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Presidential Documents

Title 3—

The President

Proclamation 8818 of May 14, 2012

To Implement the United States-Colombia Trade Promotion Agreement and for Other Purposes

By the President of the United States of America

A Proclamation

1. On November 22, 2006, the United States entered into the United States-Colombia Trade Promotion Agreement (the ''Agreement'') and on June 28, 2007, the United States and Colombia amended the Agreement. The Congress approved the Agreement, as amended, in section 101(a) of the United States-Colombia Trade Promotion Agreement Implementation Act (the ''Implementation Act'') (Public Law 112–42, 125 Stat. 462).

2. Section 105(a) of the Implementation Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement.

3. Section 201 of the Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 2.3, 2.5, 2.6, and 3.3.13 and Annex 2.3 of the Agreement.

4. Consistent with section 201(a)(2) of the Implementation Act, Colombia is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP).

5. Section 3103 of the Andean Trade Promotion and Drug Eradication Act (title XXXI of the Trade Act of 2002, Public Law 107–210) (ATPDEA) amended section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) (ATPA) to provide that certain preferential tariff treatment may be provided to eligible articles that are the product of any country that the President designates as an ''ATPDEA beneficiary country'' pursuant to section 204(b)(6)(B) of the ATPA, as amended. In Proclamation 7616 of October 31, 2002, Colombia and Peru were designated as beneficiary countries under the ATPDEA.

6. Consistent with section 201(a)(3) of the Implementation Act, Colombia is removed from the enumeration of beneficiary countries under the ATPA (19 U.S.C. 3202(a)(1)). Consequently, Colombia is also removed from the enumeration of beneficiary countries under the ATPDEA.

7. Consistent with section 604 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2483), I have determined that other technical and conforming changes to the Harmonized Tariff Schedule of the United States (HTS) are necessary to reflect that Colombia is no longer eligible to receive the benefits of the GSP, the ATPA, and the ATPDEA.

8. Section 201(d) of the Implementation Act authorizes the President to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the General Notes to the Schedule of the United States to Annex 2.3 of the Agreement to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.

9. Section 203 of the Implementation Act sets forth certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment provided for under the Agreement. I have determined that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the HTS.

10. Section 203(o) of the Implementation Act authorizes the President, after receiving a request from an interested entity, to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in Colombia or the United States; to establish procedures governing the submission of a request for any such determination and ensuring appropriate public participation in any such determination; to add to the list of the United States as set forth in Annex 3–B of the Agreement any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Colombia and the United States; or to remove from the list in Annex 3–B of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

11. Section 208 of the Implementation Act authorizes the President to take certain enforcement actions relating to trade with Colombia in textile and apparel goods.

12. Subtitle B of title III of the Implementation Act authorizes the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

13. Executive Order 11651 of March 3, 1972, as amended, established the Committee for the Implementation of Textile Agreements (CITA), consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, and the Office of the United States Trade Representative, with the representative of the Department of Commerce as Chairman, to supervise the implementation of textile trade agreements. Consistent with section 301 of title 3, United States Code, when carrying out functions vested in the President by statute and assigned by the President to CITA, the officials collectively exercising those functions are all to be officers required to be appointed by the President with the advice and consent of the Senate.

14. Section 501(a) of the Implementation Act amended section 208(a) of the ATPA (19 U.S.C. 3206(a)) to extend the duration of duty-free treatment under the ATPA until July 31, 2013. I have determined that a modification to the HTS is necessary to reflect this amendment.

15. Section 201 of the Omnibus Trade Act of 2010 (the ''Trade Act of 2010'') (Public Law 111–344, 124 Stat. 3611), amended section 208(a)(1) of the ATPA (19 U.S.C. 3206(a)(1)) to provide that no duty-free treatment or other preferential treatment extended to beneficiary countries under the ATPA shall remain with respect to Peru after December 31, 2010. I have determined that a modification to the HTS is necessary to reflect this amendment. Consequently, Peru is removed from the enumeration of beneficiary countries under the ATPA and the ATPDEA.

16. Section 1952(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188, 110 Stat. 1755) amended title V of the 1974 Act, to provide, in part, that the President may not designate as an eligible article under the GSP ''[t]extile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.'' I have determined that a modification of general notes 4 and 10 to the HTS is necessary to reflect this amendment.

17. Presidential Proclamation 8332 of December 29, 2008, implemented U.S. tariff commitments under the United States-Oman Free Trade Agreement and incorporated by reference Publication 4050 of the United States International Trade Commission (the ''Commission''), entitled ''Modifications to the Harmonized Tariff Schedule of the United States Implementing the United States-Oman Free Trade Agreement.'' Annex II to that publication included certain errors in the quantities specified under certain tariff-rate quotas

and references to relevant tariff lines. I have determined that a modification to the HTS is necessary to correct those errors.

18. Presidential Proclamation 8405 of August 31, 2009, modified certain rules of origin under the North American Free Trade Agreement and incorporated by reference Publication 4095 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Adjust Rules of Origin Under the North American Free Trade Agreement.'' Certain rules of origin were incorrectly deleted from the HTS. I have determined that a modification to general note 12 to the HTS is necessary to restore those rules of origin.

19. Presidential Proclamation 8771 of December 29, 2011, modified the HTS to conform to amendments made to the International Convention on the Harmonized Commodity Description and Coding System and incorporated by reference Publication 4276 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988.'' Annex II to that publication included incorrect rates of duty for certain articles for the years 2016 through 2018. I have determined that a modification of general note 31 to the HTS is necessary to reflect the correct rate of duty for these articles.

20. Presidential Proclamation 8783 of March 6, 2012, implemented U.S. tariff commitments under the United States-Korea Free Trade Agreement and incorporated by reference Publication 4308 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Korea Free Trade Agreement.'' Annex II to that publication included an error in the staged duty applied to two tariff subheadings. I have determined that a modification to the HTS is necessary to correct that error.

21. Section 604 of the 1974 Act authorizes the President to embody in the HTS the substance of relevant provisions of chapter V of that Act, and of other Acts affecting import treatment, and of actions taken thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 604 of the 1974 Act, section 1952(a) of the Small Business Job Protection Act of 1996, section 201 of the Trade Act of 2010, sections 105(a), 201, 203, 208, 501, and subtitle B of title III of the Implementation Act, and section 301 of title 3, United States Code, and having made the determination under section 101(b) of the Implementation Act necessary for the exchange of notes, do hereby proclaim:

(1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide certain other treatment to originating goods of Colombia for the purposes of the Agreement, and to reflect Colombia's removal from the list of beneficiary developing countries under the GSP, and from the list of beneficiary countries under ATPA and ATPDEA, the HTS is modified as set forth in Annex I of Publication 4320 of the Commission, entitled ''Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Colombia Trade Promotion Agreement,'' which is incorporated by reference into this proclamation.

(2) The modifications to the HTS made in paragraph (1) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex I of Publication 4320.

(3) In order to implement the initial stage of duty elimination provided for in the Agreement and to provide for future staged reductions in duties for originating goods of Colombia for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 4320, effective on the dates specified in the relevant sections of such Annex and on any subsequent dates set forth for such duty reductions in that Annex.

(4) In order to implement section 501(a) of the Implementation Act, the HTS is modified as set forth in section A of Annex III of Publication 4320.

(5) The modifications to the HTS set forth in section A of Annex III of Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after November 5, 2011.

(6) The Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the Implementation Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(7) The CITA is authorized to exercise the authority of the President under section 203(o) of the Implementation Act to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in Colombia and the United States; to establish procedures governing the request for any such determination and ensuring appropriate public participation in any such determination; to add any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Colombia and the United States to the list in Annex 3–B of the Agreement; or to remove from the list in Annex 3–B of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

(8) The CITA is authorized to exercise the authority of the President under section 208 of the Implementation Act to direct the exclusion of certain textile and apparel goods from the customs territory of the United States and to direct the denial of preferential tariff treatment to textile and apparel goods.

(9) The CITA is authorized to exercise the functions of the President under subtitle B of title III of the Implementation Act to review requests, and to determine whether to commence consideration of such requests; after an appropriate determination, to cause to be published in the *Federal Register* a notice of commencement of consideration of a request and notice seeking public comment; to determine whether imports of a Colombian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article; and to provide relief from imports of an article that is the subject of an affirmative determination as to damage or threat.

(10) The United States Trade Representative (USTR) is authorized to fulfill the obligations of the President under section 104 of the Implementation Act to obtain advice from the appropriate advisory committees and the Commission on the proposed implementation of an action by Presidential proclamation; to submit a report on such proposed action to the appropriate congressional committees; and to consult with those congressional committees regarding the proposed action.

(11) The USTR is authorized to modify U.S. note 33 to subchapter XXII of chapter 98 of the HTS in a notice published in the *Federal Register* to reflect modifications pursuant to paragraph (7) of this proclamation by the CITA to the list of fabrics, yarns, or fibers in Annex 3–B of the Agreement.

(12) In order to reflect Peru's removal from the list of beneficiary countries under the ATPA and the ATPDEA, the HTS is modified as set forth in section B of Annex III to Publication 4320.

(13) The modifications to the HTS set forth in section B of Annex III to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2011.

(14) In order to reflect the amendments to title V of the 1974 Act, general notes 4 and 10 to the HTS are modified as set forth in section A of Annex IV to Publication 4320.

(15) The modifications to the HTS set forth in section A of Annex IV to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1996.

(16) In order to provide the intended tariff treatment to certain goods of Oman under the terms of general note 31 to the HTS, subchapter XVI of chapter 99 and general note 31 to the HTS are modified as set forth in section B of Annex IV to Publication 4320.

(17) The modifications to the HTS set forth in section B of Annex IV to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2009.

(18) In order to provide the intended tariff treatment to certain goods of Canada or of Mexico under the terms of general note 12 to the HTS, general note 12 is modified as set forth in section C of Annex IV to Publication 4320.

(19) The modifications to the HTS set forth in section C of Annex IV to Publication 4320 are effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after February 3, 2007.

(20) In order to provide the intended tariff treatment to goods of Korea under the terms of general note 33, the HTS is modified as set forth in section D of Annex IV to Publication 4320.

(21) The modifications to the HTS set forth in section D of Annex IV to Publication 4320 are effective with respect to goods entered, or withdrawn from warehouse for consumption, as set forth in section D of Annex IV to Publication 4320.

(22) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, 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. 2012–12220
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8819 of May 14, 2012

National Defense Transportation Day and National Transportation Week, 2012

By the President of the United States of America

A Proclamation

From the railroads that connected our continent in the 19th century to the highways that drove progress during the 20th, American infrastructure has fueled our Nation's growth for generations. Our roads, rails, runways, and shipyards have formed the foundation for a thriving global marketplace, and our transportation networks have enabled our first responders and service members to react with speed and efficiency during crisis. On National Defense Transportation Day and during National Transportation Week, we celebrate that rich legacy and recommit to building robust infrastructure that will accelerate our economy in the years ahead.

The need for strong and sustainable transportation networks has never been greater. While transportation systems across our country continue to connect millions of Americans to new economic opportunities, for too many businesses, the state of our roads and railways creates a competitive disadvantage that discourages investment and slows the pace of progress. Crumbling bridges put our safety at risk, and antiquated infrastructure limits our capacity to respond to threats, emergencies, and hazards at home and abroad. These situations diminish our security, our prosperity, and our resilience, and we must do more to address them.

That is why my Administration has prioritized strategic, long-term investments in transportation infrastructure that will keep America safe and ensure we can compete and succeed in the global economy. Through the American Recovery and Reinvestment Act and the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant program, all 50 States have launched new highway and infrastructure projects, and many have funded passenger rail development that will modernize our cities and help put more construction workers back on the job. Moving forward, we remain committed to upgrading our infrastructure; ensuring the safety and security of our transportation systems; bringing diverse, sustainable transit opportunities to communities across our country; and investing in innovative solutions to address the transportation challenges of today and tomorrow.

An economy built to last depends on a world-class infrastructure system. This week, as we come together in pursuit of that critical goal, let us recall that as long as we are joined in common purpose and common resolve, our Nation remains strong, and our journey moves forward.

In recognition of the importance of our Nation's transportation infrastructure, and of the men and women who build, maintain, and utilize it, the Congress has requested, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), that the President designate the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Friday, May 18, 2012, as National Defense

Transportation Day and May 13 through May 19, 2012, as National Transportation Week. I call upon all Americans to recognize the importance of our Nation's transportation infrastructure and to acknowledge the contributions of those who build, operate, and maintain it.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, 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. 2012–12221
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8820 of May 14, 2012

National Women's Health Week, 2012

By the President of the United States of America

A Proclamation

Women have guided our country toward prosperity and progress, and our Nation's success depends on their well-being. While women often play a leading role in making medical decisions for their families, their own health care needs have too often gone unmet. During National Women's Health Week, we recommit to making health care more accessible and affordable for women across our country.

As President, I have made advancing gender equality in health care a top priority. Through the historic Affordable Care Act, we are reversing many of the worst abuses of the health insurance industry. Beginning in 2014, many insurers will no longer be allowed to charge women higher premiums simply because of their gender, and it will be illegal for most insurance companies to deny coverage to women because they have a pre-existing condition, including cancer or pregnancy. Health plans will also be required to cover maternity care. The law already enables women in new insurance plans to see any primary care provider or OB-GYN, or bring their children to any pediatrician in their health plan's network without a referral, and it prevents most insurance companies from denying coverage to children with pre-existing conditions.

My Administration has fought to make preventive care accessible to all. Under the Affordable Care Act, we eliminated out-of-pocket costs for recommended preventive services such as mammograms, cervical cancer screenings, contraception, and well-woman visits under most plans. In 2011 alone, more than 20 million women received expanded access to these services at no additional cost.

National Women's Health Week presents an opportunity for all women to prioritize their well-being by scheduling annual check-ups and screenings. To find more information on women's preventive care, visit www.WomensHealth.gov or www.GirlsHealth.gov.

As we celebrate the progress we have made, we recognize that American families cannot afford a return to the days when women were over-charged and denied access to critical services. During National Women's Health Week, let us move forward in pursuit of a fairer, healthier America.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 13 through May 19, 2012, as National Women's Health Week. I encourage all Americans to celebrate the progress we have made in protecting women's health and to promote awareness, prevention, and educational activities that improve the health of all women.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, 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. 2012–12222
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8821 of May 14, 2012

Peace Officers Memorial Day and Police Week, 2012

By the President of the United States of America

A Proclamation

Every day, public safety officers work tirelessly to protect our citizens, enforce our laws, and keep our neighborhoods safe. They report for duty knowing full well the dangers they face and the sacrifices they may be called upon to make. This week, we pay tribute to the thousands of men and women who serve us with extraordinary bravery, and we remember the heroes who have laid down their lives in pursuit of a safer, more just society.

While we can never fully repay them for their service, we must work to ensure our law enforcement officers are equipped with the tools and technology they need to do their jobs safely and effectively. My Administration has devoted significant resources to improving officer safety, providing bulletproof vests that have saved lives, training officers to prevent and survive potentially lethal encounters, and strengthening our ability to share information. We also continue to pursue our goal of deploying a nationwide wireless network for public safety. For the first time, this new system will give our Nation's police officers and first responders a dedicated communication network in times of crisis—helping fulfill our promise to provide these brave men and women with tools worthy of the sacrifices they make on our behalf.

We owe a profound debt to all those who have worn the badge, and to the families whose care enables them to serve with courage and pride. When the unthinkable happens and officers give their lives or are seriously injured in the line of duty, we have an obligation to give their loved ones the support they deserve. During Peace Officers Memorial Day and Police Week, we recall the selflessness of our law enforcement officers and their families, and we honor all those who devote their lives to forging a stronger, safer America. Let us reflect on their invaluable contributions as we enjoy the peace they bring to our communities, and let us vow that their service will never be taken for granted.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 15, 2012, as Peace Officers Memorial Day and May 13 through May 19, 2012, as Police Week. I call upon all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half-staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, 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. 2012–12223
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Proclamation 8822 of May 14, 2012

150th Anniversary of the United States Department of Agriculture

By the President of the United States of America

A Proclamation

On May 15, 1862, President Abraham Lincoln signed legislation to establish the United States Department of Agriculture (USDA) and codified a commitment to the health of our people and our land. One hundred and fifty years later, USDA continues to realize that vision of service by applying sound public policy and science to an evolving food and agriculture system.

The USDA has stood shoulder-to-shoulder with the American people for generations. During the Great Depression, the Department helped bring an end to the Dust Bowl by promoting soil conservation. Through two World Wars, the Victory Garden Program fed troops and families around the world. The USDA worked to bring electric power to rural communities, establish the Supplemental Nutrition Assistance and School Lunch Programs, implement our Nation's food safety regulations, and protect our forests and private lands. For one-and-a-half centuries, USDA has empowered communities across our country and helped ensure we leave our children a future rich with promise and possibility.

Today, USDA continues to serve the public interest by providing leadership on agriculture, natural resources, safe and nutritious food, research, and a broad spectrum of related issues. With partners across the public sector and throughout industry, USDA is working to develop and expand markets for agricultural products, grow our businesses and our economy, and protect the quality of our food supply and our environment. As part of the White House Rural Council, the Department is striving to expand opportunity for millions of families by promoting job growth and investing in infrastructure that will drive progress in the 21st century. Through the Feed the Future initiative, USDA is supporting America's commitment to combat hunger and improve food security worldwide. And with the America's Great Outdoors initiative, USDA is supporting community-based conservation initiatives that will preserve our natural heritage for generations to come.

As we commemorate this historic milestone, we pay tribute to the men and women of USDA, past and present, who have faithfully served our Nation for 150 years. For their commitment, our fields grow richer, our abundance grows greater, and our country stands stronger.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 15, 2012, as the 150th Anniversary of the United States Department of Agriculture. I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities that honor the United States Department of Agriculture for its lasting contributions to the welfare of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of May, 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. 2012–12224
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Executive Order 13611 of May 16, 2012

Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.)* (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.)* (NEA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the actions and policies of certain members of the Government of Yemen and others threaten Yemen's peace, security, and stability, including by obstructing the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people for change, and by obstructing the political process in Yemen. I further find that these actions constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to:

(a) have engaged in acts that directly or indirectly threaten the peace, security, or stability of Yemen, such as acts that obstruct the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power in Yemen, or that obstruct the political process in Yemen;

(b) be a political or military leader of an entity that has engaged in the acts described in subsection (a) of this section;

(c) have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the acts described in subsection (a) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(d) be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 3. The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 4. The prohibitions in section 1 of this order apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 5. Nothing in section 1 of this order shall prohibit transactions for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof.

Sec. 6. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 7. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 8. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 11. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
May 16, 2012.

[FR Doc. 2012–12225
Filed 5–17–12; 8:45 am]
Billing code 3295–F2–P

Rules and Regulations

Federal Register
Vol. 77, No. 97
Friday, May 18, 2012

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

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

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1728 and 1755

Standards and Specifications for Timber Products Acceptable for Use by Rural Utilities Service Electric and Telecommunications Borrowers; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Rural Utilities Service published a final rule in the **Federal Register** on June 24, 2011, which amended its regulations on Electric and Telecommunications Standards and Specifications for Materials, Equipment and Construction, by codifying specifications for wood poles, stubs and anchor logs, wood crossarms (solid and laminated), transmission timbers and pole keys, and for quality control and inspection of timber products. The Agency also updated these specifications to conform with revisions to the American Wood Preservers' Association (AWPA) standards and follow agency policy on insurance requirements. The document inadvertently published incorrect percentages that would require rejection or re-inspection of the entire lot of poles. This document corrects these errors.

DATES: The correction is effective May 18, 2012.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. H. Robert Lash, Transmission Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, Room 1246, STOP 1569, 1400 Independence Ave. SW., Washington, DC 20250–1569; telephone: (202) 720–0486, or, email: *Bob.Lash@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the final rule describes in detail the responsibilities and procedures pertaining to the quality control for crossarms as specified in 7 CFR 1728.202. In this section, RUS inadvertenly requires a 5 percent rejection or re-inspection of the entire lot of poles. The Agency is correcting this percentage inaccuracy in §§ 1728.202(f)(3)(i)(B), 1728.202(f)(3)(i)(C) and 1728.202(f)(3)(ii)(A) by replacing it with a 15 percent rejection or re-inspection of the entire lot of poles. The correct percentage of 15 appeared in the proposed rule and the Agency did not receive any adverse comments regarding it.

List of Subjects in 7 CFR Parts 1728 and 1755

7 CFR Part 1728

Electric power, Incorporation by reference, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

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

PART 1728—ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

■ 1. The authority citation for part 1728 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.;* 1921 *et seq.,* 6941 *et seq.*

■ 2. In § 1728.202, revise paragraphs (f)(3)(i)(B), (f)(3)(i)(C), and (f)(3)(ii)(A) to read as follows:

§ 1728.202 Bulletin 1728H–702, Specification for Quality Control and Inspection of Timber Products.

* * * * *

(f) * * *

(3) * * *

(i) * * *

(B) Re-treat the charge if more than 15 percent of the borings are found to be nonconforming.

(C) Re-treat all nonconforming poles if 15 percent or fewer fail the requirement.

(ii) * * *

(A) For Group B poles 45 feet and shorter, bore each pole and re-treat only those found to be nonconforming, unless more than 15 percent fail; in that case, re-treat the entire lot.

* * * * *

Dated: May 9, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–12025 Filed 5–17–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1942

RIN 0575–AC78

Community Facility Loans

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

ACTION: Final rule.

SUMMARY: The Rural Housing Service (Agency) is amending regulations on Community Facility Loans, to maintain consistency with standard industry contracts and to make minor revisions to streamline processing applications. These revisions are needed to conform to market and industry changes by updating, clarifying, and modifying the regulatory requirements for community facility construction and development. The amendments to the regulation will streamline current processes and provide for faster reviews of alternate construction contract methods (such as Design/Build and Construction Management) by the Agency's National Office.

DATES: This rule is effective July 17, 2012.

FOR FURTHER INFORMATION CONTACT: William Downs, Technical Support Branch, Program Support Staff, Rural Housing Service, U.S. Department of

Agriculture, STOP 0761, 1400 Independence Avenue SW., Washington, DC 20250–0761; Telephone: 202–720–1499; Fax: 202–690–4335; Email: *william.downs@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

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

Civil Justice Reform

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. Applications for funding under this program are voluntary. Applicants who apply and are selected for funding must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of this rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Regulatory Flexibility Act

The Administrator of the Agency has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. The construction requirements and policies being revised will apply equally to all applicants, regardless of size of the applicant organization. Further, these changes will give all applicants greater flexibility in developing projects. Therefore, a regulatory flexibility analysis was not performed.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) Public Law 104–4 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, Rural Development must prepare, to the extent practicable, a written statement including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. With certain exceptions, section 205 of UMRA requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' The Agency has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.,* an Environmental Impact Statement is not required.

Programs Affected

The programs affected are listed in the Catalog of Federal Domestic Assistance under Numbers 10.766 Community Facilities Loans and Grants.

Federalism

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

Intergovernmental Review

The Agency conducts intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR part 3015, subpart V. The changes being considered are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. An intergovernmental review for this revision is not required or applicable.

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is 0575–0042.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-GOV compliance related to this proposed rule, please contact William Downs, 202–720–1499.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a tribe determines that this rule has implications of which Rural Development is not aware and would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (202) 690–1681 or *AIAN@wdc.usda.gov.*

Background

The change removes restrictive language in 7 CFR part 1942, subpart A that limits projects using alternate construction methods to loans only, and will allow grant funds to be used with design/build and other alternate construction methods. When the regulation was written in the 1970's design/build and construction management were unique forms of contracting that were not commonly used. It was determined that the Agency would not allow grant funds to be used for alternate construction methods. Over time, design/build and construction management became more common in the construction industry. The success or failure rate of such contracting methods has proven to be no greater than the traditional design/bid/build method. Therefore, the Agency has

determined that the funding source—loans or grants—should have no determination on the construction method used. Further, these changes streamline processing by allowing contracts up to $250,000 to be reviewed by the State Office. The present regulation, which went into effect in the 1970's, requires all projects over $100,000 be reviewed by the National Office. Additional language is added to describe alternate construction methods: Design/build, construction management constructor, construction management advisor, and fast tracking. Presently, only a definition is given. The new language will help field staff and applicants understand when a project qualifies as an alternate construction method. None of the changes are statutory requirements, and the Agency has determined that these changes better reflect current conditions within the construction industry, and will better streamline processing for applicants.

In conjunction with this rule, the Agency is revising Agency Guide documents used with American Institute of Architects (AIA) contracts for construction to reflect their updated contracts. Contracts referenced in the present regulation will be replaced with the new updated contracts. New Guides will be added for AIA contracts for Design/Build and Construction Management. A new Guide will be added listing the Agency requirements for review of alternate contract methods, to assist field staff and applicants.

A proposed rule was published in the **Federal Register** on April 22, 2011 (76 FR 22631) to address issues mentioned above. No comments were received, and there have been no changes implemented in this rule that were not addressed in the proposed rule.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas.

For the reasons set forth in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

■ 1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1926; 7 U.S.C. 1927, 7 U.S.C. 7901, and Pub. L. 110–246.

Subpart A—Community Facility Loans

■ 2. Section 1942.9 is amended by revising the section heading, paragraph (b) introductory text and paragraph (b)(1) to read as follows:

§ 1942.9 Planning, bidding, contracting, and constructing.

* * * * *

(b) *Contract approval.* The State Director or designee is responsible for approving all construction contracts using legal advice and guidance of OGC as necessary. The National Office must concur with the use of a contracting method under § 1942.18(l) of this subpart exceeding $250,000. When an applicant requests such concurrence, the State Director will submit the following to the National Office:

(1) State Director's and Rural Development engineer/architect's comments and recommendations, and if noncompetitive negotiation per § 1942.18(k)(4) is accepted by the Agency, submit an evaluation of previous work of the proposed construction firm.

* * * * *

■ 3. Section 1942.18, paragraph (l) is revised to read as follows:

§ 1942.18 Community facilities—Planning, bidding, contracting constructing.

* * * * *

(l) *Alternate contracting methods.* The services of the consulting engineer or architect and the general construction contractor shall normally be procured from unrelated sources in accordance with paragraph (j)(7) of this section. Alternate contracting methods which combine or rearrange design, inspection or construction services (such as design/build or construction management/constructor) may be used with Rural Development written approval.

(1) The owner will request Rural Development approval by providing the following information to the State Office for review and approval by the State Architect:

(i) The owner's written request to use an unconventional contracting method with a description of the proposed method.

(ii) A proposed scope of work describing in clear, concise terms the technical requirements for the contract. This would include a nontechnical statement summarizing the work to be performed by the contractor, the expected results, the sequence in which the work is to be performed, and a proposed construction schedule.

(iii) A proposed firm-fixed-price contract for the entire project which provides that the contractor shall be responsible for any extra cost which may result from errors or omissions in the services provided under the contract and compliance with all Federal, State, and local requirements effective on the contract execution date.

(iv) An evaluation of the contractor's performance on previous similar projects in which the contractor acted in a similar capacity.

(v) A detailed listing and cost estimate of equipment and supplies not included in the construction contract but which are necessary to properly operate the facility.

(vi) Evidence that a qualified construction inspector who is independent of the contractor has or will be hired.

(vii) Preliminary plans and outline specifications. However, final plans and specifications must be completed and reviewed by Rural Development prior to the start of construction.

(viii) The owner's attorney's opinion and comments regarding the legal adequacy of the proposed contract documents and evidence that the owner has the legal authority to enter into and fulfill the contract.

