items are delivered to Her Majesty's Government, they may be treated as if they were exported pursuant to the Treaty and then must be marked, identified, transmitted, stored and handled in accordance with the Treaty, the United Kingdom Implementing Arrangement, and the provisions of this section.

(b) *United States Community.* The following persons compose the United States Community and may export or transfer defense articles and defense services pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom:

(1) Departments and agencies of the U.S. Government, including their personnel acting in their official capacity, with, as appropriate, a security clearance and a need-to-know; and

(2) Non-governmental U.S. persons registered with the Directorate of Defense Trade Controls and eligible, according to the requirements and prohibitions of the Arms Export Control Act, this subchapter, and other provisions of United States law, to obtain an export license (or other forms of authorization to export) from any agency of the U.S. Government without restriction, including their employees acting in their official capacity with, as appropriate, a security clearance and a need-to-know.

(c) An exporter that is otherwise an authorized exporter pursuant to paragraph (b) of this section may not export or transfer pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom if the exporter's president, chief executive officer, any vice-president, any other senior officer or official (e.g., comptroller, treasurer, general counsel); any member of the board of directors of the exporter; any party to the export; or any source or manufacturer is ineligible to receive export licenses (or other forms of authorization to export) from any agency of the U.S. Government.

(d) *United Kingdom Community.* For purposes of the exemption provided by this section, the United Kingdom Community consists of:

(1) Her Majesty's Government entities and facilities identified as members of the Approved Community through the Directorate of Defense Trade Controls Web site at the time of a transaction under this section; and

(2) The non-governmental United Kingdom entities and facilities identified as members of the Approved Community through the Directorate of Defense Trade Controls Web site at the time of a transaction under this section; non-governmental United Kingdom entities and facilities that become ineligible for such membership will be removed from the United Kingdom Community.

(e) *Authorized End-uses.* The following end-uses, subject to paragraph (f) of this section, are specified in the Defense Trade Cooperation Treaty between the United States and the United Kingdom:

(1) United States and United Kingdom combined military or counter-terrorism operations;

(2) United States and United Kingdom cooperative security and defense research, development, production, and support programs;

(3) Mutually determined specific security and defense projects where the Government of the United Kingdom is the end-user; or

(4) U.S. Government end-use.

(f) Procedures for identifying authorized end-uses pursuant to paragraph (e) of this section:

(1) Operations, programs, and projects that can be publicly identified will be posted on the Directorate of Defense Trade Controls Web site;

(2) Operations, programs, and projects that cannot be publicly identified will be confirmed in written correspondence from the Directorate of Defense Trade Controls; or

(3) U.S. Government end-use will be identified specifically in a U.S. Government contract or solicitation as being eligible under the Treaty.

(4) No other operations, programs, projects, or end-uses qualify for this exemption.

(g) *Items eligible under this section.* With the exception of items listed in Supplement No. 1 to part 126 of this subchapter, defense articles and defense services may be exported under this section subject to the following:

(1) An exporter authorized pursuant to paragraph (b)(2) of this section may market a defense article to members of the United Kingdom Community if that exporter has been licensed by the Directorate of Defense Trade Controls to export (as defined by § 120.17 of this subchapter) the identical type of defense article to any foreign person and end-use of the article is for an end-use identified in paragraph (e) of this section.

(2) The export of any defense article specific to the existence of (e.g., reveals the existence of or details of) anti-

tamper measures made at U.S. Government direction always requires prior written approval from the Directorate of Defense Trade Controls.

(3) U.S.-origin classified defense articles or defense services may be exported only pursuant to a written request, directive, or contract from the U.S. Department of Defense that provides for the export of the classified defense article(s) or defense service(s).

(4) U.S.-origin defense articles specific to developmental systems that have not obtained written Milestone B approval from the Department of Defense milestone approval authority are not eligible for export unless such export is pursuant to a written solicitation or contract issued or awarded by the Department of Defense for an end-use identified pursuant to paragraphs (e)(1), (2), or (4) of this section.

(5) Defense articles excluded by paragraph (g) of this section or Supplement No. 1 to part 126 of this subchapter (e.g., USML Category XI (a)(3) electronically scanned array radar excluded by Note 2) that are embedded in a larger system that is eligible to ship under this section (e.g., a ship or aircraft) must separately comply with any restrictions placed on that embedded defense article under this subchapter. The exporter must obtain a license or other authorization from the Directorate of Defense Trade Controls for the export of such embedded defense articles (for example, USML Category XI(a)(3) electronically scanned array radar systems that are exempt from this section that are incorporated in an aircraft that is eligible to ship under this section continue to require separate authorization from the Directorate of Defense Trade Controls for their export, transfer, reexport, or retransfer).

(6) No liability shall be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of an export conducted pursuant to this section.

(7) Sales by exporters made through the U.S. Government shall not include either charges for patent rights in which the U.S. Government holds a royalty-free license, or charges for information which the U.S. Government has a right to use and disclose to others, which is in the public domain, or which the U.S. Government has acquired or is entitled to acquire without restrictions upon its use and disclosure to others.

(8) Defense articles on the European Union Dual Use List (as described in Annex 1 to EC Council Regulation No. 428/2009) are not eligible for export under the Defense Trade Cooperation Treaty between the United States and the United Kingdom. These articles have been identified and included in Supplement No.1 to part 126.

(h) *Transfers, Retransfers, and Reexports.* (1) Any transfer of a defense article or defense service not exempted in Supplement No. 1 to part 126 of this subchapter by a member of the United Kingdom Community (*see* paragraph (d) of this section for specific information on the identification of the Community) to another member of the United Kingdom Community or the United States Community for an end-use that is authorized by this exemption (*see* paragraphs (e) and (f) of this section regarding authorized end-uses) is authorized under this exemption.

(2) Any transfer or other provision of a defense article or defense service for an end-use that is not authorized by the exemption provided by this section is prohibited without a license or the prior written approval of the Directorate of Defense Trade Controls (*see* paragraphs (e) and (f) of this section regarding authorized end-uses).

(3) Any retransfer or reexport, or other provision of a defense article or defense service by a member of the United Kingdom Community to a foreign person that is not a member of the United Kingdom Community, or to a U.S. person that is not a member of the United States Community, is prohibited without a license or the prior written approval of the Directorate of Defense Trade Controls (*see* paragraph (d) of this section for specific information on the identification of the United Kingdom Community).

(4) Any change in the use of a defense article or defense service previously exported, transferred, or obtained under this exemption by any foreign person, including a member of the United Kingdom Community, to an end-use that is not authorized by this exemption is prohibited without a license or other written approval of the Directorate of Defense Trade Controls (*see* paragraphs (e) and (f) of this section regarding authorized end-uses).

(5) Any retransfer, reexport, or change in end-use requiring such approval of the U.S. Government shall be made in accordance with § 123.9 of this subchapter.

(6) Defense articles excluded by paragraph (g) of this section or Supplement No. 1 to part 126 of this subchapter (e.g., USML Category XI (a)(3) electronically scanned array radar systems) that are embedded in a larger system that is eligible to ship under this section (e.g., a ship or aircraft) must separately comply with any restrictions placed on that embedded defense article unless otherwise specified. A license or other authorization must be obtained from the Directorate of Defense Trade Controls for the export, transfer, reexport, or retransfer or change in end-use of any such embedded defense article (for example, USML Category XI(a)(3) electronically scanned array radar systems that are excluded from this section by Supplement No. 1 to part 126, Note 2 that are incorporated in an aircraft that is eligible to ship under this section continue to require separate authorization from the Directorate of Defense Trade Controls for their export, transfer, reexport, or retransfer).