(2) The State Office may approve design/build or construction management/constructor projects if the contract amount is equal to or less than $250,000.

(3) If the contract amount exceeds $250,000, National Office prior concurrence must be obtained in accordance with § 1942.9(b) of this subpart. Additional information, such as plans and specifications, may be requested by the National Office.

(4) The Design/Build method of construction is one in which the architectural and engineering services, normally provided by an independent consultant to the owner, are combined with those of the General Contractor under a single source contract. These services are commonly provided by a Design/Build firm, a joint venture between an architectural firm and a construction firm, or a company providing pre-engineered buildings and design services.

(5) The Construction Management/constructor (CMc), acts in the capacity of a General Contractor and is actually responsible for the construction. This type of construction management is also referred to as Construction Manager ''At Risk.'' The construction contract is between the owner and the CMc. The CMc, in turn, may subcontract for some or all of the work.

(6) The National Office may approve other alternative contact methods, such as Construction Management/advisor (CMa), with a recommendation from the State Office. The recommendation shall indicate the circumstances which prove this method advantageous to the applicant and the Government. A CMa

acts in an advisory capacity to the owner, and the actual contract for construction is between the owner and a prime contractor or multiple prime contractors. When a contract for an architect and a CMa are being provided, it is important to make sure that separate professionals are not being paid to provide similar services. Further, paragraph (e)(3) of this section discourages separate contracts for construction.

(7) All alternate contracting method projects must comply with the requirements for ''maximum open and free competition'' in paragraph (j)(2) of this section. Choosing an alternate contracting method is not a way to avoid competition. Further information on procurement methods, which must be followed, is provided in paragraph (k) of this section.

* * * * *

Dated: April 4, 2012.

Dallas P. Tonsager,

Under Secretary, Rural Development.

Dated: April 2, 2012.

Michael T. Scuse,

Acting Under Secretary, Farm and Foreign Agriculture Services.

[FR Doc. 2012–11961 Filed 5–17–12; 8:45 am]

BILLING CODE 3410–XV–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0177(b); FRL–9673–9]

Approval and Promulgation of Implementation Plans; Portion of York County, SC Within Charlotte-Gastonia-Rock Hill, NC–SC 1997 8-Hour Ozone Nonattainment Area; Ozone 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the ozone 2002 base year emissions inventory portion of the state implementation plan (SIP) revision submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 29, 2010. The emissions inventory is included in the ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area'') is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County in South Carolina. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act). EPA will take action on the North Carolina submission for the ozone 2002 base year emissions inventory for its portion of the bi-state Charlotte Area in a separate action.

DATES: This direct final rule is effective July 17, 2012 without further notice, unless EPA receives adverse comment by June 18, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0177, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0177,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2008–0177. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9061. Ms. Waterson can be reached via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Analysis of State's Submittal
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm). Under EPA's regulations at 40 CFR part 50, the 1997 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered) (69 FR 23857, April 30, 2004). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in 40 CFR part 50, appendix I.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 1997 8-hour ozone NAAQS on April 30, 2004 (effective June 15, 2004) using 2001–2003 ambient air quality data (69 FR 23857, April 30, 2004). At the time of designation the bi-state Charlotte Area was classified as a moderate nonattainment area for the 1997 8-hour ozone NAAQS. In the April 30, 2004, Phase I Ozone Implementation Rule, EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date six years after the June 15, 2004, effective date for areas classified as moderate areas for the 1997 8-hour ozone nonattainment designations. Section 181 of the CAA explains that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but no later than six years after designation, or June 15, 2010. Therefore, the bi-state Charlotte Area's original attainment date was June 15, 2010. *See* 69 FR 23951, April 30, 2004.

On April 29, 2010,[1] South Carolina submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, emissions statement, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS in the bi-state Charlotte Area (hereafter referred to as the ''South Carolina's nonattainment submissions for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area'').

The bi-state Charlotte Area did not attain the 1997 8-hour ozone NAAQS by June 15, 2010 (the applicable attainment date for moderate nonattainment areas); however, the Area qualified for an extension of the attainment date. Under certain circumstances, the CAA allows for extensions of the attainment dates prescribed at the time of the original nonattainment designation. In accordance with CAA section 181(a)(5), EPA may grant up to 2 one-year extensions of the attainment date under specified conditions. On May 31, 2011, EPA determined that South Carolina met the CAA requirements to obtain a one-year extension of the attainment date for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area. *See* 76 FR 31245. As a result, EPA extended the bi-state Charlotte Area's attainment date from June 15, 2010, to June 15, 2011, for the 1997 8-hour ozone NAAQS.

On November 15, 2011 (76 FR 70656), EPA determined the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS; and subsequently, on March 7, 2012 (77 FR 13493), EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS by the applicable attainment date. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period, showing that the Area had monitored attainment of the 1997 8-hour ozone NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 40 CFR 52.2125(a).

On January 12, 2012, South Carolina withdrew the South Carolina portion of the bi-state Charlotte Area's attainment demonstration (except RFP, emissions statement, and the emissions inventory) as allowed by 40 CFR 51.918 for its portion of this Area; however, the emissions inventory requirement found in CAA section 182(a)(1), which requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions, is not suspended by a determination of attainment. Accordingly, South Carolina has not withdrawn its emission inventory for the 1997 8-hour ozone NAAQS, and EPA is now taking direct final action to approve this portion of the SIP revision submitted by the State of South Carolina on April 29, 2010, as required by section 182(a)(1).

II. Analysis of State's Submittal

As discussed above, section 182(a)(1) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. South Carolina selected 2002 as base year for the emissions inventory pursuant to 40 CFR 51.915. Emissions contained in South Carolina's portion of the bi-state Charlotte attainment plan cover the general source categories of stationary point and area sources, non-road and on-road mobile sources. A detailed discussion of the emissions inventory development and point source emissions can be found in Appendix E of the South Carolina submittal; which can be found in the docket for today's action using Docket ID No. EPA–R04–OAR–2008–0177. The 2002 nitrogen oxides (NO_X) baseline emissions inventory, for the partial county emissions for York can be found in Appendix P of the submittal. The 2002 volatile organic compounds (VOC) baseline emissions inventory for the partial county emissions for York can be found in Appendix O of the submittal. The table below provides a summary of the annual 2002 emissions of NO_X and VOCs.

[1] South Carolina withdrew an August 31, 2007, attainment demonstration SIP for its portion of the Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area on December 22, 2008. On April 29, 2010, South Carolina resubmitted the attainment demonstration SIP for the South Carolina portion of the Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area.

TABLE 1—2002 POINT AND AREA SOURCES ANNUAL EMISSIONS FOR THE SOUTH CAROLINA PORTION OF THE CHARLOTTE AREA

[Tons per summer day]

County	Point		Area		Non-road		Mobile	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
York (partial)*	11.1	7.29	2.2	7.48	4.9	3.19	13.8	6.84

*Only part of York County is in the nonattainment area.

The 182(a)(1) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, non-road mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in the State's attainment demonstration SIP for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. Data from many databases, studies and models (e.g., vehicle miles traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 182(a)(1) and the implementing regulations.

EPA has reviewed South Carolina's emissions inventory for its portion of the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS and finds that it is adequate for the purposes of meeting section 182(a)(1) emissions inventory requirement. The emissions inventory is approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of South Carolina's 1997 8-hour ozone attainment demonstration SIP revision for the bi-state Charlotte Area submitted by the State of South Carolina on April 29, 2010. This action is being taken pursuant to section 110 of the CAA. On March 12, 2008, EPA issued a revised ozone NAAQS. *See* 73 FR 16436. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the South Carolina portion of the Charlotte Area under the 2008 ozone NAAQS will be addressed in the future. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 17, 2012 without further notice unless the Agency receives adverse comments by June 18, 2012.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 17, 2012 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

In addition, this emissions inventory for the bi-state Charlotte Area does not have Tribal implications as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte Area. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' EPA notes today's action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 17, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: May 8, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart PP—South Carolina

■ 2. Section 52.2120(e) is amended by adding a new entry for ''South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone 2002 Base Year Emissions Inventory'' to the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e)

EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
* *	*	* *	* *
South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone 2002 Base Year Emissions Inventory.	04/29/2010	05/18/2012 [Insert citation of publication]	Applicable to the 1997 8-hour Ozone boundary in York County only (Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area).

[FR Doc. 2012–12003 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0727; FRL–9349–2]

Natamycin; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical, natamycin, in or on mushrooms when applied as a fungistat to prevent the germination of fungal spores on mushrooms produced in mushroom production facilities. DSM Food Specialties B.V. (DSM) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for such residues of natamycin.

DATES: This regulation is effective May 18, 2012. Objections and requests for hearings must be received on or before July 17, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0727; FRL–9349–2, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Cheryl Greene, Biopesticides and

Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–0352, email address: *greene.cheryl@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0727 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 17, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0727, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 20, 2011, (76 FR 22067) (FRL–8869–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the notice of filing of a pesticide tolerance petition (PP 0F7729), by DSM Food Specialties B.V. (DSM), Alexander Fleminglaan 1, 2613 AX Delft, The Netherlands, c/o Keller and Heckman, LLP, 1001 G Street NW., Washington, DC 20001. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of natamycin in or on mushrooms when applied as a fungistat to mushrooms produced in an enclosed mushroom production facility. This notice referenced a summary of the petition prepared by the petitioner which is available in the docket (EPA–HQ–OPP–2010–0727) at *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *'' Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Natamycin is a naturally occurring antimicrobial compound derived from the common soil microorganisms, *Streptomyces natalensis, Streptomyces lydicus,* and *Streptomyces chattanoogensis.* Natamycin was originally discovered in *Streptomyces natalensis* in South Africa in the early

1950s, and was subsequently discovered to also occur naturally in North America in *Streptomyces lydicus* and *Streptomyces chattanoogensis.* It is commercially produced by a submerged oxygen-based fermentation of *Streptomyces natalensis, Streptomyces lydicus,* or *Streptomyces chattanoogensis.* As a biochemical pesticide active ingredient, natamycin is intended for use as a fungistat to prevent and control the germination of mold and yeast spores in the growth media of mushrooms produced in enclosed mushroom production facilities. Natamycin has a non-toxic mode of action, has no effects on fungal mycelia, and development of antibiotic resistance to natamycin has not been reported during its entire history of use.

Natamycin has been used as a food preservative worldwide for over 40 years (Ref.1) and is approved as a food additive/preservative by the European Union, the World Health Organization, and individual countries including New Zealand and Australia for use as a fungistat to suppress mold on cheese, meats and sausage. In the United States, natamycin is approved by the Food and Drug Administration (FDA) as a direct food additive/preservative for the inhibition of mold and yeast on the surface of cheeses (21CFR 172.155) and as an additive to the feed and drinking water of broiler chickens to retard the growth of specific molds (21CFR 573.685). Natamycin is also FDA approved for use as a treatment to suppress fungal eye infections such as blepharitis, conjunctivitis, and keratitis.

EPA has evaluated the available toxicity data on natamycin and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children, to natamycin. Specific information on the studies and information received and reviewed, the nature of adverse effects caused by natamycin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies and information are discussed in this unit.

1. *Acute toxicity (MRIDs 48105505 through 48105510).* The natamycin Technical Grade Active Ingredient (TGAI) is classified in Toxicity Category III for acute oral toxicity, and Toxicity Category IV for acute dermal toxicity, acute inhalation toxicity, primary eye irritation, and primary dermal irritation. Natamycin is not a sensitizer.

2. *Subchronic toxicity (MRID 48105511).* Subchronic (rat) feeding studies demonstrate that the LOAEL was 2,000 parts per million (ppm) in the diet (204 milligrams/kilogram of body weight per day (mg/kg bw/day) for males and 238 mg/kg bw/day for females) based on significantly lower body weight. The NOAEL was 500 ppm in the diet (42 mg/kg bw/day for males and 48 mg/kg bw/day for females). Natamycin is not a mutagen and is not cytotoxic. Subchronic (90-day) dermal toxicity and subchronic inhalation studies were not submitted, but are not required based on a lack of repeated exposure to workers and applicators via these two routes of exposure. The pesticide product is applied in irrigation water to mushrooms growing in enclosed facilities. There will not be any repeated dermal exposure to natamycin based on this application method. A review of the literature demonstrates that natamycin is not a developmental or reproductive toxicant at up to 50 mg/kg bw/day in rats and up to 15 mg/kg bw/day in rabbits.

3. *Developmental toxicity (MRID 48613501).* In lieu of a study addressing prenatal developmental toxicity, Guideline Data Requirement (OCSPP 870.3700), the registrant developed a rationale supported with information and data obtained from the open technical literature to address the data requirement (MRID 48613501), which is available for review in the docket for this tolerance exemption. Based on the data, information, and the weight of evidence, fetal exposure from oral ingestion of natamycin in or on treated mushrooms by the mother would likely be extremely low. There are no concerns for subchronic, chronic, and reproductive/developmental toxicity resulting from dietary exposure to natamycin-treated mushrooms. Natamycin is not a subchronic toxicant in rats when administered in the diet at up to 45 mg/kg bw/day for 96 days, nor in dogs at up to 12 mg/kg bw/day for 3 months (Refs. 2, 3, and 4). Based on a lack of observable differences in tumors relative to untreated controls, natamycin is not a carcinogen in rats or dogs that were administered natamycin in the daily diet for up to 2 years (Ref. 5). The NOAEL for chronic toxicity was 22.4 mg/kg bw/day in rats and 6.25 mg/kg bw/day in dogs, based on reduced body weight. Natamycin is not a reproductive or developmental toxicant when administered to experimental animals at ≥ 50 mg/kg bw/day in 3-generation and 2-generation studies with rats (Ref. 6). Exposure to dietary natamycin is expected to be extremely low. Dietary natamycin is rapidly metabolized by stomach acids, poorly absorbed by mammalian systems; and its degradates are rapidly excreted in the feces within 24 hrs when orally ingested (Refs. 7, 8, and 9). Natamycin is a high molecular weight compound (666 Daltons) with low solubility in water (30–50 ppm at 20–25 °C) and many organic solvents. Chemical compounds having molecular weights >600 Daltons are not known to diffuse across the placental barrier of humans (Ref. 10) and there are no known active transport mechanisms for natamycin. Further, based on per capita consumption of all mushroom commodities in the United States (Ref. 11), dietary intake from treated, unwashed mushrooms is conservatively estimated to be no more than 0.00030 milligrams of Active ingredient per kilogram of body weight per person per day (mg a.i./kg bw/person/day) (Ref.12). This value is well below any known acute oral, subchronic and chronic dietary, reproductive, and developmental endpoints for natamycin by many orders of magnitude. Likewise, the estimated dietary intake from unwashed, treated mushrooms also is well below the Acceptable Dietary Intake (ADI) of 0.3 established by the Joint Food Agriculture Organization of the United Nations (FAO) and the World health Organization Expert Committee on Food Additives (JECFA, 2001 & 2006) and an ADI of 0.1 established by the European Food Safety Authority (Ref. 13).

4. *Other.* Natamycin has a non-toxic mode of action and functions as a fungistat, preventing the germination of fungal spores. It has no effects on fungal mycelia. Development of antibiotic resistance to natamycin has not been reported during its entire history of use.

5. *Residue analytical method (MRID 48105407).* The registrant developed and validated a residue analytical method to determine residues of natamycin in mushrooms, mushroom compost, casing, and casing plus inoculum. Samples were extracted in methanol, filtered, and then analyzed by liquid chromatography with mass spectrometry/mass spectrometry detection (LC–MS/MS). The analyte was quantified by comparison with external calibration curve using natamycin (88.7% purity). The analytes in mushroom samples and casing plus inoculum samples were quantified using a solvent-based reference standard (88.7% natamycin), whereas the analytes in compost and casing was quantified relative to a matrix-based reference standard. Samples were fortified with 0.1 or 1.0 mg/kg natamycin. Recovery for mushrooms

was 89 ± 11%. Overall recovery for compost was 84 ± 12%, and for casing was 99 ± 16%. Overall recovery for casing plus inoculum was 66 ± 8%. The limit of quantitation (LOQ) was 0.01 mg/kg (ppm) for mushrooms and 0.1 mg/kg for the other matrices. There were no interfering substances. The limit of detection (LOD) was 0.25 nanograms/milliliter (ng/mL) for the reference substances. A copy of the submitted Residue Analytical Method (MRID 48105407) is available for review in the docket for this tolerance exemption.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food exposure.* Natamycin is a fungistat that has a long history of use in food for the prevention of spoilage. In evaluating exposure to natamycin, EPA considered exposure under the submitted tolerance petition for an exemption from the requirement of a tolerance for natamycin when used to control mold spores and fungi in or on mushrooms produced in an enclosed mushroom production facility. EPA assessed dietary exposure from data and information submitted by the petitioner, as well as publically available literature which demonstrates that dietary exposure from the use of natamycin as a fungistat on mushrooms produced in an enclosed mushroom production facility is expected to be minimal. Based on laboratory testing of the Technical Grade Active Ingredient (described below), and the anticipated minimal dietary exposure, and the mode of action of natamycin as a fungistat, acute and chronic dietary risks for sensitive subpopulations are not anticipated.

The active ingredient is minimally toxic (10.34% of the EP by weight), as demonstrated by Tier I Guideline toxicity studies. Finally, in connection with the proposed use of natamycin as a biopesticide intended solely for use in enclosed mushroom production facilities, all compost and casing used in mushroom production will be autoclaved prior to being removed from the mushroom growing facilities to destroy any natamycin residues, thus preventing them from entering the outdoor environment. Based on the mode of action of the active ingredient as a fungistat, no aggregate exposure is anticipated.

2. *Drinking water exposure.* Based on the intended use sites (enclosed mushroom production facilities) and use directions (steam sterilization of compost and casing prior to disposal outside of the mushroom growth facility), it is highly unlikely that residues of natamycin will enter any sources of drinking water. However, in the unlikely event that natamycin residues escape from its indoor application site (completely enclosed mushroom houses), its concentration in surface waters would never exceed 30–50 ppm due to its low solubility in water; up to 50 ppm @ 20–25 °C and pH 5–7.5; and at <pH 2 or >pH 10 it completely degrades (Ref. 14). Natamycin is extremely sensitive to UV light and is completely degraded by UV within 24 hours of exposure in aqueous solution (Ref. 15). Even assuming that no environmental degradation takes place, gastric juices typically found in the human stomach will completely degrade natamycin within 24 hrs (Ref. 16). Finally, the non-definitive endpoints for acute oral toxicity (>1820 ppm) (Ref. 17) and subchronic oral toxicity (>500 ppm in the diet) (Ref. 18), are approximately 36X and 10X greater than the highest measured solubility of natamycin in water. For these reasons, the Agency believes that there are no concerns for exposure of humans to natamycin in drinking water.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found natamycin to share a common mechanism of toxicity with any other substances, and natamycin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that natamycin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor. In applying this provision, EPA either retains the default value of 10X or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

Based on the acute toxicity and pathogenicity data summarized in Unit III. EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of natamycin. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. EPA has arrived at this conclusion because the data and information available on natamycin does not demonstrate toxic, pathogenic, and/or infective potential to mammals when used as a fungistat to prevent the germination of fungal spores on mushrooms produced in enclosed mushroom production facilities. Thus, there are no threshold effects of concern and, as a result, an additional margin of exposure is not necessary.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation. Nonetheless, and as discussed in more detail earlier in this final rule, an analytical method was submitted with the application to register natamycin as a new active ingredient. The Agency has reviewed the analytical method and determined it to be acceptable.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for natamycin.

C. Response to Comments

One anonymous comment was received (EPA–HQ–OPP–2010–0685–0006) in response to the notice of filing for this action. The commenter, who focused specifically on the application of ''powdered natamycin'' in cheese processing plants (presumably as a preservative), expressed the concern that natamycin ''is a health hazard'' and further asserted that people at such plants have no real protection from inhalation or dermal exposures to powdered natamycin. In response, the Agency notes that under the FFDCA, the controlling standard governing EPA's consideration of a petition for a tolerance exemption is whether there is a reasonable certainty that no harm will result from aggregate exposure to natamycin, including all anticipated dietary exposures and all other non-occupational exposures for which there is reliable information. Worker risk issues, therefore, are not relevant in the context of the Agency's assessment of a petition for a tolerance exemption under the FFDCA. For all the reasons noted in this Final Rule, EPA has determined that there is a reasonable certainty that no harm will result from aggregate exposure to residues of natamycin, including all anticipated dietary exposures and all other (non occupational) exposures for which there is reliable information. This finding is specific to natamycin residues resulting in or on mushrooms when natamycin is used as a fungistat to prevent the germination of fungal spores on mushrooms produced in mushroom production facilities. Worker risk issues, where relevant, were taken into consideration in the context of EPA's separate consideration (under FIFRA) of the applications for registration of the pesticide products containing natamycin as a new biochemical active ingredient for use on mushrooms in enclosed mushroom production facilities. Specifically, EPA reviewed, among other things, data and information (MRIDS 48105505 and 48105510) submitted specifically to address the Agency's data requirements for dermal and inhalation toxicity (OCSPP 870.1200; 870.1300, 8703250 and 870.3465). Based on that review, the Agency categorized natamycin as a toxicity IV active ingredient Toxicity Categories are determined based on hazard indicators by considering oral, dermal, inhalation and eyes routes of exposure. A Toxicity Category IV is defined as a pesticide product that is non toxic or slightly toxic and not an irritant by all routes of and determined that natamycin, as formulated in the two products (EPA File Symbol 87485–1 and 87485–2) at issue, is reasonably not expected to cause harm when used according to product labeling. Finally, in light of the commenter's focus on powdered natamycin, it is also worth noting that the one end use product that EPA is registering does not contain powdered natamycin. Instead, it is contained in a liquid suspension formulation that is directly added to irrigation water using standard irrigation equipment. In addition, all mixers, loaders, applicators and handlers will be required through instructions on the product label to wear personal protective garments (protective eyewear, long sleeved shirt, long pants and socks and shoes). To be clear, though, these separate registration decisions under FIFRA are not the focus of or at issue in connection with this Final Rule granting a tolerance exemption under the FFDCA.

VIII. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of natamycin in or on mushrooms when used as a fungistat to prevent the germination of fungal spores on mushrooms produced in enclosed mushroom production facilities.

IX. References

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Target Organism Waiver Requests, and Metabolism/Residue Studies. Memorandum from R. S. Jones to C. Greene, dated 04/04/2011.
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18. Subchronic (rat) feeding studies demonstrate that the No Observable Adverse Effect Level NOAEL was 500 ppm in the diet (42 mg/kg bw/day for males and 48 mg/kg bw/day for females) (MRID 48105511).

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 8, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1315 is added to subpart D to read as follows:

§ 180.1315 Natamycin; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of natamycin in or on mushrooms when applied as a fungistat to prevent the germination of fungal spores on mushrooms produced in enclosed mushroom production facilities.

[FR Doc. 2012–12105 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0048; FRL–9347–9]

Prohydrojasmon; Amendment of Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation revises the temporary exemption from the requirement of a tolerance for residues of Prohydrojasmon (PDJ), propyl-3-oxo-2-pentylcyclo-pentylacetate, by including grapes and extending the date of expiration of the temporary tolerance exemption from August 1, 2012, to August 1, 2014, when used as a plant growth regulator pre-harvest and in accordance with good agricultural practices and with the terms of Experimental Use Permit (EUP) No. 62097–EUP–1. Fine Agrochemicals, Ltd., submitted a petition to the U.S. Environmental Protection Agency (EPA or the Agency) under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the amendment to the temporary tolerance exemption.

DATES: This regulation is effective May 18, 2012. Objections and requests for hearings must be received on or before July 17, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0048; FRL–9347–9, is available either electronically through *http://www.regulations.gov* or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Gina Burnett, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 605–0513; email address: *burnett.gina@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections.You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0048 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 17, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket . Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0048, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of February 15, 2012, (77 FR 8755) (FRL–9335–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 1G7947) by Fine Agrochemicals, Ltd., c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192. The petition requested that 40 CFR 180.1299 be amended by including grapes in the temporary exemption from the requirement of a tolerance for residues of Prohydrojasmon (PDJ), propyl-3-oxo-2-pentylcyclo-pentylacetate, and that the expiration date for the tolerance exemption be extended by 2 years in order to coincide with a 2-year extension of the petitioner's Experimental Use Permit (EUP) for this biochemical. The petitioner requests the tolerance exemption expiration date extension and EUP extension in order to better assess the effects of application timing, geography, and apple variety on efficacy (color enhancement). Fewer red apple sites will be treated as compared to the two initial growing seasons (2010 and 2011), but more acres will be treated per site, increasing statistical power and confidence, and providing the applicant with more useful data. Under the EUP extension, the petitioner will also be approved to test PDJ on grapes. This notice referenced a summary of the petition prepared by the petitioner, Fine Agrochemicals, Ltd., which is available in the docket via *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe '' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.'' Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider ''available information concerning the cumulative effects of [a

particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The Agency established a temporary tolerance exemption for PDJ in a Final Rule published in the **Federal Register** on August 18, 2010, (75 FR 50922–50926) (FRL–8839–4), to coincide with the approval of an Experimental Use Permit (EUP) granted to Fine Agrochemicals, Ltd. The temporary tolerance exemption supported uses on red apple varieties, and will expire on August 1, 2012. This amendment proposes to expand the crops covered by including grapes, and by extending the expiration date of the tolerance exemption to August 1, 2014, to coincide with the extension of the petitioner's EUP for the same time period. Since the establishment of the temporary tolerance exemption, no new toxicology data have been generated. As such, the toxicological profile as stated in the August 18, 2010, issue of the **Federal Register**, and referenced herein, has not changed. Copies of the August 18, 2010, document (75 FR 50922–50926), and the studies cited therein, are located under docket identification (ID) number EPA–HQ–OPP–2010–0048.

As discussed in the August 18, 2010, **Federal Register**, (75 FR 50923), PDJ is a synthetic plant growth regulator that is structurally similar and functionally identical to jasmonic acid (JA), a naturally occurring plant regulator present in all vascular plants. The jasomates, of which JA is a member, is a group of plant hormones involved in multiple stages of plant development and defense, including the ability to stimulate fruit ripening (Ref. 1). The highest levels of naturally occurring JA are found in actively growing plant tissues such as leaves, flowers, and developing fruit (Refs. 1 and 3), thus JA has always been a natural component of diets containing plant materials. To date, there have been no reported toxic effects associated with the consumption of JA in fruits and vegetables.

PDJ, a synthetic version of JA, is expected to behave in the same manner and have the same low toxicity profile as JA because it is structurally similar and functionally identical to naturally occurring JA. Studies submitted by the applicant in support of this temporary exemption from the requirement of a tolerance, and reviewed by the Agency, indicate that PDJ is not acutely toxic. These studies and the Agency's conclusions are summarized at 75 FR 50922–50926, August 18, 2010. Specifically, no toxic endpoints were established, and no significant toxicological effects were observed in any of the acute toxicity studies (75 FR 50923–50924, August 18, 2010). In addition, studies submitted indicate that PDJ is not genotoxic, has no subchronic toxic effects, and is not a developmental toxicant (75 FR 50924, August 18, 2010).

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Dietary exposure to residues of PDJ is expected to be insignificant, even in the event of exposure. In a worst case scenario, such as no degradation of the applied compound, PDJ residues consumed by a 70 kg person are four orders of magnitude below the No Observed Adverse Effect Level (NOAEL) that was calculated for this compound (75 FR 50924, August 18, 2010).

1. *Food.* PDJ is structurally similar to the naturally occurring plant growth regulator jasmonic acid (JA). JA is naturally present in fruits and vegetables at various levels, generally not exceeding 2 parts per million (ppm), and has always been a component of any diet containing plant materials (Refs. 1 and 2). Dietary exposure to residues of PDJ via exposure to treated fruit or foliage is not expected to exist above background levels of naturally occurring JA (75 FR 50924–50925, August 18, 2010).

2. *Drinking water exposure.* Exposure of humans to PDJ in drinking water is unlikely since products are labeled for application directly to terrestrial plants and because data demonstrate a soil half-life for this chemical from 1.6–2.3 hours, as well as rapid degradation in water (Ref. 3). In addition, the expected concentrations in surface water are well below (6 to 7 orders of magnitude) the maximum doses used in laboratory testing, where no toxic effects were seen (e.g., acute oral toxicity LD_{50} > 5,000 milligrams per kilogram (mg/kg); developmental toxicity NOAEL > 500 mg/kg) (75 FR 50925, August 18, 2010).

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected because PDJ is not approved for residential uses. The active ingredient is applied directly to commodities and degrades rapidly.

1. *Dermal exposure.* Non-occupational dermal exposures to PDJ are not expected because the compound is intended only for agricultural use as a plant growth regulator applied to apples and grapes pre-harvest. Any dermal exposure associated with this experimental use permit is expected to be occupational in nature.

2. *Inhalation exposure.* Non-occupational inhalation exposures are not expected to result from the agricultural uses of PDJ. Any inhalation exposure associated with this experimental use permit is expected to be occupational in nature.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information concerning the cumulative effects of [a particular pesticide's] * * * residues and other substances that have a common mechanism of toxicity.''

EPA has not found PDJ to share a common mechanism of toxicity with any other substances, and PDJ does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that PDJ does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessments either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

Relevant data and information indicate that PDJ has negligible acute, subchronic, and developmental toxicity (75 FR 50922–25, August 18, 2010). In addition, PDJ is structurally similar to jasmonic acid, which is present in all fruits and vegetables and for which there is no reported history of toxicological incident (EPA, 2010). Therefore, the Agency concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of PDJ. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data and information available on PDJ do not demonstrate toxic potential to mammals. Thus, there are no threshold effects of concern and, as a result, an additional margin of safety is not necessary.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons stated above and because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for Prohydrojasmon (PDJ), propyl-3-oxo-2-pentylcyclo-pentylacetate.

VIII. Conclusion

The Agency acknowledges the need to extend the temporary tolerance exemption to coincide with the approved extension of Fine Agrochemical, Ltd.'s EUP for PDJ. In addition, the Agency concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of PDJ. Therefore, the temporary exemption is amended for residues of PDJ on red apples to include grapes, when used pre-harvest as a plant growth regulator, in accordance with good agricultural practices and with the terms of EUP No. 62097–EUP–1, and will expire on August 1, 2014.

IX. References

The references used in this document are in the OPP docket listed under docket ID EPA–HQ–OPP–2010–0048, and may be seen by accessing the regulatory.gov Web site.

1. Creelman, R.A. and J.E. Mullet (1995) Jasmonic acid distribution and action in plants: Regulation during development and response to biotic and abiotic stress. *Proceedings of the National Academies of Science,* 92: 4114–4119.
2. Mason, H.S., DeWald, D.B., Creelman, R.A., Mullet J.E. (1992) Coregulation of Soybean and Vegetative Storage Protein Gene Expression by Methyl Jasmonate and Soluble Sugars. *Plant Physiology,* 98: 859–867.
3. EPA (2010) Environmental Protection Agency (EPA) Risk Assessment: Application for Experimental-Use Permit and Temporary Tolerance Exemption for FAL 1800 (Prohydrojasmon). May 18, 2010.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the

Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2012.

Keith Mathews,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1299 is revised to read as follows:

§ 180.1299 Prohydrojasmon; temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of prohydrojasmon, propyl-3-oxo-2-pentylcyclo-pentylacetate, when used as a plant growth regulator on red apples varieties and grapes pre-harvest, in accordance with good agricultural practices and the terms of Experimental Use Permit No. 62097–EUP–1, and will expire on August 1, 2014.

[FR Doc. 2012–12106 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8231]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance

coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Annville, Township of, Lebanon County	420570	March 16, 1973, Emerg; April 15, 1977, Reg; June 5, 2012, Susp.	June 5, 2012	June 5, 2012.
Bethel, Township of, Lebanon County	420967	January 23, 1974, Emerg; September 30, 1981, Reg; June 5, 2012, Susp.	do*	Do.
Cleona, Borough of, Lebanon County	420571	March 9, 1973, Emerg; April 1, 1977, Reg; June 5, 2012, Susp.	do	Do.
Cornwall, Borough of, Lebanon County	420968	April 17, 1973, Emerg; August 5, 1985, Reg; June 5, 2012, Susp.	do	Do.
East Hanover, Township of, Lebanon County.	421012	April 10, 1973, Emerg; August 15, 1979, Reg; June 5, 2012, Susp.	do	Do.
Heidelberg, Township of, Lebanon County.	420969	August 27, 1973, Emerg; January 20, 1982, Reg; June 5, 2012, Susp.	do	Do.
Jackson, Township of, Lebanon County	421805	January 21, 1975, Emerg; September 30, 1981, Reg; June 5, 2012, Susp.	do	Do.
Jonestown, Borough of, Lebanon County.	420572	December 29, 1972, Emerg; December 4, 1979, Reg; June 5, 2012, Susp.	do	Do.
Lebanon, City of, Lebanon County	420573	January 26, 1973, Emerg; December 4, 1979, Reg; June 5, 2012, Susp.	do	Do.
Millcreek, Township of, Lebanon County.	420574	August 27, 1973, Emerg; November 18, 1983, Reg; June 5, 2012, Susp.	do	Do.
Myerstown, Borough of, Lebanon County.	420575	August 27, 1973, Emerg; July 5, 1977, Reg; June 5, 2012, Susp.	do	Do.
North Annville, Township of, Lebanon County.	420970	October 19, 1973, Emerg; September 28, 1979, Reg; June 5, 2012, Susp.	do	Do.
North Cornwall, Township of, Lebanon County.	420576	March 16, 1973, Emerg; January 2, 1981, Reg; June 5, 2012, Susp.	do	Do.
North Lebanon, Township of, Lebanon County.	421131	March 8, 1974, Emerg; September 2, 1981, Reg; June 5, 2012, Susp.	do	Do.
North Londonderry, Township of, Lebanon County.	420577	August 29, 1973, Emerg; September 28, 1979, Reg; June 5, 2012, Susp.	do	Do.
South Annville, Township of, Lebanon County.	420580	May 11, 1973, Emerg; December 16, 1980, Reg; June 5, 2012, Susp.	do	Do.
South Lebanon, Township of, Lebanon County.	420581	March 16, 1973, Emerg; December 15, 1981, Reg; June 5, 2012, Susp.	do	Do.
South Londonderry, Township of, Lebanon County.	421043	February 15, 1974, Emerg; March 4, 1986, Reg; June 5, 2012, Susp.	do	Do.
Swatara, Township of, Lebanon County	420582	August 9, 1973, Emerg; December 1, 1981, Reg; June 5, 2012, Susp.	do	Do.
Union, Township of, Lebanon County	421806	October 10, 1974, Emerg; December 4, 1979, Reg; June 5, 2012, Susp.	do	Do.
West Cornwall, Township of, Lebanon County.	420583	March 23, 1973, Emerg; December 14, 1979, Reg; June 5, 2012, Susp.	do	Do.
West Lebanon, Township of, Lebanon County.	421166	April 26, 1974, Emerg; April 15, 1977, Reg; June 5, 2012, Susp.	do	Do.
West Virginia:				
Albright, Town of, Preston County	540161	June 23, 1975, Emerg; August 1, 1987, Reg; June 5, 2012, Susp.	do	Do.
Bruceton Mills, Town of, Preston County.	540162	May 22, 1975, Emerg; August 1, 1987, Reg; June 5, 2012, Susp.	do	Do.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Kingwood, City of, Preston County	540254	April 28, 1977, Emerg; November 12, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Newburg, Town of, Preston County	540268	June 9, 1975, Emerg; August 1, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Preston County, Unincorporated Areas	540160	August 20, 1976, Emerg; March 1, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Reedsville, Town of, Preston County	540269	November 24, 1975, Emerg; August 1, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Rowlesburg, Town of, Preston County	540163	November 8, 1974, Emerg; August 1, 1979, Reg; June 5, 2012, Susp.	.....do	Do.
Terra Alta, Town of, Preston County	540257	September 3, 1975, Emerg; August 25, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Region IV				
Alabama:				
Atmore, City of, Escambia County	010071	April 2, 1975, Emerg; June 24, 1977, Reg; June 5, 2012, Susp.	.....do	Do.
Brewton, City of, Escambia County	010072	April 4, 1975, Emerg; December 18, 1979, Reg; June 5, 2012, Susp.	.....do	Do.
East Brewton, City of, Escambia County.	010073	June 25, 1975, Emerg; December 4, 1979, Reg; June 5, 2012, Susp.	.....do	Do.
Escambia County, Unincorporated Areas.	010251	March 31, 1998, Emerg; September 28, 2007, Reg; June 5, 2012, Susp.	.....do	Do.
Flomaton, Town of, Escambia County	010074	August 26, 1975, Emerg; December 17, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Pollard, Town of, Escambia County	010075	February 28, 1992, Emerg; September 28, 2007, Reg; June 5, 2012, Susp.	.....do	Do.
Riverview, Town of, Escambia County	010076	June 25, 1975, Emerg; September 4, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Kentucky:				
Clark County, Unincorporated Areas	210278	May 13, 1976, Emerg; December 4, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Menifee County, Unincorporated Areas	210344	January 25, 1999, Emerg; June 5, 2012, Reg; June 5, 2012, Susp.	.....do	Do.
Winchester, City of, Clark County	210056	February 27, 1975, Emerg; July 3, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Region V				
Indiana:				
Cloverdale, Town of, Putnam County	180215	May 9, 1975, Emerg; June 17, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Putnam County, Unincorporated Areas	180213	January 8, 1988, Emerg; October 1, 1992, Reg; June 5, 2012, Susp.	.....do	Do.
Region VI				
Arkansas:				
Benton County, Unincorporated Areas	050419	April 29, 1988, Emerg; September 18, 1991, Reg; June 5, 2012, Susp.	.....do	Do.
Bentonville, City of, Benton County	050012	January 3, 1975, Emerg; July 16, 1980, Reg; June 5, 2012, Susp.	.....do	Do.
Centerton, City of, Benton County	050399	August 14, 1975, Emerg; August 24, 1982, Reg; June 5, 2012, Susp.	.....do	Do.
Gould, City of, Lincoln County	050127	July 26, 1974, Emerg; August 19, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Grady, City of, Lincoln County	050128	May 1, 1975, Emerg; October 12, 1982, Reg; June 5, 2012, Susp.	.....do	Do.
Highfill, Town of, Benton County	050581	N/A, Emerg; July 22, 2003, Reg; June 5, 2012, Susp.	.....do	Do.
Star City, City of, Lincoln County	050368	May 30, 1975, Emerg; March 1, 1988, Reg; June 5, 2012, Susp.	.....do	Do.
Texas:				
Corsicana, City of, Navarro County	480498	December 19, 1974, Emerg; August 17, 1981, Reg; June 5, 2012, Susp.	.....do	Do.
Frost, City of, Navarro County	480954	July 9, 1976, Emerg; August 8, 1978, Reg; June 5, 2012, Susp.	.....do	Do.
Kerens, City of, Navarro County	480955	September 8, 1975, Emerg; May 25, 1978, Reg; June 5, 2012, Susp.	.....do	Do.
Powell, City of, Navarro County	480390	July 7, 2010, Emerg; June 5, 2012, Reg; June 5, 2012, Susp.	.....do	Do.
Rice, City of, Navarro County	480957	N/A, Emerg; April 9, 2009, Reg; June 5, 2012, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/ cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VII				
Missouri:				
Benton, City of, Scott County	290852	September 26, 1975, Emerg; August 24, 1984, Reg; June 5, 2012, Susp.	.....do	Do.
Blodgett, Village of, Scott County	290771	September 21, 1976, Emerg; June 1, 1987, Reg; June 5, 2012, Susp.	.....do	Do.
Chaffee, City of, Scott County	290409	March 6, 1975, Emerg; September 27, 1985, Reg; June 5, 2012, Susp.	.....do	Do.
Commerce, City of, Scott County	290410	April 1, 1974, Emerg; June 1, 1978, Reg; June 5, 2012, Susp.	.....do	Do.
Haywood City, Village of, Scott County	290598	May 9, 1975, Emerg; February 11, 1976, Reg; June 5, 2012, Susp.	.....do	Do.
Miner, City of, Scott County	290687	July 24, 1975, Emerg; December 21, 1984, Reg; June 5, 2012, Susp.	.....do	Do.
Morley, City of, Scott County	290412	May 6, 1975, Emerg; September 10, 1984, Reg; June 5, 2012, Susp.	.....do	Do.
Scott City, City of, Scott County	290414	November 28, 1975, Emerg; May 4, 1988, Reg; June 5, 2012, Susp.	.....do	Do.
Sikeston, City of, Scott County	295270	August 3, 1971, Emerg; August 3, 1971, Reg; June 5, 2012, Susp.	.....do	Do.
Region VIII				
Montana:				
Hot Springs, Town of, Sanders County	300073	April 20, 1976, Emerg; October 15, 1985, Reg; June 5, 2012, Susp.	.....do	Do.
Plains, Town of, Sanders County	300074	September 14, 1977, Emerg; April 15, 1986, Reg; June 5, 2012, Susp.	.....do	Do.
Sanders County, Unincorporated Areas	300072	December 20, 1995, Emerg; March 1, 1996, Reg; June 5, 2012, Susp.	.....do	Do.

* do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: May 4, 2012.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–12122 Filed 5–17–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110831547–2425–03]

RIN 0648–BB26

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 2 for the South Atlantic Region; Correction

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

ACTION: Correcting amendment.

SUMMARY: This action corrects the final rule implementing the Comprehensive Ecosystem-Based Amendment 2 (CE–BA 2) for the South Atlantic region, which was published in the **Federal Register** on December 30, 2011. This correcting amendment removes a paragraph of regulatory text that was incorrectly retained and will eliminate any possible confusion over what the regulations require.

DATES: This correction is effective May 18, 2012.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 727–824–5305; email: *AnneMarie.Eich@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 30, 2011, NMFS published a final rule to implement CE–BA 2 (76 FR 82183). On January 30, 2012, NMFS published a correction to that final rule which revised the organization of the regulatory text implemented in CE–BA 2 (77 FR 4493). That final rule (76 FR 82183) and the correction (77 FR 4493) in part modified the fishery management unit (FMU) for octocorals under the Fishery Management Plan (FMP) for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (South Atlantic Coral FMP) in the South Atlantic exclusive economic zone (EEZ).

On December 29, 2011, NMFS published a final rule to implement the Generic Annual Catch Limits/ Accountability Measures Amendment (Generic ACL Amendment) to the Red Drum, Reef Fish Resources, Shrimp, and Coral and Coral Reefs FMPs for the Gulf of Mexico (Gulf)(76 FR 82044). That final rule in part modified the FMU for octocorals under the Coral and Coral Reefs FMP (Gulf Coral FMP) in the Gulf EEZ.

Prior to implementation of the final rules for CE–BA 2 and the Generic ACL Amendment, a 50,000 colony quota for allowable octocoral was in place in the Gulf and South Atlantic EEZs and a prohibition on the harvest of octocorals north of Florida, in the South Atlantic EEZ was in effect. CE–BA 2 removed octocorals from the FMU off Florida, in the South Atlantic EEZ, and as such modified the FMU for octocorals under the South Atlantic Coral FMP to include octocorals in the EEZ off North Carolina, South Carolina, and Georgia only. CE–BA 2 included an ACL for octocorals in the EEZ off North Carolina, South Carolina, and Georgia of zero. The Generic ACL Amendment removed octocorals from the FMU in the Gulf EEZ. Therefore, Federal management of octocorals in the South Atlantic EEZ off

Florida and in the Gulf EEZ is no longer included under the South Atlantic or Gulf Coral FMPs.

Florida's Fish and Wildlife Conservation Commission (FWC) is currently responsible for the majority of the management, implementation, and enforcement of octocoral harvest because the majority of octocoral harvest occurs in Florida state waters. In the absence of Federal regulations, the FWC regulations on octocoral harvest apply to adjacent Federal waters (68B–42.006 of the Florida Administrative Code).

Need for Correction

After the regulations implementing CE–BA 2 and the Generic ACL Amendment became effective on January 30, 2012, NMFS determined that the quota for Gulf allowable octocoral, specified in paragraph (b) of § 622.42, was inadvertently retained in the regulations. The final rule implementing the Generic ACL Amendment removed the allowable octocoral quota for the Gulf EEZ, and the final rule implementing CE–BA 2 removed the allowable octocoral quota for the South Atlantic EEZ. However, these two final rules became effective on the same day and the Gulf allowable octocoral quota was inadvertently retained in the regulations through the final rule implementing CE–BA 2. NMFS's intent was to remove the quota for both Gulf and South Atlantic allowable octocoral from the regulations because the quota is no longer managed under Federal FMPs. This correcting amendment is necessary to remove and reserve paragraph (b) in § 622.42.

Correction

As published, the final rule implementing CE–BA 2 contains an error in the regulatory text. In § 622.42, paragraph (b) should be removed and reserved. All other information remains unchanged and will not be repeated in this correction.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment for this action because it would be unnecessary and contrary to the public interest. This correcting amendment removes a paragraph of regulatory text that was incorrectly retained. NMFS incorrectly retained the quota for Gulf allowable octocoral in the CE–BA 2 final rule. The Generic ACL Amendment removed octocoral from Federal management in the Gulf EEZ. Notice and comment is unnecessary because the public had notice and an opportunity to comment on the removal of the quota for Gulf allowable octocoral when NMFS promulgated the proposed rule for the Generic ACL Amendment. The public has been led to believe that the quota for Gulf allowable octocoral was removed from the regulations on the effective date of the final rule implementing the Generic ACL Amendment. The delay caused by an additional public comment period might cause confusion among regulated parties and would therefore be contrary to the public interest.

For the same reasons, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment. This correction removes regulatory text that the public believed was previously removed and does not change operating practices in Gulf or South Atlantic fisheries.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

This rule has been determined to be not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: May 15, 2012.

Alan D. Risenhoover,

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

Accordingly, 50 CFR part 622 is corrected by making the following correcting amendment:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

§ 622.42 [Amended]

■ 2. In § 622.42, paragraph (b) is removed and reserved.

[FR Doc. 2012–12156 Filed 5–17–12; 8:45 am]

BILLING CODE 3210–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0906041011–2432–02]

RIN 0648–AX91

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Halibut and Sablefish Individual Fishing Quota Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to modify the Individual Fishing Quota (IFQ) Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters in and off Alaska (IFQ Program) by revoking quota share (QS) that have been inactive since they were originally issued in 1995. Inactive QS are those held by persons that have never harvested their IFQ and have never transferred QS or IFQ into or out of their IFQ accounts.

This action is necessary to achieve the catch limit from the halibut fisheries and optimum yield from the sablefish fisheries in Alaska in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act, and this action will achieve more efficient use of these species. The intended effect is to promote the management provisions in the Northern Pacific Halibut Act of 1982, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, and the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective June 18, 2012.

ADDRESSES: Electronic copies of this rule, the categorical exclusion memorandum, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), and the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Written requests may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; or in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska. Written comments regarding the burden-hour estimates or other aspects

of the collection-of-information requirements contained in this action may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov,* or by fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Peggy Murphy, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

Management of the Halibut and Sablefish IFQ Fisheries

Management of the commercial fishery for Pacific halibut (*Hippoglossus stenolepis*) in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled ''Convention Between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea'' (Convention), was signed in Ottawa, Canada, on March 2, 1953, and amended by the ''Protocol Amending the Convention,'' signed in Washington, DC, March 29, 1979. The Convention is administered by the International Pacific Halibut Commission (IPHC) and is given effect in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act).

The Halibut Act (section 773(c)) authorizes the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations that are in addition to, and not in conflict with, approved IPHC regulations for U.S. Convention waters. Federal regulations governing the halibut fisheries appear at 50 CFR part 300, subpart E. Halibut regulations may be implemented by NMFS only after approval by the Secretary of Commerce (Secretary). The Council has exercised this authority most notably in the development of the IFQ Program codified at 50 CFR part 679, subpart D.

Federal management of the commercial fishery for sablefish (*Anoplopoma fimbria*) is authorized by the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act) and implemented by regulations at 50 CFR part 679.

IFQ Program

The Council and NMFS developed the IFQ Program for the halibut and sablefish fixed-gear fisheries in waters in and off Alaska. The Council adopted the IFQ Program in 1991 under the authority of the Halibut Act and the Magnuson-Stevens Act. The preamble to the proposed rule for the IFQ Program, published December 3, 1992 (57 FR 57130), details the conservation and management background leading to the Council's adoption of the IFQ Program. NMFS implemented the program on November 9, 1993 (58 FR 59375) through Federal regulations at 50 CFR part 679. Fishing under the IFQ Program began on March 15, 1995. The IFQ Program is designed to maintain the social character and economic benefits of the commercial, fixed-gear fisheries that Alaskan coastal communities rely on as a source of revenue. The Council and NMFS intend the IFQ Program to provide economic stability for the Pacific halibut and sablefish commercial fisheries and improve long-term productivity of the resources.

The IFQ Program limits access to the halibut and sablefish fixed-gear fisheries in waters in and off Alaska to persons holding QS. Quota Share was initially issued to persons who owned or leased vessels that made legal commercial landings of Pacific halibut or sablefish during 1988–1990. The intent was to assign initial QS only to those fishermen then currently active in the halibut and sablefish fixed-gear fisheries. Once issued to a person, QS is held by that person until it is transferred, suspended, or revoked. The IFQ Program allows fishermen to transfer QS to other initial issuees or to those who have a Transferable Eligibility Certificate, giving them flexibility to determine what type of investment to make based on when, where, and how much halibut and sablefish they can harvest.

The amount of halibut and sablefish that each QS holder may harvest is calculated annually and issued as IFQ pounds on an IFQ permit. An IFQ permit authorizes participation in the fixed-gear fishery for Pacific halibut in and off Alaska, and in most fixed-gear sablefish fisheries off Alaska. IFQ permits are issued annually to persons holding Pacific halibut and sablefish QS or to those persons who are recipients of IFQ transfers from QS holders.

Persons holding QS have harvesting privileges for IFQ pounds of halibut or sablefish that are derived annually from their QS holdings. The amount (in pounds) specified on an permit is determined by the number of QS units held for a species, the total number of QS units issued for that species in a specific regulatory area, and the total allowable catch (TAC) of that species allocated for IFQ fisheries in a particular year, as modified by adjustments from the prior year's harvest.

The IFQ Program requires IFQ permit holders to be on board the vessel to maintain a predominantly ''owner-operated'' fishery. A narrow exemption exists for initial recipients of QS. Initial recipients of catcher vessel QS may be absent from a vessel conducting IFQ halibut or sablefish fishing, provided the QS holder can demonstrate a minimum specified level of ownership of the vessel that harvests the IFQ halibut or sablefish, as well as representation on the vessel by a hired master designated under IFQ regulations. This exception allows fishermen who historically operated their fishing businesses using hired masters before the implementation of the IFQ Program to retain the flexibility of using hired masters under the IFQ Program.

Description of Final Action

This final rule authorizes NMFS to revoke halibut and sablefish QS that have been inactive since they were originally issued in 1995. Inactive QS are those held by persons who have never harvested the IFQ derived from initially issued QS and who have never transferred QS or IFQ into or out of their IFQ Program accounts. NMFS will not revoke the inactive QS of any person who responds in writing to NMFS within 60 days after NMFS issues a Notice of Determination of Quota Share Inactivity, requesting that the inactive QS not be revoked. The action provides halibut and sablefish fishermen holding active QS an opportunity to fish for currently unavailable QS and more fully harvest these species' TACs.

The background and need for this action were described in detail in the preamble to the proposed rule published in the **Federal Register** on August 23, 2010 (75 FR 51741). In summary, amending the IFQ Program regulations will improve access to all available QS, increase the operational flexibility of fishermen participating in the IFQ fisheries, and increase yield from QS to help achieve optimum yield. In addition, data collection, recordkeeping, and reporting of inactive QS and the administrative tasks for managing inactive QS are eliminated. Less information to administer and manage will streamline aspects of the IFQ Program, reduce administrative costs, and promote efficient use of IFQ Program and participant resources. To achieve these objectives, the final rule authorizes NMFS to revoke inactive QS.

Halibut and sablefish QS was initially allocated to persons who qualified to hold an IFQ permit pursuant to

regulations at § 679.40(a). These regulations specified no minimum amount of halibut or sablefish QS to be issued. As a result, small amounts of QS were initially issued to just over 200 persons who to date have never fished the IFQ derived from that QS, or transferred the QS to another person. Thus, the recipients of these QS allocations have left their QS inactive for the entire 16 years since it was initially issued. They presumably have elected not to participate actively in the IFQ fisheries, are no longer in the commercial fishing industry, are deceased, or have been unable or unwilling to divest or otherwise transfer their inactive QS. Persons holding inactive QS have had the same opportunity as persons with active QS to participate in the IFQ Program by fishing their IFQ or transferring their QS and IFQ.

As a result of inactive QS, some IFQ and a portion of the TAC is not harvested. This reduces economic and social benefits from IFQ harvests typically realized by fishery dependent businesses and the public. Consumers are deprived of product, active IFQ fishermen are precluded from harvesting the IFQ derived from inactive QS, and new entrants to the IFQ fisheries are denied access to halibut and sablefish QS held by persons who have never participated in the IFQ fisheries. This final rule will improve operational flexibility of active program participants to harvest species TACs, and will allow broader opportunity to achieve the halibut fishery's constant exploitation yield and the optimum yield from the sablefish fisheries as required by National Standard 1 of the Magnuson-Stevens Act.

Moreover, even though QS is inactive, NMFS must perform routine administrative tasks to process, monitor, and maintain data on inactive QS, including recordkeeping, regular correspondence with the IFQ permit holder that holds inactive QS, annual allocation of IFQ pounds, and data reporting. The administrative work detracts time from NMFS managers that can be used more productively. Additionally, IFQ permit holders help pay for the program costs through the IFQ cost recovery program (§ 679.45) by remitting a fee for IFQ species landed. When QS remains inactive, no landing fees accrue to the program, although the IFQ permit holder with the inactive QS continues to receive administrative support from the IFQ Program. This action will eliminate the administrative tasks and costs for managing inactive QS, because the rule removes that QS entirely. Less information to administer and manage will streamline aspects of the IFQ Program to the benefit of QS managers and program participants. Reducing the administrative costs and burden will allow for more efficient use of IFQ Program resources.

This action revokes inactive halibut and sablefish QS. The portion of the annual halibut and sablefish TACs represented by the revoked QS and associated IFQ will be distributed in future years among IFQ permit holders in an amount proportional to their IFQ allocation. Alternatively, if a permit holder requests NMFS not to revoke his or her inactive QS, then NMFS will assign an active status to that QS because the permit holder took action in making the request. This QS retained by request will remain integrated with previously-active QS and the associated IFQ will continue to be issued annually.