(7) A license or prior approval from the Directorate of Defense Trade Controls is not required for a transfer, retransfer, or reexport of an exported defense article or defense service under this section, if:

(i) The transfer of defense articles or defense services is made by a member of the United States Community to United Kingdom Ministry of Defence elements deployed outside the Territory of the United Kingdom and engaged in an authorized end-use (*see* paragraphs (e) and (f) of this section regarding authorized end-uses) using United Kingdom Armed Forces transmission channels or the provisions of this section;

(ii) The transfer of defense articles or defense services is made by a member of the United States Community to an Approved Community member (either U.S. or UK) that is operating in direct support of United Kingdom Ministry of Defence elements deployed outside the Territory of the United Kingdom and engaged in an authorized end-use (*see* paragraphs (e) and (f) of this section regarding authorized end-uses) using United Kingdom Armed Forces transmission channels or the provisions of this section;

(iii) The reexport is made by a member of the United Kingdom Community to United Kingdom Ministry of Defence elements deployed outside the Territory of the United Kingdom engaged in an authorized end-use (*see* paragraphs (e) and (f) of this section regarding authorized end-uses) using United Kingdom Armed Forces transmission channels or the provisions of this section;

(iv) The reexport is made by a member of the United Kingdom Community to an Approved Community member (either U.S. or UK) that is operating in direct support of United Kingdom Ministry of Defence elements deployed outside the Territory of the United Kingdom engaged in an authorized end-use (*see* paragraphs (e)

and (f) of this section regarding authorized end-uses) using United Kingdom Armed Forces transmission channels or the provisions of this section; or

(v) The defense article or defense service will be delivered to the United Kingdom Ministry of Defence for an authorized end-use (*see* paragraphs (e) and (f) of this section regarding authorized end-uses); the United Kingdom Ministry of Defence may deploy the item as necessary when conducting official business within or outside the Territory of the United Kingdom. The item must remain under the effective control of the United Kingdom Ministry of Defence while deployed and access may not be provided to unauthorized third parties.

(8) U.S. persons registered, or required to be registered, pursuant to part 122 of this subchapter and members of the United Kingdom Community must immediately notify the Directorate of Defense Trade Controls of any actual or proposed sale, retransfer, or reexport of a defense article or defense service on the U.S. Munitions List originally exported under this exemption to any of the countries listed in § 126.1 of this subchapter or any person acting on behalf of such countries, whether within or outside the United States. Any person knowing or having reason to know of such a proposed or actual sale, reexport, or retransfer shall submit such information in writing to the Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls.

(i) *Transitions.* (1) Any previous export of a defense article under a license or other approval of the U.S. Department of State remains subject to the conditions and limitations of the original license or authorization unless the Directorate of Defense Trade Controls has approved in writing a transition to this section.

(2) If a U.S. exporter desires to transition from an existing license or other approval to the use of the provisions of this section, the following is required:

(i) The U.S. exporter must submit a written request to the Directorate of Defense Trade Controls, which identifies the defense articles or defense services to be transitioned, the existing license(s) or other authorizations under which the defense articles or defense services were originally exported, and the Treaty-eligible end-use for which the defense articles or defense services will be used. Any license(s) filed with U.S. Customs and Border Protection should remain on file until the exporter has received approval from the Directorate of Defense Trade Controls to retire the license(s) and transition to this section. When this approval is conveyed to U.S. Customs and Border Protection by the Directorate of Defense Trade Controls, the license(s) will be returned to the Directorate of Defense Trade Controls by U.S. Customs and Border Protection in accord with existing procedures for the return of expired licenses in § 123.22(c) of this subchapter.

(ii) Any license(s) not filed with U.S. Customs and Border Protection must be returned to the Directorate of Defense Trade Controls with a letter citing approval by the Directorate of Defense Trade Controls to transition to this section as the reason for returning the license(s).

(3) If a member of the United Kingdom Community desires to transition defense articles received under an existing license or other approval to the processes established under the Treaty, the United Kingdom Community member must submit a written request to the Directorate of Defense Trade Controls, either directly or through the original U.S. exporter, which identifies the defense articles or defense services to be transitioned, the existing license(s) or other authorizations under which the defense articles or defense services were received, and the Treaty-eligible end-use (*see* paragraphs (e) and (f) of this section regarding authorized end-uses) for which the defense articles or defense services will be used. The defense article or defense service shall remain subject to the conditions and limitations of the existing license or other approval until the United Kingdom Community member has received approval from the Directorate of Defense Trade Controls to transition to this section.

(4) Authorized exporters identified in paragraph (b)(2) of this section who have exported a defense article or defense service that has subsequently been placed on the list of exempted items in Supplement No. 1 to part 126 of this subchapter must review and adhere to the requirements in the relevant **Federal Register** notice announcing such removal. Once removed, the defense article or defense service will no longer be subject to this section, such defense article or defense service previously exported shall remain on the U.S. Munitions List and be subject to the International Traffic in Arms Regulations unless the applicable **Federal Register** notice states otherwise. Subsequent reexport or retransfer must be made pursuant to § 123.9 of this subchapter.

(5) Any defense article or defense service transitioned from a license or other approval to treatment under this section must be marked in accordance with the requirements of paragraph (j) of this section.

(j) *Marking of Exports.* (1) All defense articles and defense services exported or transitioned pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section shall be marked or identified as follows:

(i) For classified defense articles and defense services the standard marking or identification shall read: ''// CLASSIFICATION LEVEL USML//REL GBR and USA Treaty Community//.'' For example, for defense articles classified SECRET, the marking or identification shall be ''//SECRET USML//REL GBR and USA Treaty Community//.''

(ii) Unclassified defense articles and defense services exported under or transitioned pursuant to this section shall be handled while in the UK as ''Restricted USML'' and the standard marking or identification shall read ''// RESTRICTED USML//REL GBR and USA Treaty Community//.''

(2) Where U.S.-origin defense articles are returned to a member of the United States Community identified in paragraph (b) of this section, any defense articles marked or identified pursuant to paragraph (j)(1)(ii) of this section as ''//RESTRICTED USML//REL GBR and USA Treaty Community//'' will be considered unclassified and the marking or identification shall be removed; and

(3) The standard marking and identification requirements are as follows:

(i) Defense articles (other than technical data) shall be individually labeled with the appropriate identification detailed in paragraphs (j)(1) and (j)(2) of this section; or, where such labeling is impracticable (e.g., propellants, chemicals), shall be accompanied by documentation (such as contracts or invoices) clearly associating the defense articles with the appropriate markings as detailed in paragraph (j)(1)(i) and (ii) of this section;

(ii) Technical data (including data packages, technical papers, manuals, presentations, specifications, guides and reports), regardless of media or means of transmission (physical, oral, or electronic), shall be individually labeled with the appropriate identification detailed in paragraphs (j)(1) and (j)(2) of this section; or, where such labeling is impracticable shall be accompanied by documentation (such as contracts or invoices) or verbal notification clearly

associating the technical data with the appropriate markings as detailed in paragraph (j)(1)(i) and (ii) of this section; and

(4) Defense services shall be accompanied by documentation (contracts, invoices, shipping bills, or bills of lading) clearly labeled with the appropriate identification detailed in paragraphs (j)(1) and (j)(2) of this section.