Revoking QS will not change the initial recipient status of the QS holder. Hence, if a person was initially allocated QS that is revoked under this action and subsequently acquires new QS in the future, that person retains the benefit of being an initial recipient of QS for purposes of retaining the flexibility of using a hired master.

Public Notice

In June 2006, the Council acted on a multi-part IFQ regulatory amendment package that included this action on inactive QS. The Council adopted a preferred alternative to (1) revoke all inactive halibut and sablefish QS from the QS pools and (2) redistribute inactive halibut QS through a lottery if the final amount of revoked inactive QS exceeds the number of QS units equivalent to 50,000 pounds (22.7 mt) for all IPHC regulatory areas in the year of the lottery. NMFS separated the Council's multiple recommendations into different regulatory amendment packages. This final rule is the final one of the series recommended by the Council in 2006. As a result, several years have passed between the Council's action notifying the public of the pending change to the IFQ Program and publication of this final rule.

Since Council action, NMFS, Alaska Region, has maintained a Web site listing of inactive QS and the information needed to facilitate voluntary transfers of QS. NMFS also contacted persons holding inactive halibut or sablefish QS by direct mail. NMFS notified these persons of the status of this action in letters sent by direct mail in January 2008 and again in March 2009. NMFS communicated that it was pursuing rulemaking that, if implemented, would require persons to notify NMFS in writing that they do not want their inactive QS and associated annual IFQ revoked. In between these notification letters, the amount of inactive halibut QS declined below the threshold poundage to conduct a lottery prompting the Council, in February 2009, to reaffirm its previous recommendation for the Preferred Alternative, but without the lottery. NMFS also provided broad public notice of the Council's intent to withdraw inactive QS with publication of the proposed rule (75 FR 51743) in the **Federal Register**, August 23, 2010.

The RIR/FRFA prepared for this action (see **ADDRESSES**) finds that when the Council initially considered the proposal in June 2006, 534 persons held 865,586 units of inactive halibut QS (280,000 lbs [127 mt] in 2006 equivalents). Inactive sablefish QS equating to 57,522 units (16,000 lbs [7.3 mt] in 2006 equivalents) was held by seven persons. As of December 21, 2011 (the most current data available), 202 persons held 156,218 units of inactive halibut QS (10,597 lbs [4.8 mt] in 2011 equivalents) and two persons held 9,281 units of inactive sablefish QS (695 lbs [0.32 mt] in 2011 equivalents). Overall, the communications with IFQ permit holders stimulated transfers of inactive QS that resulted in a 62 percent decline in the number of persons holding inactive halibut QS and a 71 percent decline in the number of people holding inactive sablefish QS. The decline in QS units was also similar for both species: Inactive halibut QS declined 82 percent and inactive sablefish QS declined 84 percent.

Official Notice and Record

This final rule implements regulations authorizing NMFS to send each holder of inactive QS a ''Notice of Determination of Quota Share Inactivity'' (Inactive QS Notice). The Inactive QS Notice will be sent by certified mail to the address of record at the time the Inactive QS Notice is sent (§ 679.43(e)). The inactive QS holder bears the responsibility if the Inactive QS Notice is not received because the inactive QS holder has not notified NMFS of a change in the address of record. The Inactive QS Notice will describe the inactive status of the QS, identify the IFQ permit holder, and provide the date the authorized 60-day response period will end.

NMFS will issue an Inactive QS Notice alerting a holder of inactive halibut or sablefish QS that their QS are considered inactive based on records maintained by NMFS. An Inactive QS Notice will be issued if official records indicate that the QS holder initially issued the QS never landed their IFQ

halibut or IFQ sablefish, or transferred any QS or IFQ to or from another person. The official record of an IFQ halibut or IFQ sablefish landing contains the IFQ permit number to which the IFQ landing was credited. The number of landings and weight of each landing will be based only on legally submitted harvest documentation. Legal documentation is an IFQ Landing Report submitted under § 679.5, which indicates, among other data, the amount of IFQ halibut or IFQ sablefish harvested, the IPHC or groundfish reporting area in which the IFQ amounts were harvested, the vessel and gear type used for the harvest, and the date of harvesting, landing, or reporting. NMFS presumes that the official record data sources are correct. If a person believes the official record is incorrect, his or her claim can be raised in a separate correspondence to NMFS, Restricted Access Management Program, Juneau, AK (see **ADDRESSES**) prior to the end of the 60-day response period specified in the Inactive QS Notice.

Options for Persons Holding Inactive Quota Share

A person who holds inactive QS has two options when responding to an Inactive QS Notice. During the 60-day response period specified in the Inactive QS Notice, the person holding the inactive QS could (1) do nothing, thereby resulting in revocation of the inactive QS; or (2) request in writing that the inactive QS be considered active and not revoked. Alternatively, a person holding inactive QS could exercise options that have existed since the beginning of the IFQ Program in 1995 to either transfer some or all of the inactive QS, or harvest halibut or sablefish based on IFQ derived from the inactive QS. These options are further explained below.

NMFS will revoke the inactive QS of a QS holder who fails to respond to NMFS within the 60-day period specified in the Inactive QS Notice. NMFS will remove revoked QS from the QS pool and will not generate an annual allocation of IFQ poundage for IFQ halibut or IFQ sablefish. Any IFQ derived from the inactive QS also will be revoked at the time that the inactive QS are revoked. After inactive QS are revoked, the previous holder of those QS can participate in the IFQ halibut or IFQ sablefish fisheries only if they subsequently receive QS or IFQ, or both, by transfer.

A person holding inactive QS who wishes to retain the inactive QS may notify NMFS in writing that he or she does not want the inactive QS revoked; this written notification must be received within the 60-day response period specified in the Inactive QS Notice. This notification will demonstrate sufficient activity in the IFQ Program to allow NMFS to activate the otherwise inactive QS. After receiving the QS holder's timely written notification, NMFS will allocate IFQ based on the activated QS as it has done since the beginning of the IFQ Program, and the holder of such QS will continue to benefit from the initial recipient privileges specified in the regulations implementing the IFQ Program (§§ 679.41 and 679.42). The IFQ halibut and IFQ sablefish harvesting privilege for an initial recipient of QS will continue as it does for all other initial recipient QS holders.

A person holding inactive QS who fails to respond to the Inactive QS Notice from NMFS within the 60-day response period may appeal to the NMFS National Appeals Office to submit his or her response late pursuant to § 679.43. As a practical matter, any other written challenge of the Inactive QS Notice received within the 60-day response period will be considered a request to not revoke the inactive QS. Such challenges will activate the otherwise inactive QS by demonstrating a reaction and, therefore, at least minimal activity in the IFQ Program.

The options to activate otherwise inactive QS by either transferring some or all of the inactive QS, or harvesting halibut or sablefish based on IFQ derived from the inactive QS, will continue to be available to a person holding inactive QS through the end of the 60-day response period specified in the Inactive QS Notice. No additional period of time will be provided to demonstrate these activities.

Written Response to Inactive QS Notice

The Inactive QS Notice provides the person holding the inactive QS with the opportunity to request in writing that inactive QS and IFQ remain active. NMFS will accept written responses by mail, courier or hand-delivery, or fax. The response deadline will be 60 days after NMFS sends the Inactive QS Notice and will be stamped on the Notice and identified as the Response Date. Responses must be received by NMFS no later than the date printed on the Inactive QS Notice, or, if sent by mail, postmarked by that date. If delivered by hand or carrier, the receipt date will be the date the response is stamped received by NMFS. If sent by facsimile, the receipt date will be the date stamped received by NMFS. Any other form of response, including email, will not be accepted. The Inactive QS Notice will be constructed to allow the bottom half of the document to be separated and used as a mail-in response form to NMFS indicating whether the holder of the inactive QS wants to retain the QS. The following statement will be printed on the mail-in response form as an expression of the QS holder's request to not revoke the inactive QS: ''I [print first name, middle initial, and surname] request that NMFS not revoke my quota share authorized by my signature on this date; Signed [Write signature], Dated [Enter the current date].'' A holder of inactive QS may also respond without using the provided form, but must include the same information, names, signatures, and dates as specified on the mail-in response form. Each completed form or other response statement received by NMFS by the response date and verified correct will result in a letter of acknowledgement issued to the person identified as the holder of the inactive QS or his or her legal representative. The letter will serve as final agency action advising that QS will be ''active'' and no further response by the person holding the inactive QS or by NMFS will be required.

Previous Response to NMFS Letters

Any previous request to NMFS to activate inactive QS is not sufficient for NMFS to change that QS status. If a response was submitted to NMFS regarding inactive QS and the IFQ permit holder has since officially activated the QS by completing a transfer or fishing the IFQ, then no further response is required. If a QS holder previously responded to NMFS' letters about inactive QS and requested he or she be able to keep the inactive QS, then the IFQ permit holder must again submit that request pursuant to this final rule to avoid revocation of inactive QS.

Public Comment

NMFS proposed this action in the **Federal Register** on August 23, 2010 (75 FR 51741). NMFS received two comments during the public comment period for the proposed rule. These comments are addressed below.

Comment 1: The commenter maintains that this action will result in an increased number of hooks deployed and therefore will increase the risk that short-tailed albatross will be caught and drowned in the halibut longline fishery. The commenter considers this redistribution of TAC and the current use of improved seabird bycatch avoidance measures in the halibut fishery to be a change in the action previously analyzed in the 1998 Bering Sea Aleutian Islands and Gulf of Alaska

Halibut Fishery Biological Opinion (1998 Biological Opinion) issued by the U.S. Fish and Wildlife Service (FWS) on March 13, 1998 (*http://alaskafisheries.noaa.gov/protectedresources/seabirds/section7/pachalibut.pdf*). In addition, the commenter considers the increased population of short-tailed albatross to be a change in the environmental baseline. For these reasons, the commenter recommends that NMFS reinitiate section 7 consultation with FWS on the effects of the Pacific halibut fishery on the short-tailed albatross. The commenter also recommends restructuring the observer program to require observers on commercial halibut longline vessels.

Response: NMFS disagrees that re-initiation of consultation with the FWS is required under section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1536.

Section 7 of the ESA and implementing regulations at 50 CFR part 402 require each federal agency, in consultation with either the FWS or NMFS depending on the species involved, to insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of any endangered or threatened species. In April 1997, NMFS re-initiated consultation regarding the effects of the Pacific halibut commercial fishery on the endangered short-tailed albatross. In March 1998, the FWS issued its 1998 Biological Opinion that the Pacific halibut fishery is not likely to jeopardize the continued existence of the endangered short-tailed albatross.

The 1998 Biological Opinion included an incidental take statement authorizing incidental take of up to two short-tailed albatross every two years. It stated that, as provided in 50 CFR 402.16, re-initiation of formal consultation is required ''when discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) The amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.'' 1998 Biological Opinion, page 30. The 1998 Biological Opinion analyzed the effects of authorizing the commercial halibut longline fishery in the Bering Sea Aleutian Islands and Gulf of Alaska on the short-tailed albatross. The halibut and sablefish harvest quotas have been managed under the IFQ Program since 1995; specifically, the IFQ Program analyzed in the 1998 Biological Opinion allocates the entire total TACs of sablefish and Pacific halibut to the IFQ fleets commercially fishing for these species. In other words, revoking inactive QS will not increase the number of hooks deployed in the fishery relative to the level of harvest analyzed in the 1998 Biological Opinion, because that opinion assessed the possibility of a 100 percent harvest rate, which is higher than the current actual harvest rate. Furthermore, the amounts of sablefish and Pacific halibut likely to be made available for harvest by this final rule constitute only a very small proportional increase in harvest of the sablefish and Pacific halibut TACs. For example, in 2011, 204 QS holders out of a total of 2,954 held inactive QS, and as a result, approximately .02 percent of the IFQ TAC for halibut and sablefish was not harvested. Consequently, NMFS determines that the final rule does not modify agency action in a manner that causes an effect to the short-tailed albatross that was not considered in the 1998 Biological Opinion.

Furthermore, FWS previously concurred that revised NMFS regulations implementing improved seabird avoidance measures in the hook-and-line fisheries off Alaska are not likely to adversely affect the short-tailed albatross. Thus, NMFS disagrees that improved seabird avoidance measures and revised regulations to implement these measures is a change in the action requiring re-initiation of consultation.

In addition, although the short-tailed albatross population has increased, NMFS disagrees that this population increase amounts to a change in the environmental baseline that reveals effects of the action that may affect the short-tailed albatross in a manner or to an extent not considered in the 1998 Biological Opinion. In the 1998 Biological Opinion, FWS analyzed the upward trend in the short-tailed albatross population and expected this trend to continue, which it has. Because the 1998 Biological Opinion considered the effects of the halibut fishery on an increasing population of short-tailed albatross, NMFS disagrees that the upward population trend is new information constituting a change in the baseline. Therefore, re-initiation of formal consultation is not required based on the increasing population trend of short-tailed albatross that was analyzed in the 1998 Biological Opinion.

NMFS recognizes the commenter's concern about the effects of the commercial Pacific halibut longline fishery on short-tailed albatross. NMFS agrees that data collected by observers on commercial halibut longline vessels will likely improve the knowledge of the effects this fishery might have on the short-tailed albatross. The 1998 Biological Opinion's reasonable and prudent measures include a requirement to implement a plan to investigate all options for monitoring the Pacific halibut fishery in waters off Alaska. In October 2010, the North Pacific Fishery Management Council recommended that the halibut fishery be subject to observer coverage under the restructured North Pacific observer program. The extent of observer coverage in the halibut fishery and the implementation date of the restructured observer program have yet to be determined. NMFS is developing the proposed rule for the restructured observer program and will inform the public of the potential effects of this action when the details become available.

While NMFS does not believe that reinitiating section 7 consultation is warranted at this time, NMFS is compiling research data that will support a future re-evaluation of the effects of the Pacific halibut and groundfish fisheries off Alaska on short-tailed albatross, Steller's eider, and spectacled eiders. This explanation will include updated information on the improved seabird avoidance and habitat protection measures, new seabird bycatch mitigation research, and the potential impacts of a restructured observer program. NMFS anticipates that the requisite information and analyses will be available in the next year. NMFS is working with the public on Alaska fisheries issues that may affect ESA-listed species and will keep the public informed of the progress in developing the restructured observer program to ensure concerns are addressed.

Comment 2: Delay the inactive QS action until alternative options are identified for residents of small rural communities (less than 1,500 people) in the Gulf of Alaska to sell their category D QS to a Community Quota Entity (CQE) that represents the community. Revoking inactive QS would preempt future opportunity to transfer inactive category D QS to CQEs. Quota share is specific to regulatory areas and vessel categories. Halibut category D QS is specific to vessels 35 feet or less, length overall.

Response: This action provides IFQ permit holders with inactive QS an opportunity to retain QS by request and avoid removal of inactive QS. Permit holders responding to NMFS that they want to retain their inactive halibut or sablefish QS will have their QS status changed to active. IFQ permit holders also have the option to fish or transfer the QS to activate it any time prior to NMFS revoking the QS. Accordingly, NMFS sees no need to delay the action.

The CQE Program allows CQEs representing communities in IPHC regulatory Areas 2C and Area 3A to purchase halibut category B and C QS and prohibits them from purchasing halibut category D QS. One of the primary reasons the Council established this prohibition was to help ensure halibut category D QS would continue to be available to new entrants and crew members who wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for halibut category D QS, and result in more expensive, and less available, QS for individuals. Generally, category D QS are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel. Category D QS are often used by smaller operations, or new entrants, and there is a relatively small amount of halibut category D QS designated for each management area.

After NMFS received Comment 2, the commenters submitted the comment as a proposed regulatory change to the Council. In February 2011 the Council recommended that NMFS amend Federal regulations to allow Area 3A CQEs to purchase a limited amount of halibut category D QS with restrictions. NMFS intends to develop a proposed rule according to the Council's regulatory recommendation and, once approved, could proceed with a call for public comments. Following a review of the public comments on the proposed rule and subject to approval by the Secretary, NMFS may publish a final rule to implement this action. Holders of inactive halibut QS who reside in CQE communities who want to retain their inactive QS may do so by responding to NMFS in writing within the single 60-day response period and requesting that NMFS change the status of his or her QS and IFQ to ''active.'' If regulations are changed in the future to allow CQE purchase of halibut category D QS, then persons who activate their QS by request, lease, or by documenting a landing by the deadline in this action could transfer their activated QS to enhance fishery participation of individual CQE community residents and CQE communities.

Changes From the Proposed Rule

NMFS has changed the method of response to the Inactive QS Notice from mail only as in the proposed rule. NMFS determined that the requirement that response to the Inactive QS Notice be submitted only by U.S. Mail was too restrictive. Therefore, NMFS has broadened the method of submission to include hand-carried responses or responses by facsimile. This change is consistent with methods of submission authorized in other regulations under 50 CFR part 679, where NMFS has required an application or response by a date certain. NMFS did not make any other changes from the proposed rule, published August 23, 2010 (75 FR 51741).

Classification

The Administrator, Alaska Region, NMFS, determined that this rule is necessary for the conservation and management of the fisheries managed under the halibut and sablefish IFQ Program and that it is consistent with the Halibut Act, the FMPs, the national standards and other provisions of the Magnuson-Stevens Act, and other applicable laws.

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule also complies with the Secretary's authority under the Halibut Act to implement management measures for the halibut fishery.

Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) was prepared for this rule as required by section 604(a) of the Regulatory Flexibility Act (RFA). A FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA and NMFS' responses to those comments, if any, and a summary of the analyses completed to support the action. A copy of the RIR/FRFA is available from NMFS (see **ADDRESSES**).

The proposed rule was published in the **Federal Register** on August 23, 2010 (75 FR 51741). An RIR/IRFA was prepared and described in the ''Classification'' section of the preamble to the proposed rule. A copy of the RIR/IRFA is available from NMFS (see **ADDRESSES**). The public comment period ended on September 22, 2010. NMFS received two unique comment letters. Although neither of the comments directly addressed the IRFA or significant economic impact on small entities, Comment 2 referred to the potential for indirect economic impact on CQEs, which are not directly regulated by this action. No changes were made in the final rule from the proposed rule.

The RFA emphasizes (1) predicting adverse impacts on (1) small entities as a group distinct from other entities; and (2) considering alternatives that may minimize the significant economic impact on small entities, while still achieving the stated objectives of the action. The requirements for a FRFA are contained in section 604(a) of the RFA (5 U.S.C. 604(a)) and a complete description of the requirements are listed in the FRFA. The need for, and the objectives of, this final rule are in the section of the preamble titled ''Description of Final Action.'' The legal basis for this final rule is described in the preamble section titled ''Management of the Halibut and Sablefish IFQ Fisheries.'' A summary of the public comments and NMFS' responses are presented in the preamble section titled ''Public Comments.'' Descriptions of the voluntary compliance requirements of the rule are subsumed in sections of the preamble titled ''Options for Persons Holding Inactive Quota Share'' and ''Written Response.'' Sections of the preamble titled ''Public Notice'' and ''Official Notice and Record'' describe multiple steps NMFS has taken to alert persons with inactive QS of their options to activate QS and minimize economic impacts on these small entities from revoking their QS. Each of the above RFA requirements that are discussed in the preamble are not repeated here. The remaining FRFA requirements are to describe and estimate the current number of small entities to which the rule applies, explain why each one of the other alternatives to the rule that

could have affected the impact on small entities was rejected, and include a statement of the factual, policy, and legal reasons for selecting the alternative implemented by this action. These FRFA requirements are summarized here.

For purposes of a FRFA, the Small Business Administration (SBA) has established that a business involved in fish harvesting is a small entity if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $4 million for all its affiliated operations worldwide. A seafood processor is a small entity if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time or temporary, or other basis at all its affiliated operations. Because the SBA does not have a size criterion for businesses that are involved in both the harvesting and processing of seafood products, NMFS has in the past applied, and continues to apply, the SBA's fish harvesting criteria for these businesses because catcher/processors are first and foremost fish harvesting businesses. Therefore, a business involved in both the harvesting and processing of seafood products is a small business if it meets the $4 million criterion for fish harvesting operations.

Directly regulated entities in this action are persons that hold halibut QS or sablefish QS and whose future harvests would be deducted from the species' TAC. Currently, NMFS does not possess sufficient ownership and affiliation information to determine the precise number of QS holders considered small entities in the IFQ Program. Lacking more precise data on small entities, NMFS estimated the maximum number of small entities that are adversely impacted by this action to equal all inactive halibut QS and inactive sablefish QS holders, or 219 entities. The analysis also assumes that recipients of the additional QS from the proportional distribution of the IFQ from revoked QS will benefit from this rule, and these entities are therefore are not discussed further.

Small entities that could be impacted by this action are the QS holders whose inactive QS will be revoked unless they voluntarily comply with the requirements specified in regulation to retain the impacted QS. At the end of 2010, the most recent year with complete data, the amount of inactive halibut QS was 195,038 units, or 19,374 net lb (8.8 mt), held by 219 unique persons, which is the maximum number of small entities that could be impacted by this action. The maximum number of small entities holding inactive sablefish QS that could be revoked by this action equals 3 unique persons. These small entities held 9,281 inactive QS units of sablefish, equal to 661 round lb (0.3 mt) of sablefish.

Even if a small entity's QS and associated IFQ is revoked by this action, the initial issuee status of the QS recipient is not extinguished should the QS holder decide to re-enter the IFQ fishery. There is no projection of the number of persons who will have their inactive QS revoked but who will re-enter the halibut or sablefish fishery at some point in the future. At most the number of persons will not exceed the total number of QS holders that will have QS and associated IFQ revoked at the end of the 60-day response period.

It is not possible to determine the precise number of the 219 small entities holding inactive halibut and sablefish QS, as of the end of 2010, that will activate their QS before the end of the 60-day notice period. Not all activated QS can be expected to result in landed catch as some entities may choose to hold QS for reasons other than for fishing. However, the amount of QS retained under such circumstance would be miniscule compared to the overall amount of QS allocated to both fisheries.

Small entities that transferred some or all of their halibut or sablefish IFQ but never harvested any IFQ halibut or IFQ sablefish will not be subject to revocation of their QS under this final rule.

All inactive QS revoked by NMFS at the end of the 60-day notice period will be removed from the NMFS QS database. The pounds of annual IFQ represented by the revoked QS will be distributed among IFQ permit holders with active QS in an amount proportional to their IFQ allocation in the years following the revocation.

Based on available data and more general information concerning the probable economic activity of vessels in the halibut and sablefish IFQ fisheries, no vessel operation directly regulated by the IFQ Program could have been used to land more than $4 million in combined gross receipts (the maximum gross revenue threshold for a small catcher vessel) in 2005 or 2008, the years analyzed for the Council's 2006 and 2009 selection of a preferred alternative. All entities directly regulated by this action are considered small entities under the RFA, and have gross annual revenues less than $4 million. The action will not have a significant adverse impact on affected small entities relative to the status quo, no action alternative.

NMFS considered the effects and costs of this action in analysis of alternatives independent of all entities status as small entities. Each one of the other significant alternatives considered by the agency and rejected by the Council also impacted small entities. The Council reviewed the status quo, no action alternative of not revoking inactive halibut or sablefish QS, and two action alternatives to withdraw inactive QS. The two action alternatives were merged into one alternative when the provision for a lottery to redistribute revoked QS to eligible persons was rescinded from the preferred alternative. The lottery provision depended on there being at least 50,000 lbs (22.7 mt) of inactive QS units available for revocation. Because NMFS and the Council determined the amount of inactive QS fell below that threshold for all IPHC regulatory areas, they decided to eliminate this provision. NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of this action and that would minimize adverse economic impact of this action on small entities. Compared to the status quo, this action allows holders of inactive halibut or sablefish QS to voluntarily relinquish their inactive QS or transfer that QS prior to the end of the 60-day response period. The objective of this action is to relieve an operational restriction created by a lack of regulatory authority. The original impetus for the IFQ Program QS lottery has been superseded by ongoing changes in the characteristics of the halibut and sablefish fisheries QS holdings—specifically, the increased transfer of inactive QS and elimination of latent IFQ.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The guide explains the actions an IFQ permit holder with inactive QS may voluntarily take to avert NMFS revoking inactive QS pursuant to this final rule. The preamble to this final rule serves as the Small Entity Compliance Guide. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of the final rule may be obtained from the

NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Collection of Information

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by the Office of Management and Budget (OMB) under Control No. 0648–0272. Public reporting burden for a letter requesting NMFS not revoke IFQ Program QS is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 15, 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 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.40, add paragraph (a)(10) to read as follows:

§ 679.40 Sablefish and halibut QS.

* * * * *

(a) * * *

(10) NMFS revokes inactive QS if the person holding inactive QS does not:

(i) Respond in writing to NMFS, within 60 days after NMFS issues a Notice of Determination of Quota Share Inactivity (Inactive QS Notice) sent to the address of record as defined at § 679.43(e) of this part, requesting that the inactive QS not be revoked. Responses must be received by NMFS no later than the date contained on the Inactive QS Notice

(ii) For purposes of paragraph (a)(10) of this section, ''respond in writing'' means write a statement directing NMFS to change the status of QS to ''active'' and sign and date the statement or complete the form attached to the Inactive QS Notice and send by U.S. Mail, courier, hand delivery, or facsimile to the NMFS, Alaska Region as provided on the Inactive QS Notice and printed on the front side of the form. The written response must be received by NMFS no later than the date contained on the Inactive QS Notice or if sent by mail, postmarked by that date. If delivered by hand or courier, the receiving date is the date the notice is stamped received by NMFS.

(iii) For purposes of paragraph (a)(10) of this section, the term ''inactive QS'' means halibut QS or sablefish QS, held by a person who received an initial allocation of halibut QS or sablefish QS and has not taken any of the following actions:

(A) Transferred any halibut QS or sablefish QS pursuant to § 679.41;

(B) Transferred any halibut IFQ or sablefish IFQ pursuant to § 679.41;

(C) Landed any halibut authorized by IFQ halibut permit(s) issued to that person; or

(D) Landed any sablefish authorized by IFQ sablefish permit(s) issued to that person.

* * * * *

[FR Doc. 2012–12153 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 97
Friday, May 18, 2012

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

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742, 772 and 774

[Docket No. 111229800–2073–01]

RIN 0694–AF51

Revisions to the Export Administration Regulations: Auxiliary and Miscellaneous Items That No Longer Warrant Control Under the United States Munitions List and Items on the Wassenaar Arrangement Munitions List

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The Bureau of Industry and Security (BIS) publishes this action to propose how auxiliary and miscellaneous military equipment and related articles the President determines no longer warrant control under Category XIII (Auxiliary Military Equipment) of the United States Munitions List (USML) would be controlled under the Commerce Control List (CCL) in new Export Control Classification Numbers (ECCNs) 0A617, 0B617, 0C617, 0D617, and 0E617 as part of the proposed new ''600 series'' of ECCNs.

This rule proposes also to integrate into those five new ECCNs items within the scope of Wassenaar Arrangement Munitions List (WAML) Category 17 that would be removed from the USML, or that are not specifically identified on the USML or CCL but that are currently subject to USML jurisdiction. Finally, this rule proposes to control some items now classified under ECCNs 0A018, 0A918 and 0E018 under new ECCNs 0A617 and 0E617. This action would consolidate the above-mentioned auxiliary and miscellaneous military equipment and related articles on the CCL in the proposed new ''600 series.'' This rule is one of a planned series proposing how various types of articles that the President determines, as part of the Administration's Export Control Reform Initiative, no longer warrant control on the USML under the International Traffic in Arms Regulations (ITAR), would be controlled on the CCL in accordance with the requirements of the Export Administration Regulations (EAR). This proposed rule is being published in conjunction with a proposed rule from the Department of State, Directorate of Defense Trade Controls, which would amend the list of articles controlled by USML Category XIII.

DATES: Comments must be received by July 2, 2012.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2012–0014.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AF51 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AF51.

FOR FURTHER INFORMATION CONTACT: Michael Rithmire, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: (202) 482–6105, Email: *Michael.Rithmire@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2011, as part of the Administration's ongoing Export Control Reform Initiative, the Bureau of Industry and Security (BIS) published a proposed rule (76 FR 41958) (herein the ''July 15 proposed rule'') that set forth a framework for how to transfer articles the President determines, in accordance with section 38(f) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(f)), no longer warrant control on the United States Munitions List (USML) to control under the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the Export Administration Regulations (EAR). That framework included a proposal by BIS describing a new ''600 series'' set of Export Control Classification Numbers (ECCNs) to control defense articles that move to the CCL from the USML, as well as Wassenaar Arrangement Munitions List (WAML) items. Specifically, the proposed new ''600 series'' entries would capture WAML and formerly USML end items and related items that have been removed from the USML or that are not specifically identified on the USML or CCL. It would also control some items now classified on the CCL. These actions would consolidate control of munitions items and related articles on the CCL.

On November 7, 2011 (76 FR 68675), BIS published a proposed rule (herein the ''November 7 proposed rule'') proposing several changes to the framework initially proposed in the July 15 proposed rule.

Following the structure of the July 15 and November 7 proposed rules, this action proposes to control in new ECCNs 0A617, 0B617, 0C617, 0D617, and 0E617: Auxiliary and miscellaneous military equipment and related items from WAML 17 that would be removed from USML Category XIII under the International Traffic in Arms Regulations (ITAR) because the President determines they no longer warrant control under USML Category XIII; items not specifically identified on the USML or CCL, but that currently are subject to USML jurisdiction; and items ending in ''018'' on the CCL.

The proposed changes described in this rule and the State Department's proposed amendments to Category XIII of the USML are based on a review of the USML by the Defense Department, which worked with the Departments of State and Commerce in preparing the proposed rules. That review focused on identifying the types of articles that are now controlled by USML Category XIII and other relevant USML Categories that are either: (i) Inherently military and otherwise warrant control on the USML; or (ii) a type common to civil applications, possessing parameters or characteristics that provide a critical military or intelligence advantage to the United States, and that are almost exclusively available from the United States. If an article satisfied either or both of those criteria, the article remains on the USML. If an article did not satisfy either criterion, but was determined, nonetheless, to be a type of article that is now on the corresponding USML or the Munitions List of the Wassenaar Arrangement on Export Controls for Conventional Arms and

Dual-Use Goods and Technologies (Wassenaar Arrangement Munitions List or WAML), then it has been identified in one of the new ECCNs in this proposed rule. The license requirements, license policies and other EAR-specific controls for such items that are proposed in this action would, when considered in the context of the other proposed amendments to the USML and the CCL, enhance national security by: (i) Allowing for greater interoperability with North Atlantic Treaty Organization (NATO) and other allies while maintaining and expanding robust controls that, in some instances, include prohibitions on exports or reexports destined for other countries or intended for proscribed end users and end uses; (ii) enhancing the U.S. defense industrial base by, for example, reducing the current incentives for foreign companies to design out or avoid U.S.-origin ITAR-controlled content, particularly with respect to generic, unspecified parts and components; and (iii) permitting the U.S. Government to focus its resources on controlling, monitoring, investigating, analyzing, and, if need be, prohibiting exports and reexports of more significant items to destinations, end users, and end uses of greater concern than NATO allies and other multi-regime partners.

Pursuant to section 38(f) of the AECA, the President shall review the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law.'' 22 U.S.C. 2778(f)(1).

As noted above, this action proposes to control under the EAR auxiliary and miscellaneous military equipment and related articles currently in USML Category XIII under the ITAR that the President determines no longer warrant control on the USML. If implemented, this rule would control under the EAR: Items from WAML Category 17 that would be removed from USML Category XIII; items not specifically identified on the USML or CCL but that currently are subject to USML jurisdiction; and items ending in ''018'' on the CCL, specifically, some items now classified under ECCNs 0A018, 0A918 and 0E018 under new ECCNs 0A617 and 0E617. This would consolidate the above-mentioned auxiliary and miscellaneous military equipment and related articles on the CCL in a proposed new ''600 series.'' As this rule describes the controls that would be in place for miscellaneous items, it also specifies how the CCL would be amended to clarify where an item may be controlled under another USML Category or ECCN.

In the July 15 proposed rule, BIS proposed creating a series of new ECCNs to control items that: (i) Would be moved from the USML to the CCL; or (ii) are listed on the Wassenaar Arrangement Munitions List and are already controlled elsewhere on the CCL. That proposed rule referred to this series as the ''600 series'' because the third character in each of the new ECCNs would be a ''6.'' The first two characters of the ''600 series'' ECCNs serve the same function as described for any other ECCN in § 738.2 of the EAR. The first character is a digit in the range 0 through 9 that identifies the Category on the CCL in which the ECCN is located. The second character is a letter in the range A through E that identifies the product group within a CCL Category. In the ''600 series,'' the third character is the number 6. With few exceptions, the final two characters identify the WAML category that covers items that are the same or similar to items in a particular ''600 series'' ECCN.

This proposed rule would create five new ''600 series'' ECCNs in CCL Category 0 (ECCNs 0A617, 0B617, 0C617, 0D617, and 0E617). ECCN 0A617 would cover miscellaneous equipment, materials, and related commodities, including crew kits. ECCN 0B617 would cover test, inspection, and production ''equipment'' and related commodities ''specially designed'' for the ''development'' or ''production'' of commodities controlled by ECCN 0A617 or USML Category XIII. ECCN 0C617 would cover miscellaneous materials ''specially designed'' for military use. ECCN 0D617 would cover ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 0A617, ''equipment'' controlled by 0B617, or materials controlled by 0C617. ECCN 0E617 would cover ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by 0A617 ''equipment'' controlled by 0B617, materials controlled by 0C617, or ''software'' controlled by 0D617.

BIS will publish additional **Federal Register** notices containing proposed amendments to the CCL that will describe proposed controls for additional categories of articles the President determines no longer warrant control under the USML. The State Department will publish, concurrently, proposed amendments to the USML that correspond to the BIS notices. BIS will also publish proposed rules to further align the CCL with the WAML and the Missile Technology Control Regime Equipment, Software and Technology Annex.

Detailed Description of Changes Proposed by This Rule

This proposed rule would create five new ''600 series'' ECCNs in CCL Category 0—0A617, 0B617, 0C617, 0D617, and 0E617—that would clarify the EAR controls that apply to auxiliary and miscellaneous military equipment and related articles the President determines no longer warrant control under USML Category XIII. This category also applies to items from WAML Category 17 that would be removed from USML Category XIII; items not specifically identified on the USML or CCL but that currently are subject to USML jurisdiction; and items ending in ''018'' on the CCL, specifically, some items now classified under ECCNs 0A018, 0A918 and 0E018 under new ECCNs 0A617 and 0E617. This action would consolidate the above-mentioned auxiliary and miscellaneous military equipment and related articles on the CCL in a proposed new ''600 series'' consistent with the regulatory construct identified in the July 15 proposed rule. Finally, this rule would add a corresponding new definition to section 772.1 of the EAR.

The proposed changes are discussed in more detail below.

New ECCN 0A617: Miscellaneous Equipment, Materials, and Related Commodities

ECCN 0A617.a would control construction equipment ''specially designed'' for military use, including such equipment ''specially designed'' for transport in aircraft controlled by USML Category VIII(a) or proposed ECCN 9A610.a (proposed in the November 7 rule); and ''parts,'' ''components'' and ''accessories and attachments'' ''specially designed'' therefor, including crew protection kits used as protective cabs. Such items currently are controlled under ECCN 0A018.a as ''construction equipment built to military specifications, including equipment specially designed for airborne transport; and specially designed parts and accessories for such construction equipment, including crew protection kits used as protective cabs,'' and are identified in WAML Category 17.b.

ECCN 0A617.b would control concealment and deception equipment ''specially designed'' for military application that are not controlled in USML Category XIII(g), as well as ''parts,'' ''components,'' ''accessories and attachments'' specially designed therefor. ECCN 0A617.c would control ferries, bridges (other than those described in ECCN 0A606 or USML Category VII), and pontoons if the ferries, bridges or pontoons are ''specially designed'' for military use, also identified in WAML Category 17.m. Although not explicitly named or described on the USML, these items are currently controlled by USML Category VII(g). ECCN 0A617.d would control test models ''specially designed'' for the ''development'' of defense articles controlled by the USML or commodities controlled in the ''600 series.'' Such items are identified in WAML Category 17.n. Although not explicitly named or described on the USML, such items would be controlled in relation to the defense article they model, such as items in USML Categories VII(g) and VIII(h). ECCN 0A617.e. would control photointerpretation, stereoscopic plotting and photogrammetry equipment that would not be controlled by USML Category XIII(a) or elsewhere in the USML, as well as ''parts,'' ''components,'' ''accessories and attachments'' ''specially designed'' therefor. ECCN 0A617.f would control ''metal embrittlement agents'', currently controlled by USML Category XIII(i) but not within the scope of the revised Category XIII the State Department has proposed. The term ''metal embrittlement agents'' would be defined in the EAR the same way it is now defined in the ITAR.

Paragraphs .g through .x would be reserved for possible future use. Unlike other proposed Category rules previously published as a part of the Export Control Reform Initiative, ECCN 0A617, and the other ECCNs in the 0X617 series, would not contain a catch-all control in the ''.x'' subparagraph for all parts and components ''specially designed'' for items in that category because neither USML Category XIII nor WAML Category 17 contain such a catch-all for auxiliary or miscellaneous military equipment. To the extent a part or component is controlled in this ECCN, it is described in the applicable subparagraphs.

Paragraph .y would control other commodities, as listed in the .y subparagraphs. Specifically, ECCN 0A617.y.1 would control containers ''specially designed'' for military use, which are currently identified in WAML Category 17.l. ECCN 0A617.y.2 would control military field generators, which are currently identified in WAML 17.k. ECCN 0A617.y.3 would control military power-controlled searchlights and related items. Such items are currently classified under ECCN 0A918.a as ''miscellaneous military equipment.'' Paragraphs y.4 through y.98 would be reserved for future use.

Finally, to the extent an item referred to in WAML 17 is already clearly controlled in another existing USML Category or ECCN, then the ''related controls'' note at the beginning of proposed ECCN 0A617 would identify where in the CCL and/or USML it is controlled.

New ECCN 0B617: ''Equipment'' ''Specially Designed'' for Commodities Controlled by ECCN 0A617.a or USML Category XIII

ECCN 0B617.a would control test, inspection, and production ''equipment'' not controlled by USML Category XIII(k) ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A617 or USML Category XIII. Paragraphs .b through .x would be reserved for possible future use.

ECCN 0B617.y would control specific test, inspection, and production ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A617 (except 0A617.y) and ''parts,'' ''components,'' and ''accessories and attachments'' ''specially designed'' therefor. Since this proposed rule does not list specific equipment under paragraph .y, sub-paragraphs .y.1 through .y.98 would be reserved for possible future use.

A note to 0B617 explains that field engineer equipment ''specially designed'' for use in a combat zone and mobile repair shops ''specially designed or modified to service military equipment, which are identified in WAML Categories 17.d and 17.j,'' respectively, are classified under ECCN 0B617 to the extent that the items are not included in USML XIII(k).

New ECCN 0C617: Miscellaneous Materials ''Specially Designed'' for Military Use

ECCN 0C617.a would control materials, coatings and treatments for signature suppression, ''specially designed'' for military use and that are not controlled by the USML or ECCNs 1C001 or 1C101. Paragraphs .b through .x would be reserved for possible future use. ECCN 0C617.y would control materials ''specially designed'' for military use, which are currently identified in WAML Category 17.c. However, this proposed rule would not include in paragraph .y those items that are ''specially designed'' for defense articles on the USML. Because this proposed rule does not list specific materials under paragraph .y, sub-paragraphs .y.1 through .y.98 would be reserved for possible future use.

Of particular significance to this rule, as noted in the November 7 rule, materials currently controlled by USML Category XIII(f), not identified in another USML Category, and not identified in ECCN 0C617 through this proposed rule, will likely be captured in other ''600 series'' ECCNs published in future proposed rules. In each instance, the materials will likely be classified in the C entry related to the end items for which the materials are specially designed. For example, as stated in the November 7 proposed rule, materials specially designed for military aircraft that are currently controlled under USML Category XIII(f) would be captured by ECCN 9C610, which controls materials ''specially designed'' for military aircraft controlled by ECCN 9A610.

New ECCN 0D617: ''Software'' ''Specially Designed'' for Items Controlled by ECCN 0A617, 0B617 or 0C617

ECCN 0D617.a would control ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by ECCN 0A617, ''equipment'' controlled by ECCN 0B617, or materials controlled by ECCN 0C617. Consistent with the other proposed ''600 series'' software controls, the .y paragraphs for ECCN 0D617 would control specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities controlled by ECCN 0A617.y, 0B617.y or 0C617.y. Paragraphs .b through .x would be reserved for possible for future use. Because this proposed rule does not list specific materials under paragraph .y, sub-paragraphs .y.1 through .y.98 also would be reserved for possible future use.

New ECCN 0E617: ''Technology'' ''Required'' for Items Controlled by ECCN 0A617, 0B617, 0C617 or 0D617

ECCN 0E617.a would control ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of commodities controlled by ECCN 0A617, ''equipment'' controlled by

ECCN 0B617, materials controlled by ECCN 0C617, or ''software'' controlled by ECCN 0D617. Items controlled by ECCN 0E617 would include ''technology'' currently in ECCN 0E018 for the ''production'' of crew protection kits used as protective cabs (currently in ECCN 0A018.a and proposed for ECCN 0A617). Paragraphs .b through .x would be reserved for possible for future use.

Subparagraph .y.1 of ECCN 0E617 would control specific ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul or refurbishing of items controlled by ECCNs 0A617.y, 0B617.y, 0C617.y or 0D617.y. ECCN 0E617.y.1 would control ''technology'' for military power-controlled searchlights and related items, which would be classified under proposed ECCN 0A617.y.3 (moving from ECCN 0A918.a). The ''technology'' for such items is currently not classified on the CCL, but if this rule is implemented, it would be classified under ECCN 0E617.y.1. Subparagraphs .y.2 through .y.98 would be reserved for possible future use.

Including ''.y.99'' Paragraphs in ''600 Series'' ECCNs

ECCNs 0A617, 0B617, 0C617, 0D617 and 0E617 would also contain a paragraph ''.y.99,'' that would control any item that: (i) Has been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR; and (ii) would otherwise be controlled elsewhere under one of the Category 0, ''600 series.''

Applicable Controls

All items in these proposed 0Y617 ECCNs (except items in the .y paragraphs) would be subject to national security (NS Column 1), regional stability (RS Column 1) and antiterrorism (AT Column 1) controls. Items in the .y paragraphs would be subject only to antiterrorism (AT Column 1) controls.

Under ECCN 0A018, ''construction equipment built to military specifications, including equipment specially designed for airborne transport; and specially designed parts and accessories for such construction equipment, including crew protection kits used as protective cabs'' are currently controlled for national security, antiterrorism and United Nations reasons. Under proposed ECCN 0A617.a, they would be controlled for national security, regional stability and antiterrorism reasons, but no longer for United Nations reasons. Controlling these items for United Nations reasons is unnecessary in light of the November 7 proposed rule's amendment to the RS Column 1 licensing policy, which stated that there would be a general policy of denial for ''600 series'' items if the destination is subject to a United States arms embargo. A list of such destinations is identified in proposed section 740.2(a)(12), set forth in the November 7 proposed rule.

In addition, control of power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units; and ''parts,'' ''components,'' and ''accessories and attachments'' ''specially designed'' therefor, would be moved from ECCN 0A918.a to ECCN 0A617.y.3. Under ECCN 0A918, such items are controlled for regional stability, antiterrorism and United Nations reasons, but under proposed ECCN 0A617.y.3, they would be controlled for antiterrorism reasons only. More advanced alternatives to ECCN 0A918 items exist today compared to items currently controlled under ECCN 0A918. For this reason, there is no longer a need to control such items for regional stability reasons. The rationale for removing the United Nations reason for control is the same as that for crew protection kits discussed above.

Revision to Three ECCNs: 0A018, 0A918 and 0E018

As discussed above, this proposed rule would remove ''construction equipment built to military specifications, including specially designed for airborne transport; and specially designed parts and accessories for such construction equipment, including crew protection kits used as protective cabs'' from ECCN 0A018.a and add them to the .a paragraph of proposed ECCN 0A617. It would also move ''power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units; and specially designed parts and accessories therefor'' from ECCN 0A918.a to the .y.3 paragraph of proposed ECCN 0A617.

Accordingly, this rule would amend ECCN 0A918 to remove paragraph .a and provisions related to that paragraph. The related controls paragraph would be amended to provide a cross-reference to proposed ECCN 0A617.y.3.

In addition, this rule would amend ECCN 0A018.a to cross-reference new ECCN 0A617.a, and would amend ECCN 0E018 to add a note stating that this ECCN no longer controls ''technology'' for items formerly classified under ECCN 0A018.a, which would now be classified under ECCN 0A617.a. Under this rule, the technology for such items, as noted above, would be classified under ECCN 0E617.a.

Note with respect to the proposed movement of ECCN 0A018.a items to proposed ECCN 0A617.a that in the July 15 proposed rule, BIS proposed moving ECCN 0A018.a items to proposed ECCN 0A606.a. Thereafter, on December 6, 2011, BIS published another proposed rule (76 FR 76085) that included revisions to the text of ECCN 0A606.a to cover a broad array of military vehicles, both armed and unarmed. While the revised proposal for ECCN 0A606.a was intended to include 0A018.a items, it did not explicitly name such items. After further reflection, BIS has concluded that expressly identifying military construction equipment in ECCN 0A617.a, rather than including it in a broad category of armed and unarmed military vehicles in ECCN 0A606.a, would be more informative and less likely to confuse the public. In addition, the items currently classified under ECCN 0A018.a are identified in WAML Category 17. Accordingly, this rule would include construction equipment specially designed for military use and related items in proposed ECCN 0A617.a, to promote clarity and to further the Administration's goal of aligning the 600 series ECCNs with the WAML. Neither the December 6 proposed rule nor this proposed rule would change the license requirements or the license exception eligibility originally proposed for construction equipment and related items in the July 15 proposed rule.

Corresponding Amendments

To implement the regional stability controls that apply to the five new ''600 series'' ECCNs noted above, this proposed rule would amend § 742.6(a)(1) of the EAR to apply the RS Column 1 licensing policy to items classified under ECCNs 0A617, 0B617, 0C617, 0D617 and 0E617 (except the .y paragraphs).

In conjunction with the proposed control on ''metal embrittlement agents'' in new ECCN 0A617.f, this rule proposes adding to section 772.1 of the EAR (Definitions of terms as used in the EAR) to define that term as it currently is in USML Category XIII(m).

Relationship to the July 15 and November 7 Proposed Rules

As referenced above, the purpose of the July 15 proposed rule was to establish the framework to support the transfer of items that the President determines no longer warrant control on the USML from the USML to the CCL. To facilitate that goal, the July 15

proposed rule contains definitions and concepts that were meant to be applied across categories. However, as BIS undertakes rulemakings to move specific categories of items from the USML to the CCL, there may be unforeseen issues or complications that may require BIS to reexamine those definitions and concepts. The comment period for the July 15 proposed rule closed on September 13, 2011. In the November 7 proposed rule, BIS proposed several changes to those definitions and concepts. The comment period for the November 7 proposed rule closed on December 22, 2011.

To the extent that this rule's proposals affect any provision in either of those proposed rules or that any provisions in either of those proposed rules affect this proposed rule, BIS will consider comments on those provisions so long as they are within the context of the changes proposed in this rule.

BIS believes that the following provisions of the July 15 proposed rule and the November 7 proposed rule are among those that could affect this proposed rule, but because those rules remain under review, BIS does not know yet how exactly they may impact this rule:

- *De minimis* provisions in § 734.4;
- Restrictions on use of license exceptions in §§ 740.2, 740.10, 740.11, and 740.20;
- Change to national security licensing policy in § 742.4;
- Requirement to request authorization to use License Exception STA (strategic trade authorization) for end items in 600 series ECCNs and procedures for submitting such requests in §§ 740.2, 740.20, 748.8 and Supp. No. 2 to part 748;
- Addition of ''600 series'' items to Supplement No. 2 to Part 744—List of Items Subject to the Military End-Use Requirement of § 744.21; and
- Definitions of terms in § 772.1.

BIS believes that the following provisions of this proposed rule are among those that could affect the provisions of the July 15 and November 7 proposed rules:

- Additional ''600 series'' items identified in the RS Column 1 licensing policy described in § 742.6.

Effects of This Proposed Rule

BIS believes that the principal effect of this rule will be to provide greater flexibility for exports and reexports to NATO member countries and other multiple-regime-member countries of items the President determines no longer warrant control on the USML. This greater flexibility will be in the form of: availability of license exceptions, particularly License Exceptions RPL (servicing and replacement of parts and equipment) and STA (strategic trade authorization); eliminating the requirements for manufacturing license agreements and technical assistance agreements in connection with exports of technology; reducing or eliminating exporter and manufacturer registration requirements and associated registration fees; and applying the EAR's *de minimis* threshold principle for items constituting less than a *de minimis* amount of controlled U.S.-origin content in foreign-made items. Some of these specific effects are discussed in more detail below.

De minimis

The July 15 proposed rule would impose certain unique *de minimis* requirements on items controlled under the new ''600 series'' ECCNs. Section 734.3 of the EAR provides, *inter alia,* that, under certain conditions, items made outside the United States that incorporate items subject to the EAR are not subject to the EAR if they do not exceed a *de minimis* percentage of controlled U.S. origin content. Depending on the destination, the *de minimis* percentage can be either 10 percent or 25 percent. If the July 15 proposed rule's amendments at § 734.4 of the EAR are adopted, the new ECCNs 0A617, 0B617, 0C617, 0D617, and 0E617 proposed in this rule would be subject to the *de minimis* provisions set forth in the July 15 proposed rule. Foreign-made items incorporating items controlled under the new ECCNs would become eligible for *de minimis* treatment at the 10 percent level (*i.e.,* a foreign-made item is not subject to the EAR, for *de minimis* purposes, if the value of its U.S.-origin controlled content does not exceed 10 percent of foreign-made item's value). In contrast, the AECA does not permit the ITAR to have a *de minimis* treatment for USML-listed items, regardless of the significance or insignificance of the U.S.-origin content or the percentage of U.S.-origin content in the foreign-made item (*i.e.,* USML-listed items remain subject to the ITAR when they are incorporated abroad into a foreign-made item, regardless of either of these factors). In addition, foreign-made items that incorporate any items that are currently classified under an 018 ECCN (e.g., ECCN 0E018) and that are moved to a new ''600 series'' ECCN (e.g., ECCN 0E617) would be subject to the EAR if those foreign-made items contain more than 10 percent U.S.-origin controlled content, regardless of the destination and the proportion of the U.S.-origin controlled content accounted for by the former 018 ECCN items.

Use of License Exceptions

The July 15 proposed rule would impose certain restrictions on the use of license exceptions for items that would be controlled under the new ''600 series'' ECCNs on the CCL. For example, proposed § 740.2(a)(12) would make ''600 series'' items that are destined for a country subject to a United States arms embargo ineligible for shipment under a license exception, except where authorized by License Exception GOV under § 740.11(b)(2)(ii) of the EAR. BIS believes that, even with the July 15 and November 7 proposed restrictions on the use of license exceptions for ''600 series'' items, the restrictions on those items currently on the USML would be reduced, particularly with respect to exports to NATO members and multiple-regime member countries, if those items are moved from the USML to proposed ECCN 0A617, 0B617 or 0C617. BIS also believes that, in practice, moving items from a 018 ECCN to a new ''600 series'' ECCN (e.g., the construction equipment built to military specifications and related items that would move from ECCN 0A018.a to proposed ECCN 0A617.a) would have little effect on license exception availability for those items. However, BIS is aware of two situations (the use of License Exceptions GOV and STA) in which movement of items from a 018 ECCN to a new ''600 series'' ECCN could, in practice, impose greater limits on the use of license exceptions than currently is the case.

First, the July 15 proposed rule would limit the use of License Exception GOV for ''600 series'' commodities to situations in which the U.S. Government is the consignee and end user, or to situations in which the consignee or end user is the government of a country listed in § 740.20(c)(1). Currently, construction equipment built to military specifications and related items, classified under ECCN 0A018.a, may be exported under any provision of License Exception GOV to any destination authorized by that provision if all of the conditions of that provision are met and nothing else in the EAR precludes such shipment.

Second, the July 15 proposed rule would: (i) Limit the use of License Exception STA for ''end items'' in ''600 series'' ECCNs to those end items for which a specific request for License Exception STA eligibility (filed in conjunction with a license application) has been approved; and (ii) require that the end item be for ultimate end use by a foreign government agency of a type

specified in the July 15 proposed rule. The July 15 proposed rule also would limit exports of ''600 series'' parts, components, accessories, and attachments under License Exception STA for ultimate end use by the same set of end users. Neither the end-item restriction nor the restriction applicable to parts, components, accessories, and attachments currently applies to the use of License Exception STA for commodities classified under ECCN 0A018.a, but the latter restriction would apply to these commodities under new ECCN 0A617.a. In addition, the July 15 proposed rule would limit the shipment of ''600 series'' items under License Exception STA to destinations listed in § 740.20(c)(1). Currently, the commodities classified under ECCN 0A018.a (which would be moved to ECCN 0A617.a by this proposed rule) may be shipped under License Exception STA to destinations listed in § 740.20(c)(1) or (c)(2).

In addition, this proposed rule provides that STA-eligible items controlled under new ECCN 0A617, 0B617, or 0C617 would not be subject to the restriction, proposed in the July 15 rule, on using of License Exception STA for ''end items'' in ''600 series'' ECCNs unless a specific request for License Exception STA eligibility has been submitted to, and approved by, BIS.

Items controlled under proposed ECCNs 0A617, 0B617 or 0C617 would be eligible for License Exception LVS (limited value shipments) up to a value of $1,500. Note that for items previously classified under ECCN 0A018.a that would, under this proposal, be classified under ECCN 0A918.a, the threshold for LVS availability would generally drop from $5,000 to $1,500 with this proposed change (and increase from $0 to $1,500 for Rwanda). Items controlled under proposed ECCNs 0A617, 0B617, 0C617, 0D617 or 0E617 also would be eligible for License Exception TMP (temporary exports), and items controlled under proposed ECCNs 0A617, 0B617 or 0D617 would be eligible for License Exception RPL (servicing and replacement parts).

Making U.S. Export Controls More Consistent With the Wassenaar Arrangement Munitions List Controls

Since the beginning of the Export Control Reform Initiative, the Administration has stated that the reforms will be consistent with the United States' obligations to the multilateral export control regimes. Accordingly, the Administration will, in this and subsequent proposed rules, exercise its national discretion to implement, clarify, and, to the extent feasible, align its controls with those of the regimes. For example, proposed ECCNs 0A617 and 0C617 implement, to the extent possible, the controls in WAML Category 17 pertaining to miscellaneous munitions items, while proposed ECCNs 0B617.a, 0D617 and 0E617, to the extent possible, implement the controls in WAML Category 18 for production equipment, the controls in WAML Category 21 for software, and the controls in WAML Category 22 for technology.