(5) The exporter shall incorporate the following statement as an integral part of the bill of lading and the invoice whenever defense articles are to be exported:

''These U.S. Munitions List commodities are authorized by the U.S. Government under the U.S.-UK Defense Trade Cooperation Treaty for export only to United Kingdom for use in approved projects, programs or operations by members of the United Kingdom Community. They may not be retransferred or reexported or used outside of an approved project, program, or operation, either in their original form or after being incorporated into other end-items, without the prior written approval of the U.S. Department of State.''

(k) *Intermediate Consignees.* (1) Unclassified exports under this section may only be handled by:

(i) U.S. intermediate consignees who are:

(A) Exporters registered with the Directorate of Defense Trade Controls and eligible;

(B) Licensed customs brokers who are subject to background investigation and have passed a comprehensive examination administered by U.S. Customs and Border Protection; or

(C) Commercial air freight and surface shipment carriers, freight forwarders, or other parties not exempt from registration under § 129.3(b)(3) of this subchapter, that are identified at the time of export as being on the U.S. Department of Defense Civil Reserve Air Fleet (CRAF) list of approved air carriers, a link to which is available on the Directorate of Defense Trade Controls Web site.

(ii) United Kingdom intermediate consignees who are:

(A) Members of the United Kingdom Community; or

(B) Freight forwarders, customs brokers, commercial air freight and surface shipment carriers, or other United Kingdom parties that are identified at the time of export as being on the list of Authorized United Kingdom Intermediate Consignees, which is available on the Directorate of Defense Trade Controls Web site.

(2) Classified exports must comply with the security requirements of the National Industrial Security Program Operating Manual (DoD 5220.22–M and supplements or successors).

(l) *Records.* (1) All exporters authorized pursuant to paragraph (b)(2) of this section who export pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section shall maintain detailed records of their exports, imports, and transfers made by that exporter of defense articles or defense services subject to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section. Exporters shall also maintain detailed records of any reexports and retransfers approved or otherwise authorized by the Directorate of Defense Trade Controls of defense articles or defense services subject to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section. These records shall be maintained for a minimum of five years from the date of export, import, transfer, reexport, or retransfer and shall be made available upon request to the Directorate of Defense Trade Controls or a person designated by the Directorate of Defense Trade Controls (e.g. the Diplomatic Security Service) or U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection. Records in an electronic format must be maintained using a process or system capable of reproducing all records on paper. Such records when displayed on a viewer, monitor, or reproduced on paper, must exhibit a high degree of legibility and readability. (For the purpose of this section, ''legible'' and ''legibility'' mean the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. ''Readable'' and ''readability'' means the quality of a group of letters or numerals being recognized as complete words or numbers.) These records shall consist of the following:

(i) Port of entry/exit;

(ii) Date of export/import;

(iii) Method of export/import;

(iv) Commodity code and description of the commodity, including technical data;

(v) Value of export;

(vi) Reference to this section and justification for export under the Treaty;

(vii) End-user/end-use;

(viii) Identification of all U.S. and foreign parties to the transaction;

(ix) How the export was marked;

(x) Security classification of the export;

(xi) All written correspondence with the U.S. Government on the export;

(xii) All information relating to political contributions, fees, or commissions furnished or obtained, offered, solicited, or agreed upon as outlined in paragraph (m) of this section;

(xiii) Purchase order or contract;

(xiv) Technical data actually exported;

(xv) The Internal Transaction Number for the Electronic Export Information filing in the Automated Export System;

(xvi) All shipping documentation (including, but not limited to the airway bill, bill of lading, packing list, delivery verification, and invoice); and

(xvii) Statement of Registration (Form DS–2032).

(2) *Filing of export information.* All exporters of defense articles under the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section must electronically file Electronic Export Information (EEI) using the Automated Export System citing one of the four below referenced codes in the appropriate field in the EEI for each shipment:

(i) For exports in support of United States and United Kingdom combined military or counter-terrorism operations identify § 126.17(e)(1) (the name or an appropriate description of the operation shall be placed in the appropriate field in the EEI, as well);

(ii) For exports in support of United States and United Kingdom cooperative security and defense research, development, production, and support programs identify § 126.17(e)(2) (the name or an appropriate description of the program shall be placed in the appropriate field in the EEI, as well);

(iii) For exports in support of mutually determined specific security and defense projects where the Government of the United Kingdom is the end-user identify 126.17(e)(3) (the name or an appropriate description of the project shall be placed in the appropriate field in the EEI, as well); or

(iv) For exports that will have a U.S. Government end-use identify 126.17(e)(4) (the U.S. Government contract number or solicitation number (e.g., ''U.S. Government contract number XXXXX'') shall be placed in the appropriate field in the EEI, as well). Such exports must meet the required export documentation and filing guidelines, including for defense services, of §§ 123.22(a), (b)(1), and (b)(2) of this subchapter.

(m) *Fees and Commissions.* All exporters authorized pursuant to paragraph (b)(2) of this section shall,

with respect to each export, transfer, reexport, or retransfer, pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section, submit a statement to the Directorate of Defense Trade Controls containing the information identified in § 130.10 of this subchapter relating to fees, commissions, and political contributions on contracts or other instruments valued in an amount of $500,000 or more.

(n) *Violations and Enforcement.* (1) Exports, transfers, reexports, and retransfers that do not comply with the conditions prescribed in this section will constitute violations of the Arms Export Control Act and this subchapter, and are subject to all relevant criminal, civil, and administrative penalties (*see* § 127.1 of this subchapter), and may also be subject to penalty under other statutes or regulations.

(2) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers may take appropriate action to ensure compliance with this section as to the export or the attempted export of any defense article or technical data, including the inspection of loading or unloading of any vessel, vehicle, or aircraft.

(3) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers have the authority to investigate, detain, or seize any export or attempted export of defense articles or technical data that does not comply with this section or that is otherwise unlawful.

(4) The Directorate of Defense Trade Controls or a person designated by the Directorate of Defense Trade Controls (*e.g.,* the Diplomatic Security Service) or U.S. Immigration and Customs Enforcement, or U.S. Customs and Border Protection may require the production of documents and information relating to any actual or attempted export, transfer, reexport, or retransfer pursuant to this section. Any foreign person refusing to provide such records within a reasonable period of time shall be suspended from the United Kingdom Community and ineligible to receive defense articles or defense services pursuant to the exemption under this section or otherwise.

(o) *Procedures for Legislative Notification.* (1) Exports pursuant to the Defense Trade Cooperation Treaty between the United States and the United Kingdom and this section by any person identified in paragraph (b)(2) of this section shall not take place until 30 days after the Directorate of Defense Trade Controls has acknowledged receipt of a Form DS–4048 (entitled, ''Projected Sales of Major Weapons in Support of Section 25(a)(1) of the Arms Export Control Act'') from the exporter notifying the Department of State if the export involves one or more of the following:

(i) A contract or other instrument for the export of major defense equipment in the amount of $25,000,000 or more, or for defense articles and defense services in the amount of $100,000,000 or more;

(ii) A contract for the export of firearms controlled under Category I of the U.S. Munitions List of the International Traffic in Arms Regulations in an amount of $1,000,000 or more;

(iii) A contract, regardless of value, for the manufacturing abroad of any item of significant military equipment; or

(iv) An amended contract that meets the requirements of paragraphs (o)(1)(i) through (o)(1)(iii) of this section.