Other Effects: National Security and Regional Stability Controls

Pursuant to the framework identified in the July 15 proposed rule, auxiliary and miscellaneous military commodities classified under ECCN 0A617 (other than ECCN 0A617.y), along with related test inspection and production equipment, materials, software, and technology classified under ECCNs 0B617, 0C617, 0D617 or 0E617 (except items classified under the .y paragraphs of these ECCNs) would be subject to the licensing policies that apply to items controlled for national security reasons, as described in § 742.4(b)(1)—specifically, NS Column 1 controls. In addition, commodities in ECCN 0A617 (other than 0A617.y), along with related test, inspection and production equipment, materials, software and technology classified under ECCNs 0B617, 0C617, 0D617 or 0E617 (except items classified under the .y paragraphs of these ECCNs), would be subject to the regional stability licensing policies set forth in § 742.6(a)(1)—specifically, RS Column 1.

The July 15 proposed rule would change § 742.4 to apply a general policy of denial to ''600 series'' items for destinations that are subject to a United States arms embargo. That policy would apply to all items controlled for national security (NS) reasons under this proposed rule. The November 7 proposed rule would expand that general policy of denial to include ''600 series'' items subject to the licensing policies that apply to items controlled for regional stability reasons, as described in § 742.6(b)(1)—specifically, RS Column 1. While this change might seem redundant for the items affected by this proposed rule, it ensures that a general denial policy would apply to any ''600 series'' items that are controlled for missile technology (MT) and regional stability (RS) reasons, but not for national security (NS) reasons (as would be the case for certain items affected by the November 7 proposed rule).

Section-by-Section Description of the Proposed Changes

- Section 742.6—ECCNs 0A617, 0B617, 0C617, 0D617 and 0E617 would be added to § 742.6(a)(1) to impose an RS Column 1 license requirement and licensing policy, including a general policy of denial in Section 742.6(b)(1), for applications to export or reexport ''600 series'' items to destinations that are subject to a United States arms embargo.
- Section 772.1—The definition section of the EAR would be amended to include, in alphabetical order, the definition of the term ''metal embrittlement agents'' to correspond with the proposed classification of such items under ECCN 0A617.f.
- Supplement No. 1 to part 774—ECCNs 0A617, 0B617, 0C617, 0D617 and 0E617 would be added to Supplement No. 1 to part 774. ECCN 0A018 would be removed and reserved, and the related controls paragraph would be amended to include a cross-reference directing the public to proposed new ECCN 0A617.a for items currently controlled by ECCN 0A018.a. ECCN 0A918 would be amended to remove paragraph .a and provisions related to that paragraph. The related controls paragraph would be amended to include a cross-reference directing the public to proposed new ECCN 0A617.y.3. And ECCN 0E018 would be amended to add a note cross-referencing controls in proposed ECCN 0E617.a.

Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before July 2, 2012. All comments (including any personally identifying information or information for which a claim of confidentially is asserted either in those comments or their transmittal emails) will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via *www.Regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 12, 2011, 76 FR 50661 (August 16, 2011), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent

permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This proposed rule would affect two approved collections: Simplified Network Application Processing + System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the July 15, 2011, proposed rule (76 FR 41958), BIS believes that the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the number of license applications submitted by approximately 16,000 annually, resulting in an increase in burden hours of 5,067 (16,000 transactions at 17 minutes each) under control number 0694–0088.

Some items formerly on the USML would become eligible for License Exception STA under this rule. As specified in the STA eligibility paragraph for proposed new ECCNs 0A617, 0B617, and 0C617, such items would not need a determination of eligibility per § 740.20(g) of the EAR. As stated in the July 15 proposed rule, BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions at 1 hour and 10 minutes each).

BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. This proposed rule addresses controls on auxiliary and miscellaneous equipment, materials and related parts, components, test and production equipment, software, and technology. The largest impact of the proposed rule would likely apply to exporters of end items. Under the EAR, such items would become eligible for export to NATO member states and other close allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration understands that complying with the requirements of STA is likely to be less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes, or both.

Even in situations in which a license would be required under the EAR, the burden likely will be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of technology controlled by ECCN 0E617 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled technology, i.e., Manufacturing License Agreements and Technical Assistance Agreements.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare an initial regulatory flexibility analysis (IRFA) for any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute. However, under section 605(b) of the RFA, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the RFA does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities.

Number of Small Entities

The Bureau of Industry and Security (BIS) does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number of them.

Economic Impact

This proposed rule is part of the Administration's Export Control Reform Initiative. Under that initiative, the United States Munitions List (22 CFR part 121) (USML) will be revised to be a ''positive'' list, *i.e.,* a list that does not use generic, catch-all controls on any part, component, accessory, attachment, or end item that was in any way specifically modified for a defense article, regardless of the article's military or intelligence significance or non-military applications. At the same time, articles that the President determines no longer warrant control on the USML will become controlled on the Commerce Control List (CCL). Such items, along with certain military items that currently are on the CCL, will be identified in specific Export Control Classification Numbers (ECCNs) known as the ''600 series'' ECCNs. In addition, some items currently on the Commerce Control List will move from existing ECCNs to the new ''600 series'' ECCNs.

This rule addresses certain miscellaneous equipment and related articles currently controlled in WAML Category 17 (Miscellaneous equipment, materials and 'libraries' and specially designed components) and USML Category XIII (Materials and Miscellaneous Articles).

Changing the jurisdictional status of these USML articles would, potentially, reduce the burden on small entities (and other entities as well) through: (i) Eliminating some license requirements;

(ii) increasing availability of license exceptions; (iii) simplifying license application procedures; and (iv) reducing or eliminating registration fees.

These amendments are part of the Administration's effort to make the USML the U.S. Government's list of critical military and intelligence items that warrant the stringent worldwide controls of the ITAR, while controlling all other military and intelligence items, particularly generic parts and components, through the CCL. BIS believes that the economic benefits for the proposed amendments include the significant reduction in the time spent determining and addressing issues associated with determining the jurisdictional status of such items now.

In addition, parts and components currently controlled under the ITAR remain under ITAR control when incorporated into foreign-made items, regardless of the significance or insignificance of the item. This discourages foreign buyers from incorporating such U.S. content. The availability of *de minimis* treatment for items that are transferred to control under the EAR may reduce the disincentive to foreign manufacturers for purchasing U.S.-origin parts and components.

Many exports and reexports of the Category XIII articles that would be placed on the CCL by this rule would become eligible for license exceptions that apply to shipments to U.S. Government agencies, thereby reducing the number of licenses that exporters of these items would need. License Exceptions under the EAR would allow suppliers to send routine replacement and low level parts to NATO member states and other close allies and export control regime partners for use by those governments, and for use by contractors building equipment for those governments or for the U.S. Government without having to obtain export licenses. Under License Exception Strategic Trade Authorization (STA), the exporter would need to furnish information about the item being exported to the consignee and obtain a statement from the consignee that, among other things, would commit the consignee to comply with the EAR and other applicable U.S. laws. Because such statements and obligations can apply to an unlimited number of transactions and have no expiration date, they would impose a net reduction in burden on transactions that the government routinely approves through the license application process that the License Exception STA statements would replace.

Even for exports and reexports for which a license would be required under the proposed rule, the process would be simpler and less costly under the EAR. When a USML Category XIII article is moved to the CCL, the number of destinations for which a license is required would remain unchanged. However, the burden on the license applicant would decrease because the licensing procedure for CCL items is simpler and more flexible than the license procedure for USML articles.

Under the USML licensing procedure, an applicant must include a purchase order or contract with its application. There is no such requirement under the CCL licensing procedure. This difference gives the CCL applicant at least two advantages. First, the applicant has a way to determine whether the U.S. Government will authorize the transaction before it enters into potentially lengthy, complex and expensive sales presentations or contract negotiations. Under the USML procedure, the applicant must caveat all sales presentations with a reference to the need for government approval, and is more likely to engage in substantial effort and expense only to find that the government will reject the application. Second, a CCL license applicant need not limit its application to the quantity or value of one purchase order or contract. It may apply for a license to cover all of its expected exports or reexports to a specified consignee over the life of a license (normally two years, but may be longer if circumstances warrant a longer period), thus reducing the total number of licenses for which the applicant must apply.

In addition, many applicants exporting or reexporting items that this rule would transfer from the USML to the CCL would realize cost savings through the elimination of some or all registration fees currently assessed under the USML's licensing procedure. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,250 per year, increase to $2,750 for exporters applying for one to ten licenses per year and further increase to $2,750, plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. Conversely, there are no registration or application processing fees for applications to export items listed on the CCL. Once the Category XIII items that are the subject to this rulemaking are moved from the USML to the CCL, entities currently applying for licenses from the Department of State will find their registration fees reduced if the number of USML licenses those entities need declines. If an entity's entire product line is moved to the CCL, its ITAR registration and registration fee requirement will be eliminated.

De minimis treatment under the EAR would also become available for all items that this rule proposes to transfer from the USML to the CCL. Items subject to the ITAR remain subject to the ITAR when they are incorporated abroad into a foreign-made product regardless of the percentage of U.S. content in that foreign-made product. However, foreign-made products incorporating items that this rule would move to the CCL would be subject to the EAR only if their total controlled U.S.-origin content exceeds 10 percent. Because including small amounts of U.S.-origin content would not subject foreign-made products to the EAR, foreign manufacturers would have less incentive to refrain from purchasing such U.S.-origin parts and components, a development that potentially would mean greater sales for U.S. suppliers, including small entities.

For items currently on the CCL that would be moved from existing ECCNs to the new ''600 series,'' license exception availability would be narrowed somewhat and the applicable *de minimis* threshold for foreign-made products containing those items would in some cases be reduced from 25 percent to 10 percent. However, BIS believes that any increased burden imposed by those actions would be offset substantially by the reduction in burden attributable to moving items from the USML to CCL and the compliance benefits associated with the consolidation of all WAML items subject to the EAR in one series of ECCNs. These changes also would reduce the burden on small entities by resolving actual and potential jurisdictional uncertainty with respect to items that are related to articles controlled by USML Category XIII.

Conclusion

BIS is unable to determine the precise number of small entities that would be affected by this rule. Based on the facts and conclusions set forth above, BIS believes that any burdens imposed by this rule would be offset by a reduction in the number of items that would require a license, increased opportunities for use of license exceptions for exports to certain countries, simpler export license applications, reduced or eliminated

registration fees, and application of a *de minimis* threshold for foreign-made items incorporating U.S.-origin parts and components, which would reduce the incentive for foreign buyers to design out or avoid U.S.-origin content. For these reasons, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, no IRFA is required, and none has been prepared.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 742, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are proposed to be amended as follows:

PART 742—[AMENDED]

1. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011); Notice of November 9, 2011, 76 FR 70319 (November 10, 2011).

2. Section 742.6 is amended by revising paragraph (a)(1) to read as follows:

§ 742.6 Regional stability.

(a) * * *

(1) *RS Column 1 License Requirements in General.* As indicated in the CCL and in RS column 1 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 0A521; 0A606 (except 0A606.b and .y); 0A617 (except 0A617.y); 0B521; 0B606 (except 0B606.y); 0B617 (except 0B617.y); 0C521; 0C606 (except 0C606.y); 0C617 (except 0C617.y), 0D521; 0D606 (except 0D606.y); 0D617 (except 0D617.y) 0E521; 0E606 (except 0E606.y); 0E617 (except 0E617.y); 1A607 (except 1A607.y); 1B607 (except 1B607.y); 1B608 (except 1B608.y); 1C607; 1C608; 1D607 (except 1D607.y); 1D608 (except 1D608.y); 1E607 (except 1E607.y); 1E608 (except 1E608.y); 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3, and b.4.a; 6A008.j.1; 6A998.b; 6D001 (only ''software'' for the ''development'' or ''production'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only ''software'' for the ''use'' of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D003.c; 6D991 (only ''software'' for the ''development,'' ''production,'' or ''use'' of equipment classified under 6A002.e or 6A998.b); 6E001 (only ''technology'' for ''development'' of items in 6A002.a.1, a.2, a.3 (except 6A002.a.3.d.2.a and 6A002.a.3.e for lead selenide focal plane arrays), and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only ''technology'' for ''production'' of items in 6A002.a.1, a.2, a.3, .c, or .e, 6A003.b.3 or b.4, or 6A008.j.1); 6E991 (only ''technology'' for the ''development,'' ''production,'' or ''use'' of equipment classified under 6A998.b); 6D994; 7A994 (only QRS11–00100–100/101 and QRS11–0050–443/569 Micromachined Angular Rate Sensors); 7D001 (only ''software'' for ''development'' or ''production'' of items in 7A001, 7A002, or 7A003); 7E001 (only ''technology'' for the ''development'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E002 (only ''technology'' for the ''production'' of inertial navigation systems, inertial equipment, and specially designed components therefor for civil aircraft); 7E101 (only ''technology'' for the ''use'' of inertial navigation systems, inertial equipment, and specially designed components for civil aircraft); 8A609 (except 8A609.y); 8B609 (except 8B609.y); 8C609 (except 8C609.y); 8D609 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 8E609 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 8A609.y, 8B609.y, or 8C609.y); 9A610 (except 9A610.y); 9A619 (except 9A619.y); 9B610 (except 9B610.y); 9B619 (except 9B619.y); 9C610 (except 9C610.y); 9C619 (except 9C619.y); 9D610 (except software for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by 9A610.y, 9B610.y, or 9C610.y); 9D619 (except software for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 9A619.y, 9B619.y, or 9C619.y); 9E610 (except ''technology'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, or overhaul of commodities controlled by ECCN 9A610.y, 9B610.y, or 9C610.y); and 9E619 (except ''technology'' for the ''development,'' ''production'' operation, installation, maintenance, repair, or overhaul of commodities controlled by ECCN 9A619.y, 9B619.y, or 9C619.y).

* * * * *

PART 772—[AMENDED]

3. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

4. Section 772.1 is amended by adding a definition for ''metal embrittlement agents'' in alphabetical order to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Metal embrittlement agents. (Cat. 0)—Non-lethal weapon substances that alter the crystal structure of metals within a short time span. Metal embrittling agents severely weaken metals by chemically changing their molecular structure. These agents are compounded in various substances to include adhesives, liquids, aerosols, foams and lubricants.

* * * * *

PART 774—[AMENDED]

5. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

6. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—Export Control Classification Number (ECCN) 0A018 is amended

a. By adding a sentence to the end of the Related Controls paragraph in the List of Items Controlled section; and

b. By removing and reserving paragraph .a in the Items paragraph of the List of Items Controlled section to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A018 Items on the Wassenaar Munitions List

* * * * *

List of Items Controlled:

Unit: * * *

Related Controls: * * * 3) See ECCN 0A617.a for items formerly controlled by ECCN 0A018.a.

Related Definitions: * * *

Items:

a. [RESERVED].

* * * * *

7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items] add a new ECCN 0A617 between ECCNs 0A018 and 0A918 to read as follows:

0A617 Miscellaneous "Equipment," Materials, and Related Commodities

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 0A617.y	NS Column 1.
RS applies to entire entry except 0A617.y	RS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $1500

GBS: N/A

CIV: N/A

STA:

(1) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0A617.

(2) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0A617 without the need for a determination described in § 740.20(g).

List of Items Controlled

Unit: End items in number; parts, components, accessories and attachments in $ value.

Related Controls: (1) Defense articles, such as materials made from classified information, that are controlled by USML Category XIII, and technical data (including software) directly related thereto, are subject to the ITAR. (2) See ECCN 0A919 for foreign-made "military commodities" that incorporate more than 10% U.S.-origin "600 series" items. (3) For controls on self-contained diving and underwater swimming apparatus and related commodities, see ECCN 8A620.f. (4) For controls on robots, robot controllers, and robot end-effectors, see USML Category VII and ECCNs 0A606 and 2B007. (5) "Libraries," i.e., parametric technical databases, "specially designed" for military use with equipment controlled by USML or a "600 series" ECCN are controlled by the technical data and technology controls pertaining to such items. (6) For controls on nuclear power generating equipment or propulsion equipment, including "nuclear reactors," "specially designed" for military use, and parts and components "specially designed" therefor, see USML Categories VI, XIII, XV, and XX. (7) Simulators "specially designed" for military "nuclear reactors" are controlled by USML Category IX(b). (8) Laser protection equipment (e.g., eye and sensor protection) "specially designed" for military use are subject to the controls of USML Category X(a)(7). (9) "Fuel cells" "specially designed" for a defense article not on the USML or a commodity controlled by a "600 series" ECCN are controlled according to the corresponding "600 series" ECCN for such end items. (10) See USML Category XV and ECCN 9A515 for controls on fuel cells specially designed for satellite or spacecraft.

Items:

a. Construction equipment "specially designed" for military use, including such equipment "specially designed" for transport in aircraft controlled by USML VIII(a) or ECCN 9A610.a; and "parts," "components" and "accessories and attachments" "specially designed" therefor, including crew protection kits used as protective cabs;

b. Concealment and deception equipment "specially designed" for military application, including special paints, decoys, smoke or obscuration equipment and simulators, and "parts," "components," "accessories and attachments" "specially designed" therefor, not controlled by USML Category XIII.

c. Ferries, bridges (other than those described in ECCN 0A606 or USML Category VII), and pontoons "specially designed" for military use.

d. Test models "specially designed" for the "development" of defense articles controlled by the USML or commodities controlled by a "600 series" ECCN.

e. Photointerpretation, stereoscopic plotting and photogrammetry equipment "specially designed" for military use, and "parts," "components," "accessories and attachments" "specially designed" therefor.

f. "Metal embrittlement agents."

g. Through x. [RESERVED]

y. Other commodities as follows:

y.1. Containers "specially designed" for defense articles or items controlled by a "600 series" ECCN.

y.2 Field generators "specially designed" for military use.

y.3 Power controlled searchlights and control units therefor, "specially designed" for military use, and "equipment" mounting such units; and "parts," "components" and "accessories and attachments" "specially designed" therefor.

y.4 to y.98. [RESERVED]

y.99. Commodities not identified on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0A617.

8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A918 is amended

a. By revising the License Exception section; and

b. By revising the List of Items Controlled section to read as follows:

0A918 Miscellaneous Military Equipment Not on the Wassenaar Munitions List

* * * * *

License Exceptions

LVS: $1,500, $0 for Rwanda

GBS: N/A

CIV: N/A

List of Items Controlled

Unit: In Number.

Related Controls: See ECCN 0A617.y.3 for items formerly controlled by ECCN 0A918.a.

Related Definitions: N/A

Items: Bayonets.

9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add a new ECCN 0B617 between ECCNs 0B006 and 0B986 to read as follows:

0B617 Test, Inspection, and Production ''Equipment'' and Related Commodities ''Specially Designed'' for the ''Development'' or ''Production'' of Commodities Controlled by ECCN 0A617.a or USML Category XIII

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 0B617.y	NS Column 1.
RS applies to entire entry except 0B617.y	RS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $1500

GBS: N/A

CIV: N/A

STA:

(1) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0B617.

(2) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0B617 without the need for a determination described in § 740.20(g).

List of Items Controlled

Unit: N/A

Related Controls:

Related Definitions: N/A

Items: a. Test, inspection, and production ''equipment'' not controlled by USML Category XIII(k) ''specially designed'' for the ''production'' or ''development'' of commodities controlled by ECCN 0A617 or USML Category XIII.

b. through .x [RESERVED].

y.1 through .y.98 [RESERVED]

y.99 Commodities not identified on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0B617.

NOTE TO 0B617: Field engineer equipment ''specially designed'' for use in a combat zone, identified in WAML Category 17.d, and mobile repair shops ''specially designed'' or modified to service military equipment, identified in WAML Category 17.j, are controlled by 0B617 to the extent that the items are not included in USML Category XIII(k).

10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add a new ECCN 0C617 after ECCN 0C201 to read as follows:

0C617 Miscellaneous Materials ''Specially Designed'' for Military Use

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 0C617.y	NS Column 1.
RS applies to entire entry except 0C617.y	RS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: $1500

GBS: N/A

CIV: N/A

(1) STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any item in 0C617.

(2) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1)) may be used for items in 0C617 without the need for a determination described in § 740.20(g).

List of Items Controlled

Unit: End items in number; parts, component, accessories and attachments in $ value.

Related Controls: For controls on other signature suppression materials, see USML Category XIII and ECCNs 1C001 and 1C101.

Related Definitions:

Items:

a. Materials, coatings and treatments for signature suppression, ''specially designed'' for military use and that are not controlled by USML Category XIII or ECCNs 1C001 or 1C101.

b. through x. [RESERVED].

y.1 through y.98 [RESERVED].

y.99. Materials not identified on the CCL that (i) have been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0C617.

11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], add a new ECCN 0D617 between ECCNs 0D001 and 0D999 to read as follows:

0D617 ''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul or Refurbishing of Commodities Controlled by 0A617, ''Equipment'' Controlled by 0B617, or Materials Controlled by 0C617

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 0D617.y	NS Column 1.
RS applies to entire entry except 0D617.y	RS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2))of the EAR may not be used for any ''software'' in 0D617.

List of Items Controlled

Unit: $ value
Related Controls: ''Software'' directly related to articles controlled by USML Category XIII is subject to the control of USML paragraph XIII(l).
Related Definitions: N/A
Items:
a. ''Software'' (other than ''software'' controlled in paragraph .y of this entry) ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of commodities controlled by ECCNs 0A617 (except 0A617.y), 0B617 (except 0B617.y), or 0C617 (except 0C617.y).
b. to x. [RESERVED].
y. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' or operation or maintenance of commodities controlled by ECCN 0A617, 0B617 or 0C617, as follows:
y.1. Specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities controlled by ECCN 0A617.y, 0B617.y or 0C617.y.
y.2 through y.98 [RESERVED].
y.99. Software not identified on the CCL that (i) has been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0D617.

12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]—ECCN 0E018 is amended by adding a note at the end of the entry to read as follows:

0E018 ''Technology'' for the ''Development,'' ''Production,'' or ''Use'' of Items Controlled by 0A018

* * * * *

Note: This ECCN no longer controls ''technology'' for items formerly controlled by 0A018.a. See ECCN 0A617.a for items formerly controlled by 0A018.a and see the ''technology'' controls for those items in ECCN 0E617.a.

13. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items] add a new ECCN 0E617 between ECCNs 0E018 and 0E982 to read as follows:

0E617 ''Technology'' ''Required'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul or Refurbishing of Commodities Controlled by 0A617, ''Equipment'' Controlled by 0B617, Materials Controlled by 0C617, or ''Software'' Controlled by 0D617

License Requirements

Reason for Control: NS, RS, AT

Control(s)	Country chart
NS applies to entire entry except 0E617.y	NS Column 1.
RS applies to entire entry except 0E617.y	RS Column 1.
AT applies to entire entry	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A
STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2)) of the EAR may not be used for any technology in 0E617.

List of Items Controlled

Unit: $ value
Related Controls: Technical data directly related to articles controlled by USML Category XIII are subject to the control of USML paragraph XIII(l).
Related Definitions: N/A
Items:
a. ''Technology'' (other than ''technology'' controlled by paragraph .y of this entry) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or ''software'' controlled by ECCN 0A617 (except 0A617.y), 0B617 (except 0B617.y), 0C617 (except 0C617.y), or 0D617 (except 0D617.y).
b. through x. [RESERVED].
y. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, or overhaul of items controlled by ECCN 0A617, 0B617, 0C617 or 0D617, as follows:
y.1. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair or overhaul of items controlled by ECCN 0A617.y, 0B617.y, 0C617.y or 0D617.y.
y.2. through y.98 [RESERVED].
y.99. ''Technology'' not identified on the CCL that (i) has been determined, in an applicable commodity jurisdiction determination issued by the U.S. Department of State, to be subject to the EAR and (ii) would otherwise be controlled elsewhere in ECCN 0E617.

Dated: May 14, 2012.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2012–12124 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF STATE

22 CFR Part 121

RIN 1400–AD13

[Public Notice 7883]

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XIII

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: As part of the President's Export Control Reform effort, the Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to revise Category XIII (materials and miscellaneous articles) of the U.S. Munitions List (USML) to describe more precisely the materials warranting control on the USML.

DATES: The Department of State will accept comments on this proposed rule until July 2, 2012.

ADDRESSES: Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- *Email: DDTCResponseTeam@state.gov* with the

subject line, ''ITAR Amendment—Category XIII.''

• *Internet:* At *www.regulations.gov,* search for this notice by using this rule's RIN (1400–AD13).

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Ms. Candace M. J. Goforth, Acting Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2792; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, USML Category XIII.

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, *i.e.,* ''defense articles,'' are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to Part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports and reexports. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

Export Control Reform Update

The Departments of State and Commerce described in their respective Advanced Notices of Proposed Rulemaking (ANPRM) in December 2010 the Administration's plan to make the USML and the CCL positive, tiered, and aligned so that eventually they can be combined into a single control list (*see* ''Commerce Control List: Revising Descriptions of Items and Foreign Availability,'' 75 FR 76664 (December 9, 2010) and ''Revision to the United States Munitions List,'' 75 FR 76935 (December 10, 2010)). The notices also called for the establishment of a ''bright line'' between the USML and the CCL to reduce government and industry uncertainty regarding export jurisdiction by clarifying whether particular items are subject to the jurisdiction of the ITAR or the EAR. While these remain the Administration's ultimate Export Control Reform objectives, their concurrent implementation would be problematic in the near term. In order to more quickly reach the national security objectives of greater interoperability with U.S. allies, enhancing the defense industrial base, and permitting the U.S. Government to focus its resources on controlling and monitoring the export and reexport of more significant items to destinations, end-uses, and end-users of greater concern than NATO allies and other multi-regime partners, the Administration has decided, as an interim step, to propose and implement revisions to both the USML and the CCL that are more positive, but not yet tiered.

Specifically, based in part on a review of the comments received in response to the December 2010 notices, the Administration has determined that fundamentally altering the structure of the USML by tiering and aligning it on a category-by-category basis would significantly disrupt the export control compliance systems and procedures of exporters and reexporters. For example, until the entire USML was revised and became final, some USML categories would follow the legacy numbering and control structures while the newly revised categories would follow a completely different numbering structure. In order to allow for the national security benefits to flow from re-aligning the jurisdictional status of defense articles that no longer warrant control on the USML on a category-by-category basis while minimizing the impact on exporters' internal control and jurisdictional and classification marking systems, the Administration plans to proceed with building positive lists now and afterward return to structural changes.

Revision of Category XIII

This proposed rule revises USML Category XIII, re-titled ''Materials and Miscellaneous Articles,'' to advance the national security objectives set forth above and to more accurately describe the articles within the category, in order to establish a ''bright line'' between the USML and the CCL for the control of such articles.

Paragraph (a) is removed and placed in reserve; the articles currently controlled there (*i.e.,* cameras and specialized processing equipment) are to be controlled in revised Category XII or the CCL, which will be the subject of a separate notice. Photointerpretation, stereoscopic plotting, and photogrammetry equipment ''specially designed'' for military use will be controlled under ECCN 0A617.e. Paragraph (c) is removed and placed in reserve; the articles currently controlled there (*i.e.,* self-contained diving and underwater breathing apparatus) are to be controlled in ECCN 8A620.f. Paragraphs (d), (e), (g), and (h) are reorganized and expanded to better describe the articles controlled therein. Paragraph (f) is re-designated to cover articles that are classified. The articles in the current paragraph (f) (*i.e.,* structural materials) are to be controlled in proposed CCL ECCN 0C617 and in revised USML Categories VII, VIII, and XIII. Paragraph (i) is re-designated to control signature reduction software, with embrittling agents (currently controlled in paragraph (i)) moving to the CCL under ECCN 0A617.f. Paragraph (m) is amended to reflect the revisions made throughout this category.

Finally, articles common to the Missile Technology Control Regime (MTCR) Annex and the USML are to be identified on the USML with the parenthetical ''(MT)'' at the end of each section containing such articles. A future proposed rule will address the sections in the ITAR that include MTCR definitions.

Definition for Specially Designed

Although one of the goals of the export control reform initiative is to describe USML controls without using design intent criteria, a few of the controls in the proposed revision nonetheless use the term ''specially designed.'' It is, therefore, necessary for the Department to define the term. Two proposed definitions have been published to date.

The Department first provided a draft definition for ''specially designed'' in the December 2010 ANPRM (75 FR 76935) and noted the term would be used minimally in the USML, and then only to remain consistent with the Wassenaar Arrangement or other multilateral regime obligation or when no other reasonable option exists to

describe the control without using the term. The draft definition provided at that time is as follows: ''For the purposes of this Subchapter, the term 'specially designed' means that the end-item, equipment, accessory, attachment, system, component, or part (*see* ITAR § 121.8) has properties that (i) distinguish it for certain predetermined purposes, (ii) are directly related to the functioning of a defense article, and (iii) are used exclusively or predominantly in or with a defense article identified on the USML.''

The Department of Commerce subsequently published on July 15, 2011, for public comment, the Administration's proposed definition of ''specially designed'' that would be common to the CCL and the USML. The public provided more than 40 comments on that proposed definition on or before the September 13 deadline for comments. The Departments of State, Commerce, and Defense are now reviewing those comments and related issues, and the Departments of State and Commerce plan to publish for public comment another proposed rule on a definition of ''specially designed'' that would be common to the USML and the CCL. In the interim, and for the purpose of evaluation of this proposed rule, reviewers should use the definition provided in the December ANPRM.

Request for Comments

As the U.S. Government works through the proposed revisions to the USML, some solutions have been adopted that were determined to be the best of available options. With the thought that multiple perspectives would be beneficial to the USML revision process, the Department welcomes the assistance of users of the lists and requests input on the following:

(1) A key goal of this rulemaking is to ensure the USML and the CCL together control all the items that meet Wassenaar Arrangement commitments embodied in Munitions List Category 1 (WA–ML17). To that end, the public is asked to identify any potential lack of coverage brought about by the proposed rules for Category XIII contained in this notice and the new Category 0 ECCNs published separately by the Department of Commerce when reviewed together.

(2) The key goal of this rulemaking is to establish a ''bright line'' between the USML and the CCL for the control of these materials. The public is asked to provide specific examples of materials and miscellaneous articles whose jurisdiction would be in doubt based on this revision.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department is publishing this rule with a 45-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function. As noted above, and also without prejudice to the Department position that this rulemaking is not subject to the APA, the Department previously published a related Advance Notice of Proposed Rulemaking (RIN 1400–AC78), and accepted comments for 60 days.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This proposed 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed 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 proposed 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 proposed 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 proposed amendment.

Executive Order 12866

The Department is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. However, the Department has reviewed the proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Order.

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.

Executive Order 12988

The Department of State has reviewed the proposed 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 13175

The Department of State has determined that this rulemaking 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.

Paperwork Reduction Act

This proposed amendment does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121 is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778,

2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920.

2. Section 121.1 is amended by revising U.S. Munitions List Category XIII to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XIII—Materials and Miscellaneous Articles

(a) [Reserved]

(b) Information security/information assurance systems and equipment, cryptographic devices, software, and components ''specially designed'' for military applications (*e.g.,* command, control and, communications (C^3), and government intelligence applications), as follows:

(1) Military cryptographic (including key management) systems, equipment assemblies, modules, integrated circuits, components, and software (*e.g.,* cryptographic interfaces) capable of maintaining secrecy or confidentiality of information or information systems, including equipment and software for tracking, telemetry, and control (TT&C) encryption and decryption;

(2) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components, and software (*e.g.,* cryptographic interfaces) capable of generating spreading or hopping codes for spread spectrum systems or equipment;

(3) Military cryptanalytic systems, equipment, assemblies, modules, integrated circuits, components and software;

(4) Military systems, equipment, assemblies, modules, integrated circuits, components, and software that provide certified or certifiable multi-level security, user isolation, or control of the exchange of or access to information between or among systems operating at different classification levels, and software to certify such systems, equipment, or software; or

(5) Ancillary equipment ''specially designed'' for the articles in paragraphs (b)(1)–(b)(4) of this category.

(c) [Reserved]

(d) Ablative materials, as follows (MT):

*(1) Ablative materials fabricated or semi-fabricated from advanced composites (*e.g.,* silica, graphite, carbon, carbon/carbon, and boron filaments) ''specially designed'' for the articles in Category IV; or

(2) Carbon/carbon billets and preforms which are reinforced with continuous unidirectional fibers, tows, tapes, or woven cloths in three or more dimensional planes.

Note to paragraph (d)(2): This does not control carbon/carbon billets and preforms where reinforcement in the third dimension is limited to interlocking of adjacent layers only.

(e) Armor (*e.g.,* organic, ceramic, metallic), active armor or reactive armor, and armor materials, as follows:

(1) Developmental armor developed under a contract with the U.S. Department of Defense;

(2) Spaced armor with E_m greater than 1.4 and meeting NIJ Level III or better;

(3) Transparent armor having E_m greater than or equal to 1.3 or having E_m less than 1.3 and meeting NIJ Level III standards with areal density less than or equal to 40 pounds per square foot;

(4) Transparent ceramic plate greater than ¼ inch-thick and larger than 8 inches x 8 inches, excluding glass, for transparent armor;

(5) Non-transparent ceramic plate or blanks, greater than ¼ inches thick and larger than 8 inches x 8 inches for transparent armor. This includes spinel and aluminum oxynitride (ALON);

(6) Composite armor with E_m greater than 1.4 and meeting NIJ Level III or better; or

(7) Metal Laminate Armor with E_m greater than 1.4 and meeting NIJ Level III or better.

(f) Any material that:

(1) Is classified;

(2) Is manufactured using classified production data; or

(3) Is being developed using classified information.

''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government.

(g) Concealment and deception equipment, as follows (MT):

*(1) Polymers loaded with carbonyl iron powder, ferrites, iron whiskers, fibers, flakes, or other magnetic additives having a surface resistivity of less than 5000 ohms/square and isotropy of less than 5%;

(2) Multi-layer camouflage systems ''specially designed'' to reduce detection of platforms or equipment in the infrared or ultraviolet frequency spectrums;

*(3) High temperature (greater than 300 deg F operation) ceramic or magnetic radar absorbing material (RAM) ''specially designed'' for use on defense articles or military items subject to the EAR; or

*(4) Broadband (greater than 30% bandwidth) lightweight (less than 2 lbs/sq ft) magnetic radar absorbing material (RAM) ''specially designed'' for use on defense articles or military items subject to the EAR.

(h) Energy conversion devices, as follows:

(1) Fuel cells ''specially designed'' for platforms or soldier systems specified in this subchapter;

(2) Thermal engines ''specially designed'' for platforms or soldier systems specified in this subchapter;

(3) Thermal batteries (MT); or

(4) Thermionic generators.

(i) Signature reduction software, technical data, and services, as follows (MT):

*(1) Software associated with the measurement or modification of system signatures;

*(2) Software for design of low-observable platforms;

*(3) Software for design, analysis, prediction, or optimization of signature management solutions;

*(4) Radar cross section or infrared signature measurement or prediction software;

*(5) Signature management techniques, codes, and algorithms;

*(6) Signature control design methodology;

*(7) Processes that use micro-encapsulation or micro-spheres to reduce infrared, radar, or visual detection of platforms or equipment;

*(8) Multi-layer camouflage system techniques to reduce detection of platforms or equipment;

*(9) Multi-spectral surface treatment techniques to modify infrared, visual or radio frequency signatures of platforms or equipment;

*(10) Shaping, active, or passive techniques to modify platform or equipment visual, electro-optical, radiofrequency, electric, magnetic, electromagnetic, or wake signatures (*e.g.,* low probability of intercept (LPI) techniques, methods or applications); or

*(11) Shaping, active, or passive techniques to modify defense articles' acoustic signatures.

*(j) Equipment, materials, coatings, and treatments not elsewhere specified, as follows:

(1) Laser eye-safe media including narrow band dyes/coatings and wide band non-linear optical material ''specially designed'' for goggles, spectacles, or visors that provide narrow band filtering or broad band limiting with optical density greater than 3 that protect against:

(i) Visible (in-band) wavelengths;

(ii) Thermal flashes associated with nuclear detonations; or

(iii) Near Infrared or Ultra Violet (out-of-band) wavelengths.

Note: See Category X(a)(7).

(2) Specially treated or formulated dyes, coatings, and fabrics used in the design, manufacture, or production of personnel protective clothing, equipment, or face paints designed to protect against or reduce detection by radar, infrared, or other sensors at wavelengths greater than 900 nanometers.

Note: See Category X(a)(2).

(3) Equipment, materials, coatings, and treatments that are ''specially designed'' to modify the electro-optical, radiofrequency, infrared, electric, laser, magnetic, electromagnetic, acoustic, electro-static, or wake signatures of defense articles or military items subject to the EAR through control of absorption, reflection, or emission.

(k) Tooling and equipment, as follows:

(1) Tooling and equipment ''specially designed'' for production of low observable (LO) components; or

(2) Portable platform signature field repair validation equipment (*e.g.,* portable optical interrogator that validates integrity of a repair to a signature reduction structure).

(l) Technical data (as defined in § 120.10 of this subchapter), and defense services (as defined in § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h), (j), and (k) of this category. (*See* also § 123.20 of this subchapter.) (MT for technical data and defense services related to articles designated as such.)

(m) The following interpretations explain and amplify terms used in this category and elsewhere in this subchapter:

(1) Composite armor is defined as having more than one layer of different materials or a matrix.

(2) Spaced armors are metallic or non-metallic armors that incorporate an air space or obliquity or discontinuous material path effects as part of the defeat mechanism.

(3) Reactive armor employs explosives, propellants, or other materials between plates for the purpose of enhancing plate motion during a ballistic event or otherwise defeating the penetrator.

(4) Electromagnetic armor (EMA) employs electricity to defeat threats such as shaped charges.

(5) Materials used in composite armor could include layers of metals, plastics, elastomers, fibers, glass, ceramics, ceramic-glass reinforced plastic laminates, encapsulated ceramics in a metallic or non-metallic matrix, functionally gradient ceramic-metal materials, or ceramic balls in a cast metal matrix.

(6) For this Category, a material is considered transparent if it allows 75% or greater transmission of light in the visible spectrum through a 1 mm thick nominal sample.

(7) The material controlled in paragraph (e)(3) of this category has not been treated to reach the 75% transmission level referenced in (m)(6) of this category.

(8) Metal laminate armors are two or more layers of metallic materials which are mechanically or adhesively bonded together to form an armor system.

(9) E_m is the line-of-sight target mass effectiveness ratio and provides a measure of the tested armor's performance to that of rolled homogenous armor, where E_m is defined as follows:

$$Em = \frac{\rho_{RHA}(Po - \mathrm{Pr})}{AD_{T\arg et}}$$

Where:

ρ_{RHA} = density of RHA, (7.85 g/cm^3)

Po = Baseline Penetration of RHA, (mm)

Pr = Residual Line of Sight Penetration, either positive or negative (mm RHA equivalent)

AD_{TARGET} = Line-of-Sight Areal Density of Target (kg/m^2)

(10) NIJ is the National Institute of Justice and Level III refers to the requirements specified in NIJ standard 0108.01 Ballistic Resistant Protective Materials.

* * * * *

Dated: May 10, 2012.

Rose E. Gottemoeller,

Acting Under Secretary, Acting Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2012–12123 Filed 5–17–12; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF JUSTICE

28 CFR Part 90

[OVW Docket No. 110]

RIN 1105–AB40

Removing Unnecessary Office on Violence Against Women Regulations

AGENCY: Office on Violence Against Women, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to remove the regulations for the STOP Violence Against Indian Women Discretionary Grant Program, because the Program no longer exists, and the Grants to Combat Violent Crimes Against Women on Campuses Program, because the regulations are no longer required and are unnecessary.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before July 17, 2012. Comments received by mail will be considered timely if they are postmarked on or before that date. The electronic Federal Docket Management System (FDMS) will accept comments until Midnight Eastern Time at the end of that day.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. OVW 110'' on all electronic and written correspondence. The Department encourages the electronic submission of all comments through *http://www.regulations.gov* using the electronic comment form provided on that site. For easy reference, an electronic copy of this document is also available at the *http://www.regulations.gov* Web site. It is not necessary to submit paper comments that duplicate the electronic submission, as all comments submitted to *http://www.regulations.gov* will be posted for public review and are part of the official docket record. However, should you wish to submit written comments through regular or express mail, they should be sent to Kathi Grasso, Office on Violence Against Women, United States Department of Justice, 145 N Street NE., Suite 10W.121, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Kathi Grasso, Office on Violence Against Women (OVW), United States Department of Justice, 145 N Street NE., Suite 10W.121, Washington, DC 20530 at *kathi.grasso2@usdoj.gov* or (202) 305–9098.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments. Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name and address) voluntarily submitted by the commenter.

You are not required to submit personal identifying information in order to comment on this rule. If you want to submit personal identifying information (such as your name and address) as part of your comment, but do not want it posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You also must locate all personal identifying information that you do not want posted online in the first paragraph of your

comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov.*

Personal identifying and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the paragraph above entitled **FOR FURTHER INFORMATION CONTACT**.

The reason the Department requests electronic comments before Midnight Eastern Time, at the end of the day the comment period closes, is that the inter-agency Regulations.gov/Federal Docket Management System (FDMS), which receives electronic comments, terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern may want to take this fact into account so that their electronic comments can be received. The constraints imposed by the Regulations.gov/FDMS system do not apply to U.S. postal comments which, as stated above, will be considered as timely filed if they are postmarked before Midnight on the day the comment period closes.

Background

STOP VAIW Program

In 1994, Congress passed the Violence Against Women Act (VAWA), a comprehensive legislative package aimed at ending violence against women. VAWA was enacted on September 13, 1994, as title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796. VAWA was designed to improve criminal justice system responses to domestic violence, sexual assault, and stalking, and to increase the availability of services for victims of these crimes. The STOP VAIW Program was codified at 42 U.S.C. 3796gg through 3796gg–5. The final rule for this program, found at 28 CFR part 90, subpart C, under the heading Indian Tribal Governments Discretionary Program, was promulgated on April 18, 1995 (74 FR 19474).

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (January 5, 2006) (hereinafter ''VAWA 2005''), eliminated the STOP VAIW Program and replaced it with the Grants to Indian Tribal Governments Program which is codified at 42 U.S.C. 3796gg–10. Accordingly, this rule proposes to remove the now unnecessary STOP VAIW Program regulations.

Higher Education Amendments of 1998

Violence against women on college and university campuses also is a serious, widespread problem. To help address this problem, Congress authorized the Grants to Combat Violent Crimes Against Women on Campuses Program in title VIII, part E, section 826 of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1581 (Oct. 7, 1998). Consistent with VAWA, the Grants to Combat Violent Crimes Against Women on Campuses Program is designed to encourage the higher education community to adopt comprehensive, coordinated strategies for preventing and stopping violence against women. This program was originally codified at 20 U.S.C. 1152. VAWA 2005 renamed it the Grants to Combat Violent Crimes on Campus Program (Campus) and recodified it at 42 U.S.C. 14045b. The final rule for the program, found at 28 CFR part 90, subpart E, was promulgated on July 22, 1999 (64 FR 39774).

When VAWA 2005 recodified the program, it removed the requirement for regulations. The current regulations are unnecessary as they add very little that is not already legally required under VAWA 2005 for grantees of the Campus Program. Accordingly, this rule also proposes to remove the Grants To Combat Violent Crimes Against Women on Campuses regulations.

Regulatory Certifications

Executive Orders 12866 and 13563—Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b). General Principles of Regulation.

The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Further, both Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has assessed the costs and benefits of this regulation and believes that the regulatory approach selected maximizes net benefits.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

As set forth more fully above in the Supplementary Information portion, this rule will not result in substantial direct increased costs to Indian Tribal governments. Eliminating regulations for a program that no longer exists will not affect tribes.

Regulatory Flexibility Act

The Office on Violence Against Women, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reason: The economic impact is limited to the Office on Violence Against Women's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete in domestic and export markets.

List of Subjects in 28 CFR Part 90

Grant programs; Judicial administration.

For the reason set forth in the preamble, the Office on Violence Against Women proposes to amend 28 CFR part 90 as follows:

PART 90—VIOLENCE AGAINST WOMEN

1. The authority citation for Part 90 reads as follows:

Authority: 42 U.S.C. 3711–3796gg–7; Sec. 826, Part E, Title VIII, Public Law 105–244, 112 Stat. 1581, 1815.

Subpart C—Indian Tribal Governments Discretionary Program [Removed and Reserved]

2. Remove and reserve subpart C, consisting of §§ 90.50–90.59.

Subpart E—[Removed and Reserved]

3. Remove and reserve subpart E, consisting of §§ 90.100–90.106.

Dated: May 10, 2012.

Bea Hanson,

Acting Director, Office on Violence Against Women, U.S. Department of Justice.

[FR Doc. 2012–12134 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–FX–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0809; FRL–9673–5]

Approval and Promulgation of Implementation Plans; Florida; Section 128 and 110(a)(2)(E)(ii) and (G) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: EPA is proposing to supplement an April 18, 2012, proposed rule related to submissions provided by the State of Florida, through the Florida Department of Environmental Protection (FDEP) on December 13, 2007, and supplemented on April 18, 2008, to demonstrate that the Florida State Implementation Plan (SIP) meets the ''infrastructure'' requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). First, EPA is proposing to supplement that earlier proposed action by proposing full approval of the State's section 110(a)(2)(E)(ii) infrastructure SIP in addition to the earlier proposed conditional approval of this sub-element. Second, EPA is proposing approval of the State's section 110(a)(2)(G) infrastructure SIP in addition to the earlier proposed federal implementation plan (FIP) for this element. In addition, EPA is proposing to approve two related draft revisions to the Florida SIP that were submitted for parallel processing by FDEP on April 19, 2012, to address the requirements of section 128 and the substantive requirements of section 110(a)(2)(G) of the CAA.

DATES: Written comments must be received on or before June 18, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0809, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2011–0809,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0089. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket

materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can be reached via electronic mail at *ward.nacosta@epa.gov.*

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I. What is parallel processing?

Parallel processing refers to a concurrent state and federal proposed rulemaking action. Generally under this process, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. *See,* e.g., 40 CFR part 51, Appendix V. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA publishes this notice of proposed rulemaking in the **Federal Register** and solicits public comment during approximately the same time frame during which the state is holding its public hearing. The state and EPA thus provide for public comment periods on both the state and the federal actions in parallel.

On April 19, 2012, the State of Florida, through FDEP, submitted a request for parallel processing for draft SIP revision related to CAA section 128 and the substantive requirements of section 110(a)(2)(G). This revision was noticed for public comment by the State on April 19, 2012, but is not yet state effective. Through today's proposed rulemaking, EPA is proposing parallel approval for this draft SIP revision.

Once the April 19, 2012 revision is state-effective, Florida will need to provide EPA with a formal SIP revision request to incorporate these changes into the Florida SIP. After Florida submits the formal SIP revision request (including a response to any public comments raised during the State's public participation process), EPA will prepare a final rulemaking notice for the SIP revision. If the formal SIP revision associated with the parallel process submission is changed from what is proposed in today's action, EPA will evaluate those changes for significance. If any such changes are found by EPA to be significant, then the Agency intends to re-propose the action based upon the revised submission. In addition, if the changes render the SIP revision not approvable, EPA would re-propose the action as a disapproval of the revision.

While EPA may not be able to have a concurrent public comment process with the State, the FDEP-requested parallel processing allows EPA to begin to take action on the State's draft SIP revision in advance of the submission of the formal SIP revision. As stated above, the final rulemaking action by EPA will occur only after the SIP revision has been: (1) Adopted by Florida, (2) evaluated for changes, and (3) submitted formally to EPA for incorporation into the SIP.

II. Background

On July 18, 1997, EPA promulgated a new NAAQS for ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. *See* 62 FR 38856. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS. Section 110(a)(2) requires states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 1997 8-hour ozone NAAQS to EPA no later than June 2000. However, intervening litigation over the 1997 8-hour ozone NAAQS created uncertainty about how to proceed and many states did not provide the required ''infrastructure'' SIP submission for these newly promulgated NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the ''infrastructure'' requirements for the 1997 8-hour ozone NAAQS. EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997 8-hour ozone NAAQS by December 15, 2007. Subsequently, EPA received an extension of the date to complete this **Federal Register** notice until March 17, 2008, based upon agreement to make the findings with respect to submissions made by January 7, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state as of January 7, 2008.

On March 27, 2008, EPA published a final rulemaking entitled, ''Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS,'' making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. For those states that did receive findings, such as Florida, the findings of failure to submit for all or a portion of a State's implementation plan established a 24-month deadline for EPA to promulgate a FIP to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs. However, the findings of failure to submit did not impose sanctions or set deadlines for imposing sanctions as described in section 179 of the CAA, because these findings do not pertain to the elements contained in the Title I part D plan for nonattainment areas as required under section 110(a)(2)(I). Additionally, the findings of failure to submit for the infrastructure submittals are not a SIP call pursuant to section 110(k)(5).

The finding that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Florida's infrastructure submission was received by EPA on December 13, 2007, and was determined to be complete on March 27, 2008, for all elements with the exception of 110(a)(2)(G). In FDEP's December 13, 2007, submission, and in a letter dated April 18, 2008, FDEP cited State statutes as evidence that Florida has the

authority to implement emergency powers for the 1997 8-hour ozone NAAQS as required by section 110(a)(2)(G). EPA, however, proposed a FIP with respect to this element of the infrastructure SIP because the statutes cited by FDEP had not been approved into the Florida SIP.[1] *See* 77 FR 23181 (April 18, 2012). EPA noted that the Agency would take action to approve the FIP for element 110(a)(2)(G) unless Florida submits a final SIP revision correcting the deficiency for element 110(a)(2)(G) and EPA takes final action to approve the revision prior to such time that EPA is obligated to take final action on this 1997 8-hour ozone infrastructure SIP submission, per a settlement agreement signed on November 30, 2011.

On April 19, 2012, FDEP submitted, for parallel processing, draft changes to address the deficiencies of the Florida SIP regarding the substantive requirements of section 110(a)(2)(G). Today's action proposes approval of these changes into the Florida SIP and proposes approval for element 110(a)(2)(G) of the State's infrastructure SIP submittal. If EPA is able to take final action on Florida's forthcoming final SIP revision prior to finalizing the April 18, 2012, proposed FIP, the final action to approve a FIP for 110(a)(2)(G) will no longer be necessary. If, EPA is not able to take final action the SIP revision, EPA may proceed with finalizing the FIP for element 110(a)(2)(G).

In EPA's April 18, 2012, proposed infrastructure rulemaking for Florida, the EPA also proposed to conditionally approve FDEP's December 13, 2007, infrastructure submission with regard to the 110(a)(2)(E)(ii) requirements. EPA proposed conditional approval of this sub-element because the State's implementation plan did not contain provisions to address CAA section 128 requirements, however, FDEP submitted a letter to EPA on March 13, 2012, that included a commitment to submit a SIP revision to address the CAA section 128 requirements. *See* 77 FR 23181. The letter Florida submitted to EPA can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2011–0809. On April 19, 2012, FDEP submitted, for parallel processing, a draft SIP revision to address the deficiencies within the Florida SIP to address CAA section 128 requirements. In today's action, EPA is proposing to approve this SIP revision into the Florida SIP and supplement the Agency's earlier proposed conditional approval of Florida's infrastructure SIP with respect to sub-element 110(a)(2)(E)(ii) with a proposed approval of this sub-element contingent upon final action to approve the section 128 provisions into the Florida SIP.

If EPA is able to take final action to approve Florida's forthcoming final SIP revision pertaining to the section 128 requirements prior to taking final rulemaking action on the April 18, 2012, proposed conditional approval and FIP, finalizing the conditional approval for 110(a)(2)(E)(ii) will no longer be necessary. If, EPA is not able to take final action on the SIP revision, EPA may proceed with finalizing the conditional approval for element 110(a)(2)(E)(ii).

III. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of EPA's proposed infrastructure SIP rulemaking for Florida are listed below[2] and in EPA's October 2, 2007, memorandum entitled ''Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards.''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.[3]
- 110(a)(2)(E): Adequate resources.
- 110(a)(2)(F): Stationary source monitoring system.
- 110(a)(2)(G): Emergency power.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Areas designated nonattainment and meet the applicable requirements of part D.[4]
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.

[1] In a letter dated March 23, 2012, FDEP notified EPA of FDEP's intent to submit a SIP revision to address the SIP deficiency for 110(a)(2)(G) in the very near future. The letter Florida submitted to EPA can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2011–0809.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C). Additionally, EPA has taken action on all other infrastructure elements with the exception of 110(a)(2)(D)(i) for Florida in a separate rulemaking from today's action. Today's action is limited to infrastructure elements 110(a)(2)(E)(ii) and 110(a)(2)(G) only.

[3] EPA's April 18, 2012, proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 8-hour ozone NAAQS. Interstate transport requirements were formerly addressed by Florida consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the D.C. Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). Prior to this remand, EPA took final action to approve Florida's SIP revision, which was submitted to comply with CAIR. *See* 72 FR 58016 (October 12, 2007). In so doing, Florida's CAIR SIP revision addressed the interstate transport provisions in section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. In response to the remand of CAIR, EPA has recently finalized a new rule to address the interstate transport of nitrogen oxides and sulfur oxides in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Cross-State Air Pollution Rule''). EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

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

• 110(a)(2)(K): Air quality modeling/data.
• 110(a)(2)(L): Permitting fees.
• 110(a)(2)(M): Consultation/participation by affected local entities.

As discussed above, on April 18, 2012 (77 FR 23181), EPA proposed action on Florida's December 13, 2007, infrastructure submission for the 1997 8-hour ozone NAAQS. Today's proposed action supplements EPA's April 18, 2012, proposed rulemaking with regard to the conditional approval for section 110(a)(2)(E)(ii), and a FIP for section 110(a)(2)(G) requirements for Florida for the 1997 8-hour ozone NAAQS. Today's action proposes full SIP approval for both elements based upon pending changes to the Florida SIP regarding section 128 (State Boards as applicable to the State's infrastructure SIP pursuant to section 110(a)(2)(E)(ii)) and the substantive requirements of section 110(a)(2)(G) (emergency power authority comparable to that in section 303 of the CAA).