(2) The Form DS–4048 required in paragraph (o)(1) of this section shall be accompanied by the following additional information:

(i) The information identified in § 130.10 and § 130.11 of this subchapter;

(ii) A statement regarding whether any offset agreement is final to be entered into in connection with the export and a description of any such offset agreement;

(iii) A copy of the signed contract; and

(iv) If the notification is for paragraph (o)(1)(ii) of this section, a statement of what will happen to the weapons in their inventory (for example, whether the current inventory will be sold, reassigned to another service branch, destroyed, etc.).

(3) The Department of State will notify the Congress of exports that meet the requirements of paragraph (o)(1) of this section.

■ 24. Supplement No. 1 to Part 126 is added to read as follows:

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Supplement No. 1*

USML Category	Exclusion	(CA) §126.5	[Reserved for (AS) §126.16]	(UK) §126.17
I-XXI	Classified defense articles and services. *See* Note 1.	X		X
I-XXI	Defense articles listed in the Missile Technology Control Regime (MTCR) Annex.	X		X
I-XXI	U.S. origin defense articles and services used for marketing purposes and not previously licensed for export in accordance with this subchapter.			X
I-XXI	Defense services for or technical data related to defense articles identified in this supplement as excluded from the Canadian exemption.	X		

I-XXI	Any transaction involving the export of defense articles and services for which congressional notification is required in accordance with §123.15 and §124.11 of this subchapter.	X		
I-XXI	U.S. origin defense articles and services specific to developmental systems that have not obtained written Milestone B approval from the U.S. Department of Defense milestone approval authority, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end use identified in paragraphs (e)(1), (2), or (4) of §126.16 or §126.17 of this subchapter and is consistent with other exclusions of this supplement.			X

I-XXI	Nuclear weapons strategic delivery systems and all components, parts, accessories, and attachments specifically designed for such systems and associated equipment.	X		
I-XXI	Defense articles and services specific to the existence or method of compliance with anti-tamper measures made at U.S. Government direction.			X
I-XXI	Defense articles and services specific to reduced observables or counter low observables in any part of the spectrum. *See* Note 2.			X
I-XXI	Defense articles and services specific to sensor fusion beyond that required for display or identification correlation. *See* Note 3.			X
I-XXI	Defense articles and services specific to the automatic target			X

	acquisition or recognition and cueing of multiple autonomous unmanned systems.			
I-XXI	Nuclear power generating equipment or propulsion equipment (e.g., nuclear reactors), specifically designed for military use and components therefore, specifically designed for military use. *See* also §123.20 of this subchapter.			X
I-XXI	Libraries (parametric technical databases) specially designed for military use with equipment controlled on the USML. *See* Note 13.			X
I-XXI	Defense services or technical data specific to applied research as defined in §125.4(c)(3) of this subchapter, design methodology as defined in §125.4(c)(4) of this	X		

	subchapter, engineering analysis as defined in §125.4(c)(5) of this subchapter, or manufacturing know-how as defined in §125.4(c)(6) of this subchapter. *See* Note 12.			
I-XXI	Defense services other than those required to prepare a quote or bid proposal in response to a written request from a Department or Agency of the United States Federal Government or from a Canadian Federal, Provincial, or Territorial Government; or defense services other than those required to produce, design, assemble, maintain or service a defense article for use by a registered U.S. company, or a U.S. Federal Government Program, or for end-use in a Canadian Federal,	X		

	Provincial, or Territorial Government Program. *See* Note 14.			
I	Defense articles and services related to firearms, close assault weapons, and combat shotguns.	X		
II(k)	Software source code related to Categories II(c), II(d), or II(i). *See* Note 4.			X
II(k)	Manufacturing know-how related to Category II(d). *See* Note 5.	X		X
III	Defense articles and services related to ammunition for firearms, close assault weapons, and combat shotguns listed in Category I.	X		
III	Defense articles and services specific to ammunition and fuse setting devices for guns and armament controlled in Category II.			X
III(e)	Manufacturing know-how related	X		X

	to Categories III(d)(1) or III(d)(2) and their specially designed components. *See* Note 5.			
III(e)	Software source code related to Categories III(d)(1) or III(d)(2). *See* Note 4.			X
IV	Defense articles and services specific to man-portable air defense systems (MANPADS). *See* Note 6.	X		X
IV	Defense articles and services specific to rockets, designed or modified for non-military applications that do not have a range of 300 km (i.e., not controlled on the MTCR Annex).			X
IV	Defense articles and services specific to torpedoes.			X
IV	Defense articles and services specific to anti-personnel landmines.	X		X

IV	Defense Articles specific to cluster munitions that are controlled by The Convention on Cluster Munitions of 3 December 2008.	X		X
IV(i)	Software source code related to Categories IV(a), IV(b), IV(c), or IV(g). *See* Note 4.			X
IV(i)	Manufacturing know-how related to Categories IV(a), IV(b), IV(d), or IV(g) and their specially designed components. *See* Note 5.	X		X
V	The following energetic materials and related substances: a. TATB (triaminotrinitrobenzene) (CAS 3058-38-6); b. Explosives controlled in USML Category V(a)(32) or V(a)(33); c. Iron powder (CAS 7439-89-6) with particle size of 3			X

	micrometers or less produced by reduction of iron oxide with hydrogen; d. BOBBA-8 (bis(2-methylaziridinyl)2-(2-hydroxypropanoxy) propylamino phosphine oxide), and other MAPO derivatives; e. N-methyl-p-nitroaniline (CAS 100-15-2); or f. Trinitrophenylmethylnitramine (tetryl) (CAS 479-45-8)			
V(c)(7)	Pyrotechnics and pyrophorics specifically formulated for military purposes to enhance or control radiated energy in any part of the IR spectrum.			X
V(d)(3)	Bis-2, 2-dinitropropylnitrate (BDNPN).			X
VI	Defense articles specific to			X

	cryogenic equipment, and specially designed components or accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C).			
VI	Defense Articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar			X

	generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.			
VI	Defense articles and services specific to naval technology and systems relating to acoustic spectrum control and awareness. *See* Note 10.			X
VI(a)	Nuclear powered vessels.	X		X
VI(c)	Defense articles and services specific to submarine combat control systems.			X
VI(d)	Harbor entrance detection devices.			X
VI(e)	Defense articles and services specific to naval nuclear propulsion equipment. *See* Note 7.	X		X

VI(g)	Technical data and defense services for gas turbine engine hot sections related to Category VI(f). *See* Note 8.	X		X
VI(g)	Software source code related to Categories VI(a) or VI(c). *See* Note 4.			X
VII	Defense articles specific to cryogenic equipment, and specially designed components or accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C).			X
VII	Defense articles specific to superconductive electrical equipment (rotating machinery and			X

	transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.			
VII	Armored all wheel drive vehicles, other than vehicles specifically designed or modified for military use, fitted with, or designed or modified to be fitted with, a plough			X

	or flail for the purpose of land mine clearance.			
VII(e)	Amphibious vehicles.			X
VII(f)	Technical data and defense services for gas turbine engine hot sections. *See* Note 8.	X		X
VIII	Defense articles specific to cryogenic equipment, and specially designed components and accessories therefor, specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C).			X
VIII	Defense articles specific to superconductive electrical equipment (rotating machinery and transformers) specially designed or			X

	configured to be installed in a vehicle for military ground, marine, airborne, or space applications and capable of operating while in motion. This, however, does not include direct current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.			
VIII(a)	All Category VIII(a) items.	X		
VIII(b)	Defense articles and services specific to gas turbine engine hot section components and digital engine controls. *See* Note 8.			X
VIII(f)	Developmental aircraft, engines and components identified in	X		

	Category VIII(f).			
VIII(g)	Ground Effect Machines (GEMS).			X
VIII(i)	Technical data and defense services for gas turbine engine hot sections related to Category VIII(b). *See* Note 8.	X		X
VIII(i)	Manufacturing know-how related to Categories VIII(a), VIII(b), or VIII(e) and their specially designed components. *See* Note 5.	X		X
VIII(i)	Software source code related to Categories VIII(a) or VIII(e). *See* Note 4.			X
IX	Training or simulation equipment for MANPADS. *See* Note 6.			X
IX(e)	Software source code related to Categories IX(a) or IX(b). *See* Note 4.			X
IX(e)	Software that is both specifically designed or modified for military use and specifically designed or			X

	modified for modeling or simulating military operational scenarios.			
X(e)	Manufacturing know-how related to Categories X(a)(1) or X(a)(2) and their specially designed components. *See* Note 5.	X		X
XI(a)	Defense articles and services specific to countermeasures and counter- countermeasures *See* Note 9.			X
XI	Defense articles and services specific to naval technology and systems relating to acoustic spectrum control and awareness. *See* Note 10.			X
XI(b) XI(c) XI(d)	Defense articles and services specific to communications security (e.g., COMSEC and TEMPEST).			X
XI(d)	Software source code related to			X

	Category XI(a). *See* Note 4.			
XI(d)	Manufacturing know-how related to Categories XI(a)(3) or XI(a)(4) and their specially designed components. *See* Note 5.	X		X
XII	Defense articles and services specific to countermeasures and counter- countermeasures. *See* Note 9.			X
XII(c)	Defense articles and services specific to XII(c) articles, except any 1st- and 2nd-generation image intensification tubes and 1st- and 2nd-generation image intensification night sighting equipment. End items in XII(c) and related technical data limited to basic operations, maintenance, and training information as authorized under the exemption in §125.4(b)(5) of this subchapter	X		

	may be exported directly to a Canadian Government entity (i.e., federal, provincial, territorial, or municipal) consistent with §126.5, other exclusions, and the provisions of this subchapter.			
XII(c)	Technical data or defense services for night vision equipment beyond basic operations, maintenance, and training data. However, the AS and UK Treaty exemptions apply when such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end use identified in paragraphs (e)(1), (2), or (4) of §126.16 or §126.17 of this subchapter and is consistent with other exclusions of this supplement.	X		X
XII(f)	Manufacturing know-how related	X		X

	to Category XII(d) and their specially designed components. *See* Note 5.			
XII(f)	Software source code related to Categories XII(a), XII(b), XII(c), or XII(d). *See* Note 4.			X
XIII(b)	Defense articles and services specific to Military Information Security Assurance Systems.			X
XIII(c)	Defense articles and services specific to armored plate manufactured to comply with a military standard or specification or suitable for military use. *See* Note 11.			X
XIII(d)	Carbon/carbon billets and preforms which are reinforced in three or more dimensional planes, specifically designed, developed, modified, configured or adapted for defense articles.			X

XIII(f)	Structural materials.			X
XIII(g)	Defense articles and services related to concealment and deception equipment and materials.			X
XIII(h)	Energy conversion devices other than fuel cells.			X
XIII(i)	Metal embrittling agents.			X
XIII(j)	Defense articles and services related to hardware associated with the measurement or modification of system signatures for detection of defense articles as described in Note 2.			X
XIII(k)	Defense articles and services related to tooling and equipment specifically designed or modified for the production of defense articles identified in Category XIII(b).			X
XIII(l)	Software source code related to Category XIII(a). *See* Note 4.			X

XIV	Defense articles and services related to toxicological agents, including chemical agents, biological agents, and associated equipment.			X
XIV(a) XIV(b) XIV(d) XIV(e) XIV(f)	Chemical agents listed in Category XIV(a), (d) and (e), biological agents and biologically derived substances in Category XIV(b), and equipment listed in Category XIV(f) for dissemination of the chemical agents and biological agents listed in Category XIV(a), (b), (d), and (e).	X		
XV(a)	Defense articles and services specific to spacecraft/satellites. However, the Canadian exemption may be used for commercial communications satellites that have no other type of payload.	X		X
XV(b)	Defense articles and services			X

	specific to ground control stations for spacecraft telemetry, tracking, and control.			
XV(c)	Defense articles and services specific to GPS/PPS security modules.			X
XV(c)	Defense articles controlled in XV(c) except end items for end use by the Federal Government of Canada exported directly or indirectly through a Canadian-registered person.	X		
XV(d)	Defense articles and services specific to radiation-hardened microelectronic circuits.	X		X
XV(e)	Anti-jam systems with the ability to respond to incoming interference by adaptively reducing antenna gain (nulling) in the direction of the interference.	X		
XV(e)	Antennas having any of the	X		

	following: (a) Aperture (overall dimension of the radiating portions of the antenna) greater than 30 feet; (b) All sidelobes less than or equal to -35 dB relative to the peak of the main beam; or (c) Designed, modified, or configured to provide coverage area on the surface of the earth less than 200 nautical miles in diameter, where “coverage area” is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power			

	points of the beam).			
XV(e)	Optical intersatellite data links (cross links) and optical ground satellite terminals.	X		
XV(e)	Spaceborne regenerative baseband processing (direct up and down conversion to and from baseband) equipment.	X		
XV(e)	Propulsion systems which permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1 g.	X		
XV(e)	Attitude control and determination systems designed to provide spacecraft pointing determination and control or payload pointing system control better than 0.02 degrees per axis.	X		
XV(e)	All specifically designed or modified systems, components, parts, accessories, attachments, and	X		

	associated equipment for all Category XV(a) items, except when specifically designed or modified for use in commercial communications satellites.			
XV(e)	Defense articles and services specific to spacecraft and ground control station systems (only for telemetry, tracking and control as controlled in XV(b)), subsystems, components, parts, accessories, attachments, and associated equipment.			X
XV(f)	Technical data and defense services directly related to the other defense articles excluded from the exemptions for Category XV.	X		X
XVI	Defense articles and services specific to design and testing of nuclear weapons.	X		X

XVI(c)	Nuclear radiation measuring devices manufactured to military specifications.	X		
XVI(e)	Software source code related to Category XVI(c). *See* Note 4.			X
XVII	Classified articles and defense services not elsewhere enumerated. *See* Note 1.	X		X
XVIII	Defense articles and services specific to directed energy weapon systems.			X
XX	Defense articles and services related to submersible vessels, oceanographic, and associated equipment.	X		X
XXI	Miscellaneous defense articles and services.	X		X
Note 1: Classified defense articles and services are not eligible for export under the Canadian exemptions. U.S. origin defense articles and services controlled in Category XVII are not eligible for export under the UK Treaty exemption. U.S.				

origin classified defense articles and services are not eligible for export under either the UK or AS Treaty exemptions except when being released pursuant to a U.S. Department of Defense written request, directive, or contract that provides for the export of the defense article or service.
Note 2: The phrase "any part of the spectrum" includes radio frequency (RF), infrared (IR), electro-optical, visual, ultraviolet (UV), acoustic, and magnetic. Defense articles related to reduced observables or counter reduced observables are defined as: a. Signature reduction (radio frequency (RF), infrared (IR), Electro-Optical, visual, ultraviolet (UV), acoustic, magnetic, RF emissions) of defense platforms, including systems, subsystems, components, materials, (including dual-purpose materials used for Electromagnetic Interference (EM) reduction) technologies, and signature prediction, test and measurement equipment and software and material transmissivity/reflectivity prediction codes and optimization software. b. Electronically scanned array radar, high power radars, radar processing algorithms, periscope-mounted radar systems (PATRIOT), LADAR, multistatic and IR focal plane array-based sensors, to include systems, subsystems, components, materials, and technologies.

Note 3: Defense Articles related to sensor fusion beyond that required for display or identification correlation is defined as techniques designed to automatically combine information from two or more sensors/sources for the purpose of target identification, tracking, designation, or passing of data in support of surveillance or weapons engagement. Sensor fusion involves sensors such as acoustic, infrared, electro optical, frequency, etc. Display or identification correlation refers to the combination of target detections from multiple sources for assignment of common target track designation.
Note 4: Software source code beyond that source code required for basic operation, maintenance, and training for programs, systems, and/or subsystems is not eligible for use of the UK or AS Treaty Exemptions, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end use identified in paragraphs (e)(1), (2), or (4) of §126.16 or §126.17 of this subchapter and is consistent with other exclusions of this supplement.
Note 5: Manufacturing know-how, as defined in §125.4(c)(6) of this subchapter, is not eligible for use of the UK or AS Treaty Exemptions, unless such export is pursuant to a written solicitation or contract issued or awarded by the U.S. Department of Defense for an end use identified in paragraphs (e)(1), (2), or (4) of §126.16 or §126.17 of this subchapter and is consistent with other exclusions of this supplement.

Note 6: Defense Articles specific to Man Portable Air Defense Systems (MANPADS) includes missiles which can be used without modification in other applications. It also includes production and test equipment and components specifically designed or modified for MANPAD systems, as well as training equipment specifically designed or modified for MANPAD systems.
Note 7: Naval nuclear propulsion plants includes all of USML Category VI(e). Naval nuclear propulsion information is technical data that concerns the design, arrangement, development, manufacture, testing, operation, administration, training, maintenance, and repair of the propulsion plants of naval nuclear-powered ships and prototypes, including the associated shipboard and shore-based nuclear support facilities. Examples of defense articles covered by this exclusion include nuclear propulsion plants and nuclear submarine technologies or systems; nuclear powered vessels (*see* USML Categories VI and XX).
Note 8: Examples of gas turbine engine hot section exempted defense article components and technology are combustion chambers/liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; advanced cooled augmenters; and advanced cooled nozzles. Examples of gas turbine engine hot section developmental technologies are Integrated High Performance Turbine Engine Technology (IHPTET), Versatile, Affordable Advanced Turbine Engine (VAATE), Ultra-Efficient Engine Technology (UEET).

Note 9: Examples of countermeasures and counter-countermeasures related to defense articles not exportable under the AS or UK Treaty exemptions are:

a. IR countermeasures;

b. Classified techniques and capabilities;

c. Exports for precision radio frequency location that directly or indirectly supports fire control and is used for situation awareness, target identification, target acquisition, and weapons targeting and Radio Direction Finding (RDF) capabilities. Precision RF location is defined as angle of arrival accuracy of less than five degrees (RMS) and RF emitter location of less than ten percent range error;

d. Providing the capability to reprogram; and

e. Acoustics (including underwater), active and passive countermeasures, and counter-countermeasures.

Note 10: Examples of defense articles covered by this exclusion include underwater acoustic vector sensors; acoustic reduction; off-board, underwater, active and passive sensing, propeller/propulsor technologies; fixed mobile/floating/powered detection systems which include in-buoy signal processing for target detection and classification; autonomous underwater vehicles capable of long endurance in ocean environments (manned submarines excluded); automated control algorithms embedded in on-board autonomous platforms which enable (a) group behaviors for target detection and classification,

(b) adaptation to the environment or tactical situation for enhancing target detection and classification; "intelligent autonomy" algorithms which define the status, group (greater than 2) behaviors, and responses to detection stimuli by autonomous, underwater vehicles; and low frequency, broad-band "acoustic color," active acoustic "fingerprint" sensing for the purpose of long range, single pass identification of ocean bottom objects, buried or otherwise. (Controlled under Category XI(a), (1) and (2) and in (b), (c), and (d)).
Note 11: The defense articles include constructions of metallic or non-metallic materials or combinations thereof specially designed to provide protection for military systems. The phrase “suitable for military use” applies to any articles or materials which have been tested to level IIIA or above IAW NIJ standard 0108.01 or comparable national standard. This exclusion does not include military helmets, body armor, or other protective garments which may be exported IAW the terms of the AS or UK Treaties.
Note 12: Defense services or technical data specific to applied research (§125.4(c)(3)), design methodology (§125.4(c)(4)), engineering analysis (§125.4(c)(5)), or manufacturing know-how (§125.4(c)(6)) are not eligible for export under the Canadian exemptions. However, this exclusion does not include defense services or technical data specific to build-to-print as defined in §125.4(c)(1), build/design-to-specification as defined in §125.4(c)(2), or basic research as defined in §125.4(c)(3), or maintenance (i.e., inspection, testing,

calibration or repair, including overhaul, reconditioning and one-to-one replacement of any defective items parts or components, but excluding any modification, enhancement, upgrade or other form of alteration or improvement that changes the basic performance of the item) of non-excluded defense articles which may be exported subject to other exclusions or terms of the Canadian exemptions.
Note 13: The term 'libraries' (parametric technical databases) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.
Note 14: In order to utilize the authorized defense services under the Canadian exemption, the following must be complied with: (1) The Canadian contractor and subcontractor must certify, in writing, to the U.S. exporter that the technical data and defense services being exported will be used only for an activity identified in Supplement No. 1 and in accordance with 22 CFR 126.5; and (2) A written arrangement between the U.S. exporter and the Canadian recipient must: a. Limit delivery of the defense articles being produced directly to an identified manufacturer in the United States registered in accordance with part 122 of this subchapter; a Department or Agency of the United States Federal Government; a Canadian-registered person

authorized in writing to manufacture defense articles by and for the Government of Canada; a Canadian Federal, Provincial, or Territorial Government;

b. Prohibit the disclosure of the technical data to any other contractor or subcontractor who is not a Canadian-registered person;

c. Provide that any subcontract contain all the limitations of §126.5;

d. Require that the Canadian contractor, including subcontractors, destroy or return to the U.S. exporter in the United States all of the technical data exported pursuant to the contract or purchase order upon fulfillment of the contract, unless for use by a Canadian or United States Government entity that requires in writing the technical data be maintained. The U.S. exporter must be provided written certification that the technical data is being retained or destroyed; and

e. Include a clause requiring that all documentation created from U.S. origin technical data contain the statement that "This document contains technical data, the use of which is restricted by the U.S. Arms Export Control Act. This data has been provided in accordance with, and is subject to, the limitations specified in §126.5 of the International Traffic in Arms Regulations (ITAR). By accepting this data, the consignee agrees to honor the requirements of the ITAR."

(3) The U.S. exporter must provide the Directorate of Defense Trade Controls a semi-annual report of all their on-going activities authorized under §126.5. The report shall include the article(s) being produced; the end-user(s); the end item into which the product is to be incorporated; the intended end-use of the product; the name and address of all the Canadian contractors and subcontractors.

Note: An "X" in the chart indicates that the item is excluded from use under the exemption referenced in the top of the column. An item excluded in any one row is excluded regardless of whether other rows may contain a description that would include the item.

BILLING CODE 4710–25–C

PART 127—VIOLATIONS AND PENALTIES

■ 25. The authority citation for part 127 is revised to read to as follows:

Authority: Secs. 2, 38, and 42, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780; Pub. L. 111–266.

■ 26. Section 127.1 is revised to read as follows:

§ 127.1 Violations.

(a) Without first obtaining the required license or other written approval from the Directorate of Defense Trade Controls, it is unlawful:

(1) To export or attempt to export from the United States any defense article or technical data or to furnish or attempt to furnish any defense service for which a license or written approval is required by this subchapter;

(2) To reexport or retransfer or attempt to reexport or retransfer any defense article, technical data, or defense service from one foreign end-user, end-use, or destination to another foreign end-user, end-use, or destination for which a license or written approval is required by this subchapter, including, as specified in § 126.16(h) and § 126.17(h) of this subchapter, any defense article, technical data, or defense service that was exported from the United States without a license pursuant to any exemption under this subchapter;

(3) To import or attempt to import any defense article whenever a license is required by this subchapter; or

(4) To conspire to export, import, reexport, retransfer, furnish or cause to be exported, imported, reexported, retransferred or furnished, any defense article, technical data, or defense service for which a license or written approval is required by this subchapter.

(b) It is unlawful:

(1) To violate any of the terms or conditions of a license or approval granted pursuant to this subchapter, any exemption contained in this subchapter, or any rule or regulation contained in this subchapter;

(2) To engage in the business of brokering activities for which registration and a license or written approval is required by this subchapter without first registering or obtaining the required license or written approval from the Directorate of Defense Trade Controls. For the purposes of this subchapter, engaging in the business of brokering activities requires only one occasion of engaging in an activity as reflected in § 129.2(b) of this subchapter.

(3) To engage in the United States in the business of either manufacturing or exporting defense articles or furnishing defense services without complying with the registration requirements. For the purposes of this subchapter, engaging in the business of manufacturing or exporting defense articles or furnishing defense services requires only one occasion of manufacturing or exporting a defense article or furnishing a defense service.

(c) Any person who is granted a license or other approval or who acts pursuant to an exemption under this subchapter is responsible for the acts of employees, agents, and all authorized persons to whom possession of the defense article or technical data has been entrusted regarding the operation, use, possession, transportation, and handling of such defense article or technical data abroad. All persons abroad subject to U.S. jurisdiction who obtain temporary or permanent custody of a defense article exported from the United States or produced under an agreement described in part 124 of this subchapter, and irrespective of the number of intermediate transfers, are bound by the regulations of this subchapter in the same manner and to the same extent as the original owner or transferor.

(d) A person with knowledge that another person is then ineligible

pursuant to §§ 120.1(c) or 126.7 of this subchapter may not, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization from, the Directorate of Defense Trade Controls:

(1) Apply for, obtain, or use any export control document as defined in § 127.2(b) of this subchapter for such ineligible person; or

(2) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any transaction which may involve any defense article or the furnishing of any defense service for which a license or approval is required by this subchapter or an exemption is available under this subchapter for export, where such ineligible person may obtain any benefit therefrom or have any direct or indirect interest therein.

(e) No person may knowingly or willfully cause, or aid, abet, counsel, demand, induce, procure, or permit the commission of, any act prohibited by, or the omission of any act required by, 22 U.S.C. 2778 and 2779, or any regulation, license, approval, or order issued thereunder.

■ 27. Section 127.2 is amended by revising paragraphs (a), (b) introductory text, (b)(1), (b)(2), and adding (b)(14), to read as follows:

§ 127.2 Misrepresentation and omission of facts.

(a) It is unlawful to use or attempt to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting, transferring, reexporting, retransferring, obtaining, or furnishing any defense article, technical data, or defense service. Any false statement, misrepresentation, or omission of material fact in an export or temporary import control document will be considered as made in a matter within the jurisdiction of a department or agency of the United States for the purposes of 18 U.S.C. 1001, 22 U.S.C. 2778, and 22 U.S.C. 2779.

(b) For the purpose of this subchapter, *export or temporary import control documents* include the following:

(1) An application for a permanent export, reexport, retransfer, or a temporary import license and supporting documents.

(2) Electronic Export Information filing.

* * * * *

(14) Any other shipping document that has information related to the export of the defense article or defense service.

■ 28. Section 127.3 is revised to read as follows:

§ 127.3 Penalties for violations.

Any person who willfully:

(a) Violates any provision of § 38 or § 39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779) or any rule or regulation issued under either § 38 or § 39 of the Act, or any undertaking specifically required by part 124 of this subchapter; or

(b) In a registration, license application, or report required by § 38 or § 39 of the Arms Export Control Act (22 U.S.C. 2778 and 2779) or by any rule or regulation issued under either section, makes any untrue statement of a material fact or omits a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be subject to a fine or imprisonment, or both, as prescribed by 22 U.S.C. 2778(c).

■ 29. Section 127.4 is amended by revising paragraphs (a) and (c), and adding paragraph (d), to read as follows:

§ 127.4 Authority of U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers.

(a) U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection officers may take appropriate action to ensure observance of this subchapter as to the export or the attempted export or the temporary import of any defense article or technical data, including the inspection of loading or unloading of any vessel, vehicle, or aircraft. This applies whether the export is authorized by license or by written approval issued under this subchapter or by exemption.

* * * * *

(c) Upon the presentation to a U.S. Customs and Border Protection Officer of a license or written approval, or claim of an exemption, authorizing the export of any defense article, the customs officer may require the production of other relevant documents and information relating to the final export. This includes an invoice, order, packing list, shipping document, correspondence, instructions, and the documents otherwise required by the U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

(d) If an exemption under this subchapter is used or claimed to export, transfer, reexport or retransfer, furnish, or obtain a defense article, technical data, or defense service, law enforcement officers may rely upon the authorities noted, additional authority identified in the language of the exemption, and any other lawful means or authorities to investigate such a matter.

■ 30. Section 127.7 is amended by revising paragraph (a) to read as follows:

§ 127.7 Debarment.

(a) *Debarment.* In implementing § 38 of the Arms Export Control Act, the Assistant Secretary of State for Political-Military Affairs may prohibit any person from participating directly or indirectly in the export, reexport and retransfer of defense articles, including technical data, or in the furnishing of defense services for any of the reasons listed below and publish notice of such action in the **Federal Register**. Any such prohibition is referred to as a debarment for purposes of this subchapter. The Assistant Secretary of State for Political-Military Affairs shall determine the appropriate period of time for debarment, which shall generally be for a period of three years. However, reinstatement is not automatic and in all cases the debarred person must submit a request for reinstatement and be approved for reinstatement before engaging in any export or brokering activities subject to the Arms Export Control Act or this subchapter.

* * * * *

■ 31. Section 127.10 is amended by revising paragraph (a) to read as follows:

§ 127.10 Civil penalty.

(a) The Assistant Secretary of State for Political-Military Affairs is authorized to impose a civil penalty in an amount not to exceed that authorized by 22 U.S.C. 2778, 2779a, and 2780 for each violation of 22 U.S.C. 2778, 2779a, and 2780, or any regulation, order, license, or written approval issued thereunder. This civil penalty may be either in addition to, or in lieu of, any other liability or penalty which may be imposed.

* * * * *

■ 32. Section 127.12 is amended by adding paragraph (b)(5), and revising paragraph (d), to read as follows:

§ 127.12 Voluntary disclosures.

* * * * *

(b) * * *

(5) Nothing in this section shall be interpreted to negate or lessen the affirmative duty pursuant to §§ 126.1(e), 126.16(h)(5), and 126.17(h)(5) of this subchapter upon persons to inform the Directorate of Defense Trade Controls of the actual or final sale, export, transfer, reexport, or retransfer of a defense article, technical data, or defense service to any country referred to in § 126.1 of this subchapter, any citizen of such

country, or any person acting on its behalf.

* * * * *

(d) *Documentation.* The written disclosure should be accompanied by copies of substantiating documents. Where appropriate, the documentation should include, but not be limited to:

(1) Licensing documents (e.g., license applications, export licenses, and end-user statements), exemption citation, or other authorization description, if any;

(2) Shipping documents (e.g., Electronic Export Information filing, including the Internal Transaction Number, air waybills, and bills of laden, invoices, and any other associated documents); and

(3) Any other relevant documents must be retained by the person making the disclosure until the Directorate of Defense Trade Controls requests them or until a final decision on the disclosed information has been made.

* * * * *

PART 129—REGISTRATION AND LICENSING OF BROKERS

■ 33. The authority citation for part 129 continues to read as follows:

Authority: Sec. 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778).

■ 34. Section 129.6 is amended by revising paragraph (b)(2) to read as follows:

§ 129.6 Requirements for license/approval.

* * * * *

(b) * * *

(2) Brokering activities that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, any member country of that Organization, Australia, Israel, Japan, New Zealand, or the Republic of Korea, except in the case of the defense articles or defense services specified in § 129.7(a) of this subchapter, for which prior approval is always required.

■ 35. Section 129.7 is amended by revising paragraphs (a)(1)(vii) and (a)(2) to read as follows:

§ 129.7 Prior approval (license).

(a) * * *

(1) * * *

(vii) Foreign defense articles or defense services (other than those that are arranged wholly within and destined exclusively for the North Atlantic Treaty Organization, any member country of that Organization, Australia, Israel, Japan, New Zealand, or the Republic of Korea (*see* §§ 129.6(b)(2) and 129.7(a)).

(2) Brokering activities involving defense articles or defense services covered by, or of a nature described by part 121, of this subchapter, in addition to those specified in § 129.7(a), that are designated as significant military equipment under this subchapter, for or from any country not a member of the North Atlantic Treaty Organization, Australia, Israel, Japan, New Zealand, or the Republic of Korea whenever any of the following factors are present:

* * * * *

Dated: March 16, 2012.

Rose Gottemoeller,

Acting Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2012–6825 Filed 3–20–12; 8:45 am]

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Part III

The President

Proclamation 8784—National Poison Prevention Week, 2012

Memorandum of March 16, 2012—Delegation of Reporting Functions Specified in Section 1045 of the National Defense Authorization Act for Fiscal Year 2012, and Condition 9 of the Resolution of Advice and Consent to Ratification of the Treaty Between the United States of America and the Russian Federation on the Measures for the Further Reduction and Limitation of Strategic Offensive Arms (the ''New START Treaty'')

Federal Register
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Wednesday, March 21, 2012

Presidential Documents

Title 3—

The President

Proclamation 8784 of March 16, 2012

National Poison Prevention Week, 2012

By the President of the United States of America

A Proclamation

Unintentional drug overdose, exposure to harmful chemicals, and other types of accidental poisoning claim thousands of lives every year. On the 50th anniversary of National Poison Prevention Week, I encourage all Americans to help protect their loved ones by identifying poisoning hazards at home; using, storing, and disposing of medication safely and effectively; and learning more about how to prevent and respond to poison emergencies.

Though we have dramatically reduced the incidence of poisoning among children, accidental exposure to drugs and medicines, typical household chemicals, and other dangerous substances continues to threaten the health of our Nation's youth—particularly those under the age of six. Parents and caregivers can help prevent poisoning by storing chemicals and medication in locked or childproof cabinets beyond their children's reach, and by safely disposing of unused or expired prescription drugs. To find more information and safety tips, visit: www.CDC.gov.

Tragically, the mortality rate from unintentional drug overdose climbs higher every year. Misuse and abuse of prescription painkillers among teens and adults drives this trend. As we work to address this serious public health issue, we must do more to educate parents, young people, patients, and prescribers about the dangers of prescription drug abuse and the steps they can take to prevent it. Because the majority of individuals who abuse prescription pain relievers obtain them from friends or family, all of us can take action by using medications only as directed by a health care provider and removing old or unneeded medications from our homes. Additional resources on safe drug disposal are available at www.FDA.gov and www.DEAdiversion.USDOJ.gov.

In the event of an accidental poisoning, rapid response can make all the difference. The national poison help hotline is available to respond to poison emergencies and provide essential information 24 hours a day, seven days a week at 1–800–222–1222.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim March 18 through March 24, 2012, as National Poison Prevention Week. I call upon all Americans to observe this week by taking actions to protect their families from hazardous household materials and from misuse of prescription medications.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of March, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

[FR Doc. 2012–6990
Filed 3–20–12; 11:15 am]
Billing code 3295–F2–P

Presidential Documents

Memorandum of March 16, 2012

Delegation of Reporting Functions Specified in Section 1045 of the National Defense Authorization Act for Fiscal Year 2012, and Condition 9 of the Resolution of Advice and Consent to Ratification of the Treaty Between the United States of America and the Russian Federation on the Measures for the Further Reduction and Limitation of Strategic Offensive Arms (the ''New Start Treaty'')

Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretaries of Defense and Energy the reporting functions conferred upon the President by section 1045 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81), and by section (a)(9)(B) of the Resolution of Advice and Consent to Ratification of the New START Treaty. Subsection (a)(9)(B)(iv) of the Resolution shall be fulfilled in coordination with the Secretary of State.

The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 16, 2012

[FR Doc. 2012–6993
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S. 1134/P.L. 112–100
St. Croix River Crossing Project Authorization Act (Mar. 14, 2012; 126 Stat. 268)

S. 1710/P.L. 112–101
To designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse. (Mar. 14, 2012; 126 Stat. 270)

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