IV. What is EPA's analysis of how Florida addressed CAA Section 128?

Section 128 of the CAA requires that states include provisions in their SIP to address conflict interest for state boards that oversee CAA permits and enforcement orders. Specifically, CAA section 128 reads as follows:

(a) *Not later than the date one year after August 7, 1977, each applicable implementation plan shall contain requirements that—*

(1) *any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this chapter, and*

(2) *any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements submitted as part of an implementation plan.*

During the evaluation of Florida's SIP in regards to EPA's proposed rulemaking of the State's December 13, 2007, and supplemented on April 18, 2008, infrastructure submission related to section 110(a)(2)(E)(ii) for the 1997 8-hour ozone NAAQS, EPA noted that Florida's SIP did not include provisions to address CAA section 128 requirements. As such, EPA alerted the State to this missing component of their implementation plan and as a result, FDEP submitted a letter to EPA dated March 13, 2012, which contained the State's commitment to correct this deficiency and requested that EPA take action to conditionally approve 110(a)(2)(E)(ii) as a result of this commitment. Based upon this commitment, EPA proposed conditional approval of this sub-element in its April 18, 2012, rulemaking. *See* 77 FR 23181. On April 19, 2012, FDEP submitted a draft SIP revision for parallel processing to address the section 128 requirements. Florida's April 19, 2012, draft SIP revision, proposes to include existing state statues to meet the applicable requirements of section 128.

For purposes of section 128(a)(1), Florida has no boards or bodies with authority over air pollution permits or enforcement actions. Such matters are instead handled by an appointed Secretary. Appeals of final administrative orders and permits are available only through the judicial appellate process described at Florida Statute 120.68. As such, a ''board or body'' is not responsible for approving permits or enforcement orders in Florida, and the requirements of section 128(a)(1) are not applicable.

Regarding section 128(a)(2) (also made applicable to the infrastructure SIP pursuant to section 110(a)(2)(E)(ii)), Florida has submitted for incorporation into the SIP relevant provisions of Florida Statutes 112.3143(4)—*Voting Conflict* and 112.3144—*Full and Public Disclosure of Financial Interests.* Because Florida does not rely upon a ''board or body'' to approve permits or enforcement orders, the conflict of interest disclosure requirements of section 128(a)(2) only apply to the head of the State's executive agency (i.e., FDEP) tasked with these powers. The above cited Florida Statutes are applicable to the Secretary of FDEP and EPA has preliminarily determined them to be sufficient to satisfy the applicable conflict of interest provisions of section 128.

Today, EPA is proposing to approve Florida Statutes 112.3143(4) and 112.3144 into the Florida's SIP as meeting the requirements of section 128 of the CAA. This proposed approval is contingent upon Florida submitting a final SIP revision consistent with the April 19, 2012, draft SIP revision.

V. What is EPA's analysis of how Florida addressed CAA Section 110(a)(2)(E)(ii)?

Section 110(a)(2)(E)(ii) requires that each implementation plan provide that the State comply with the requirements respecting state boards pursuant to section 128 of the Act.[5] As a result of Florida's April 19, 2012, draft SIP revision to address 128 requirements (discussed above), EPA is now proposing a full approval of Florida's December 13, 2007, infrastructure submission with regard to section 110(a)(2)(E)(ii) for the 1997 8-hour ozone NAAQS. This proposed full approval (contingent on EPA's final approval of Florida's SIP revision to meet the CAA section 128 requirements) is an alternative to the conditional approval that EPA proposed for this element on April 18, 2012. *See* 77 FR 23181. If EPA is able to take final action to approve Florida's forthcoming final SIP revision pertaining to these requirements prior to taking final action on the April 18, 2012, proposed conditional approval, finalizing the conditional approval for 110(a)(2)(E)(ii) will no longer be necessary. If, EPA is not able to take final action on the SIP revision, EPA may proceed with finalizing the conditional approval for element 110(a)(2)(E)(ii).

VI. What is EPA's analysis of how Florida addressed CAA Section 110(a)(2)(G)?

Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. On March 27, 2008, EPA published a final rulemaking entitled, ''Completeness Findings for Section 110(a) State Implementation Plans; 8-Hour Ozone NAAQS,'' making a finding as to whether each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 8-hour ozone NAAQS. *See* 73 FR 16205. Florida was among the states that received a finding of failure to submit because its infrastructure submission was deemed incomplete for element 110(a)(2)(G) for the 1997 8-hour ozone NAAQS by March 1, 2008. The finding of failure to submit action triggered a 24-month clock for EPA to either issue a FIP or take final action on a SIP revision which corrects the deficiency for which the

[5] Today's action is related specifically to the 110(a)(2)(E)(ii) sub-element of Florida's December 13, 2007, infrastructure submission for the 1997 8-hour ozone NAAQS. As noted earlier in this proposed rulemaking, EPA has already proposed action for the majority of Florida's December 13, 2007, infrastructure submission for the 1997 8-hour ozone NAAQS, and is not re-proposing for many of those elements, including sub-elements 110(a)(2)(E)(i) and 110(a)(2)(E)(iii), in this today's action.

finding of failure to submit was received. *See* 42 U.S.C. 7410(c)(1).

In FDEP's December 13, 2007, submission and a letter dated April 18, 2008, FDEP cited State statutes as evidence that Florida has the authority to implement emergency powers for the 8-hour ozone standard. The April 18, 2008, letter FDEP sent to EPA, which included the specific State statutes cited by FDEP, can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2011–0809. Because these statutes had not been adopted into the federally-approved SIP, in an April 18, 2012, rulemaking, EPA proposed a FIP to correct this deficiency and preliminarily determined that the cited statutes were sufficient to meet the requirements of section 303 of the CAA thus meet the requirements of element 110(a)(2)(G). *See* 77 FR 23181. In the April 18, 2012, rulemaking, EPA noted the Agency's intentions to approve a FIP for element 110(a)(2)(G) unless Florida submitted a final SIP revision correcting the deficiency for element 110(a)(2)(G) and the Agency acted on such submission prior to the finalization of the FIP.

Due to EPA's obligations pursuant to the infrastructure SIP settlement agreement described above, EPA would need to take final action to approve such a SIP revision prior to the date on which EPA is obligated to take final action on the FIP for this element. Should final approval of a SIP revision related to emergency powers (the subject of this action) occur after EPA finalizes a FIP for element 110(a)(2)(G), EPA would act to rescind the FIP at that time. If EPA is able to take final action to approve Florida's forthcoming final SIP revision pertaining to these requirements (section 110(a)(2)(G)) prior to taking final rulemaking action on the April 18, 2012 proposed FIP, finalizing the FIP for 110(a)(2)(G) will no longer be necessary.

On April 19, 2012, FDEP submitted a draft SIP revision, for parallel processing, to address the 110(a)(2)(G) requirements for the 1997 8-hour ozone NAAQS. In FDEP's proposed SIP revision, Florida Statutes 403.131 and 120.569(2)(n) were submitted for inclusion to the SIP to address the requirements of section 110(a)(2)(G) of the CAA. EPA has reviewed Florida's April 19, 2012, draft SIP revision, and has made the preliminary determination, that the draft revision is adequate for emergency powers and meets the requirements of 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. Therefore, through today's action, EPA is proposing to approve this revision into the Florida SIP and is proposing approval in alternative to the Agency's April 18, 2012, proposed FIP for this infrastructure element. This proposed approval is contingent upon Florida submitting a final SIP revision consistent with the April 19, 2012, draft SIP revision.

VII. Proposed Action

As described above, EPA is proposing to approve Florida's April 19, 2012, draft SIP revision to incorporate provisions into the Florida SIP to address section 128 requirements of the CAA. As a result of EPA's proposed approval of Florida's April 19, 2012, draft SIP revision to address 128 requirements, EPA is also proposing to approve the 110(a)(2)(E)(ii) sub-element of Florida's December 13, 2007, infrastructure submission for the 1997 8-hour ozone NAAQS. Further, EPA is proposing to approval Florida's April 19, 2012, draft SIP revision to incorporate provisions into the Florida SIP to address section 110(a)(2)(G) requirements for the 1997 8-hour ozone NAAQS. As a result of EPA's proposed approval of Florida's April 19, 2012, draft SIP revision to address the substantive requirements 110(a)(2)(G), EPA is also proposing to approve the 110(a)(2)(G) element of Florida December 13, 2007, infrastructure submission for the 1997 8-hour ozone NAAQS.

EPA's proposed approval is contingent on Florida's submission of a final SIP revision to address CAA section 128, and the substantive requirements of CAA section 110(a)(2)(G) for the 1997 8-hour ozone NAAQS. Should Florida not submit a final SIP revision to EPA addressing CAA section 128, and CAA section 110(a)(2)(G) requirements for the 1997 8-hour ozone NAAQS and/or EPA is not able to finalize a full approval action prior to such time that EPA is obligated to take final action on the 1997 8-hour ozone infrastructure SIP submission for Florida, EPA will be obligated to take final action on the proposed conditional approval of section 110(a)(2)(E)(ii) and the proposed FIP for 110(a)(2)(G). The Agency has made the preliminary determination that these proposed actions are consistent with the CAA and EPA guidance related to 128 requirements and infrastructure submissions.

VIII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: May 7, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–12137 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0177(a); FRL–9673–8]

Approval and Promulgation of Implementation Plans; Portion of York County, South Carolina Within Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-Hour Ozone Nonattainment Area; Ozone 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the ozone 2002 base year emissions inventory portion of the state implementation plan (SIP) revision submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 29, 2010. The emissions inventory is included in the ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area'') is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County in South Carolina. This action is being taken pursuant to section 110 of the Clean Air Act. EPA will take action on the North Carolina submission for the ozone 2002 base year emissions inventory, for its portion of the bi-state Charlotte Area, in a separate action. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Written comments must be received on or before June 18, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0177 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0177,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9061. Ms. Waterson can be reached via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 12, 2008, EPA issued a revised ozone NAAQS. See 73 FR 16436. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the South Carolina portion of the bi-state Charlotte Area under the 2008 ozone NAAQS will be addressed in the future. For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: May 8, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–12006 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–BC10

Sea Turtle Conservation; Shrimp Trawling Requirements; Correction

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

ACTION: Correction to a proposed rule; request for comments; notice of public hearings.

SUMMARY: On May 10, 2012, we published a proposed rule to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing to use turtle excluder devices (TEDs) in their nets, and announced five public hearings to be held in Morehead City, NC, Larose, LA, Belle Chasse, LA, D'Iberville, MS, and Bayou La Batre, AL. In this document, we are correcting the time for the public hearing to be held in Larose, LA.

DATES: A public hearing will be held on June 4, 2012, from 6 to 8 p.m. in Larose, LA. Written comments (see **ADDRESSES**) will be accepted through July 9, 2012. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: As published on May 10, 2012 (77 FR 27411), you may submit comments on this proposed rule, identified by 0648–BC10, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.*
- *Mail:* Michael Barnette, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Fax:* 727–824–5309; Attention: Michael Barnette.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter

may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–551–5794.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2012 (77 FR 27411), we published a proposed rule, a request for comments, and a notice of public hearings. However, the time of the June 4, 2012, Larose, LA public hearing was listed wrong and must be corrected.

Correction

Accordingly, the proposed rule, request for comments, and notice of public hearings published on May 10, 2012 (77 FR 27411), is corrected as follows: On page 27415, column 1, line 13, correct the public hearing to read as ''2. June 4, 2012, 6 p.m. to 8 p.m., Larose, LA.''

Dated: May 11, 2012.

Samuel D. Rauch III,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–12013 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 97
Friday, May 18, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0074]

Notice of Decision To Issue Permits for the Importation of Fresh Celery, Arugula, and Spinach From Colombia into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to begin issuing permits for the importation into the continental United States of fresh celery, arugula, and spinach from Colombia. Based on the findings of three pest risk analyses, which we made available to the public for review and comment through a previous notice, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh celery, arugula, and spinach from Colombia.

DATES: *Effective Date:* May 18, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy C. Wayson, Senior Regulatory Coordination Specialist, PPQ–PHP–RPM, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2036.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–56, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the **Federal Register** announcing the availability of the PRA that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the PRA; (2) the comments on the PRA revealed that no changes to the PRA were necessary; or (3) changes to the PRA were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice [1] in the **Federal Register** on August 25, 2010 (75 FR 52302–52303, Docket No. APHIS–2010–0074), in which we announced the availability, for review and comment, of three PRAs that evaluate the risks associated with the importation into the continental United States of fresh celery, arugula, and spinach from Colombia. We solicited comments on the notice for 60 days ending on October 25, 2010. We received one comment by that date, from a State department of agriculture.

In the two PRAs that analyzed the risks of importing fresh celery and spinach from Colombia into the United States, APHIS determined that one of the plant pests identified, the pea leaf miner (*Liriomyza huidobrensis*), has a high risk potential of following the pathway of fresh celery and spinach from Colombia. However, as noted in the PRAs, APHIS concludes that visual inspection for *L. huidobrensis* will sufficiently mitigate the risk of introducing this pest into the United States. The one comment we received referred to this potential risk and stated that visual inspection of these articles is not by itself adequate in mitigating the risk of introduction of this pest. The commenter noted that *L. huidobrensis* spends most of its lifecycle in the larval form mining leaves of the host plant material and would not be easily detectable along the midribs of leaves. The commenter recommends that a systems approach be undertaken that includes limiting growing of these articles to pest-free areas, fumigation, visual inspection at the point of origin and upon arrival in the United States, and an accompanying phytosanitary certificate stating that the plant material is free of *L. huidobrensis.*

Although we acknowledge the risk that these plant pests could potentially evade visual detection and be introduced into the United States, APHIS has permitted the entry of fresh celery, arugula, and spinach from several countries using similar mitigations for *L. huidobrensis* without significant pest issues. Spinach, for example, has been permitted entry into the United States from Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama with only visual inspection, and *L. huidobrensis* reportedly occurs in these countries. In response to the commenter's recommendations, we note that celery, arugula, and spinach from neighboring countries are already subject to inspection upon arrival in the United States, and that we will require the national plant protection organization (NPPO) of Colombia to issue phytosanitary certificates with an additional declaration attesting that shipments of celery and spinach are free of *L. huidobrensis* and other named plant pests.

In the notice [2] we published announcing the availability of PRAs for the importation of fresh celery, arugula, and spinach from Colombia, *Coccus viridis* was included as being one of the quarantine pests of celery subject to mitigation. Subsequent to publication of that notice, we established that *Coccus viridis* no longer meets our definition of a quarantine pest and added it to our list [3] of pests that we no longer regulate. Therefore, we will not be including

[1] To view the notice, the PRAs, and the comment we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS–2010–0074.*

[2] See footnote 1 to access the notice and PRAs on the Web.

[3] This list can be viewed at *http://www.aphis.usda.gov/plant_health/plant_pest_info/frsmp/non-reg-pests.shtml.*

Coccus viridis among the pests listed in the additional declaration on the phytosanitary certificate.

For these reasons, together with Colombia's use of integrated pest management practices in the production of fresh celery, arugula, and spinach, APHIS has concluded that imports of celery, arugula, and spinach from Colombia are unlikely to contain *L. huidobrensis* or other plant pests of concern. Accordingly, we have determined that no changes to the PRAs are necessary based on the comment.

Therefore, in accordance with the regulations in § 319.56–4(c)(2)(ii), we are announcing our decision to begin issuing permits for the importation into the continental United States of fresh celery, arugula, and spinach from Colombia subject to the following phytosanitary measures:

• Fresh celery, arugula, and spinach from Colombia must be imported as commercial shipments only.

• Each consignment of fresh celery, arugula, and spinach must be accompanied by a phytosanitary certificate issued by the NPPO of Colombia. The phytosanitary certificate for celery and spinach must include an additional declaration stating that each consignment has been inspected and is free of pests. The additional declaration for celery must state ''This shipment has been inspected and is free from *Copitarsia decolora, Planococcus lilacinus,* and *Liriomyza huidobrensis.''* The additional declaration for spinach must state ''This shipment has been inspected and is free from *Copitarsia incommoda, Diabrotica speciosa,* and *Liriomyza huidobrensis.''*

• Each shipment of celery, arugula, and spinach is subject to inspection upon arrival at the port of entry into the continental United States.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at *http://www.aphis.usda.gov/favir*). In addition to those specific measures, fresh celery, arugula, and spinach from Colombia will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Dated: Done in Washington, DC, this 14th day of May 2012.

Gregory L. Parham,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–12029 Filed 5–17–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of funds availability.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces its Public Television Station Digital Transition Grant Program application window for fiscal year (FY) 2012. The FY 2012 funding for the Public Television Station Digital Transition Grant Program is $3,000,000.

DATES: You may submit completed applications for grants on paper or electronically according to the following deadlines:

• Paper copies must carry proof of shipping no later than July 17, 2012 to be eligible for FY 2012 grant funding. Late applications are not eligible for FY 2012 grant funding.

• Electronic copies must be received by July 17, 2012 to be eligible for FY 2012 grant funding. Late applications are not eligible for FY 2012 grant funding.

ADDRESSES: You may obtain the application guide and materials for the Public Television Station Digital Transition Grant Program at the following sources:

• The Internet at *http://www.rurdev.usda.gov/UTP_DTV.html.*

• 2. You may also request the application guide and materials from RUS by contacting the appropriate individual listed in Section VII of the **SUPPLEMENTARY INFORMATION** section of this notice.

Completed applications may be submitted the following ways:

• *Paper:* Submit completed paper applications for grants to the: Telecommunications Program, Rural Utilities Service, 1400 Independence Ave. SW., Room 2844, STOP 1550, Washington, DC 20250–1550. Applications should be marked ''Attention: Director, Advanced Services Division.''

• 2. *Electronic:* Submit electronic grant applications to Grants.gov at the following Web address: *http://www.grants.gov/* (Grants.gov), and follow the instructions you find on that Web site.

FOR FURTHER INFORMATION CONTACT: Petra Schultze, Financial Analyst, Advanced Services Division, Telecommunications Program, Rural Utilities Service, email: *petra.schultze@wdc.usda.gov,* telephone: 202–690–4493, fax: 202–720–1051. Additional point of contact: Norberto Esteves, Acting Director, Advanced Services Division at *norberto.esteves@wdc.usda.gov* or at same phone numbers listed previously.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS).

Funding Opportunity Title: Public Television Station Digital Transition Grant Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.861.

Dates: Deadline for completed grant applications submitted electronically or on paper.

Items in Supplementary Information

I. *Funding Opportunity:* Brief introduction to the Public Television Station Digital Transition Grant Program.

II. *Award Information:* Maximum amounts.

III. *Eligibility Information:* Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

IV. *Application and Submission Information:* Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines, items that are eligible.

V. *Application Review Information:* Considerations and preferences, scoring criteria, review standards, selection information.

VI. *Award Administration:* Award notice information, award recipient reporting requirements.

VII. *Agency Contacts:* Web, phone, fax, email, contact name.

I. Funding Opportunity

As part of the nation's transition to digital television, the Federal Communications Commission (FCC) required all television broadcasters to have converted their transmitters to broadcast digital signals by June 12, 2009. While stations must broadcast their main transmitter signal in digital, many rural stations have yet to complete a full digital transition of their stations across all equipment. Rural stations often have translators serving small or isolated areas and some of these have not completed the transition to digital.

The 2009 FCC deadline did not apply to translators, and only recently in 2011 the FCC adopted a final deadline for analog-to-digital conversion of all translators by September 1, 2015. Because of this, translators have been allowed to continue broadcasting in analog, and stations are still in the process of converting some of their translators to digital. Some rural stations

also have not fully converted their production and studio equipment to digital, which has impaired their ability to provide the same quality local programming that they provided in analog. The digital transition has also created some service gaps where households that received an analog signal are now unable to receive a digital signal. For rural households the digital transition has meant in some cases diminished over-the-air public television service. These rural households are the focus of the Agency's Public Television Station Digital Transition Grant Program.

Most applications to the Public Television Station Digital Transition Grant Program have sought assistance towards the goal of replicating analog coverage areas through transmitter and translator transitions. The first priority has been to initiate digital broadcasting from their main transmitters. As many stations have completed the digital transition of their transmitters, the focus has shifted to power upgrades and translators, as well as digital program production equipment and multicasting/data casting equipment. There are some rural stations that may need to install translators to provide fill-in service to areas that previously received analog but are now unable to receive digital. In FY 2011, 15 awards were made, including the following project purposes: transmitter equipment, translators, studio and production equipment, master control equipment, and microwave equipment. When compared with the first few years of the program, as the digital transition progresses, more applications were received for translators and master control and production equipment, than for transmitters. Some stations may not have achieved full analog parity in program management and creation even after the June 12, 2009, deadline. Continuation of reliable public television service to all current patrons understandably is still the focus for many broadcasters.

It is important for public television stations to be able to tailor their programs and services (*e.g.,* education services, public health, homeland security, and local culture) to the needs of their rural constituents. If public television programming is lost, many school systems may be left without educational programming they count on for curriculum compliance.

This notice has been formatted to conform to a policy directive issued by the Office of Federal Financial Management (OFFM) of the Office of Management and Budget (OMB), published in the **Federal Register** on June 23, 2003, (68 FR 37370). This Notice does not change the Public Television Station Digital Transition Grant Program regulation (7 CFR part 1740).

II. Award Information

A. Available Funds for Grants

1. The amount available for grants for FY 2012 is $3,000,000. The maximum amount for grants under this program is $750,000 per public television station per year.

2. Assistance instrument: Grant documents appropriate to the project will be executed with successful applicants prior to any advance of funds.

B. Public Television Station Digital

Transition Grants Cannot be Renewed. Award documents specify the term of each award. The award term cannot be extended.

III. Eligibility Information

A. Who is eligible for grants? (See 7 CFR 1740.3.)

1. Public television stations which serve rural areas as defined in 7 CFR 1740.2, are eligible for Public Television Station Digital Transition Grants. A public television station is a noncommercial educational television broadcast station that is qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934.

2. Individuals are not eligible for Public Television Station Digital Transition Grant Program financial assistance directly.

3. Corporations that have been convicted of a felony (or had an officer or agency acting on behalf of the corporation convicted of a felony) within the past 24 months are not eligible. Any corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible

B. What are the basic eligibility requirements for a project?

1. Grants shall be made to perform digital transitions of television broadcasting serving rural areas. Grant funds may be used to acquire, lease, and/or install facilities and software necessary to the digital transition. Specific purposes include:

a. Digital transmitters, translators, and repeaters, including all facilities required to initiate DTV broadcasting. All broadcast facilities acquired with grant funds shall be capable of delivering DTV programming and HDTV programming, at both the interim and final channel and power authorizations. There is no limit to the number of transmitters or translators that may be included in an application;

b. Power upgrades of existing DTV transmitter equipment, including replacement of existing low-power digital transmitters with digital transmitters capable of delivering the final authorized power level;

c. Studio-to-transmitter links;

d. Equipment to allow local control over digital content and programming, including master control equipment;

e. Digital program production equipment, including cameras, editing, mixing and storage equipment;

f. Multicasting and data casting equipment;

g. Cost of the lease of facilities, if any, for up to three years; and,

h. Associated engineering and environmental studies necessary to implementation.

2. Matching contributions: There is no requirement for matching funds in this program (see 7 CFR 1740.5).

3. The following are not eligible for grant funding (see 7 CFR 1740.7):

a. Funding for ongoing operations or for facilities that will not be owned by the applicant, except for leased facilities as provided above;

b. Costs of salaries, wages, and employee benefits of public television station personnel unless they are for construction or installation of eligible facilities;

c. Facilities for which other grant funding from any other source has been approved;

d. Expenditures made prior to the application deadline specified in this Notice of Funds Availability.

C. Summary Discussion of a Completed Application

See paragraph IV.B of this notice for a summary discussion of the items that make up a completed application. You will find more complete information in the FY 2012 Public Television Station Digital Transition Grant Program Application Guide. You may also refer to 7 CFR 1740.9 for completed grant application items.

IV. Application and Submission Information

A. Where To Get Application Information

The application guide, copies of necessary forms and samples, and the Public Television Station Digital Transition Grant Program regulation are available from these sources:

1. The Internet: *http://www.rurdev.usda.gov/UTP_DTV.html,* or *http://www.grants.gov.*

2. The RUS Advanced Services Division, for paper copies of these materials call (202) 690–4493.

B. What constitutes a completed application?

1. Detailed information on each item required can be found in the Public Television Station Digital Transition Grant Program regulation and application guide. Applicants are strongly encouraged to read and apply both the regulation and the application guide. This Notice does not change the requirements for a completed application specified in the program regulation. The program regulation and application guide provide specific guidance on each of the items listed and the application guide provides all necessary forms and sample worksheets.

2. A completed application must include the following documentation, studies, reports and information in form satisfactory to RUS. Applications should be prepared in conformance with the provisions in 7 CFR part 1740, subpart A, and applicable USDA regulations including 7 CFR parts 3015, 3016, and 3019. Applicants must use the application guide for this program, which contains instructions and all necessary forms, as well as other important information, in preparing their application. Completed applications must include the following:

a. An application for Federal assistance, Standard Form 424.

b. An executive summary, not to exceed two pages, describing the public television station, its service area and offerings, its current digital transition status, and the proposed project.

c. Evidence of the applicant's eligibility to apply under this Notice, demonstrating that the applicant is a Public Television Station as defined in this Notice, and that it is required by the FCC to perform the digital transition.

d. A spreadsheet showing the total project cost, with a breakdown of items sufficient to enable RUS to determine individual item eligibility.

e. A coverage contour map showing the digital television coverage area of the application project. This map must show the counties (or county) comprising the Core Coverage Area by shading and by name. Partial counties included in the applicant's Core Coverage Area must be identified as partial and must contain an attachment with the applicant's estimate of the percentage that its coverage contour comprises of the total area of the county. (If the application is for a translator, the coverage area may be estimated by the applicant through computer modeling or some other reasonable method, and this estimate is subject to acceptance by RUS. (In the Application Guide, see Section C. 3 Project Core Coverage Area Map(s)).

f. The applicant's own calculation of its Rurality score, supported by a worksheet showing the population of its Core Coverage Area, and the urban and rural populations within the Core Coverage Area. The data source for the urban and rural components of that population must be identified. If the application includes computations made by a consultant or other organization outside the public television station, the application shall state the details of that collaboration. (In the Application Guide, see Section D. Scoring Documentation).

g. The applicant's own calculation of its Economic Need score, supported by a worksheet showing the National School Lunch Program eligibility levels for all school districts within the Core Coverage Area and averaging these eligibility percentages. The application must include a statement from the state or local organization that administers the NSLP program certifying that the school district scores used in the computations are accurate. Applicants are to use the most recent data available. Some official NSLP data is posted on state and/or local government Web sites, in which case a printout of the data may be provided as long as it documents the Web site source. (In the Application Guide, see Section D. Scoring Documentation)

h. A presentation not to exceed five pages demonstrating the Critical Need for the project.

i. Evidence that the FCC has authorized the initiation of digital broadcasting at the project sites. In the event that an FCC construction permit has not been issued for one or more sites, RUS may include those sites in the grant, and make advance of funds for that site conditional upon the submission of a construction permit.

j. Compliance with other Federal statutes. The applicant must provide evidence or certification that it is in compliance with all applicable Federal statutes and regulations, including, but not limited to the following (Sample certifications are provided in the application guide.):

(i) Equal Opportunity and Nondiscrimination;

(ii) Architectural barriers;

(iii) Flood hazard area precautions;

(iv) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(v) Drug-Free Workplace Act of 1998 (41 U.S.C. 701);

(vi) Debarment, Suspension; and Other Responsibility Matters—Primary Covered Transactions;

(vii) Lobbying for Contracts, Grants, Loans, and Cooperative Agreements Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

k. Environmental impact and historic preservation. The applicant must provide details of the digital transition's impact on the environment and historic preservation, and comply with 7 CFR Part 1794, which contains the Agency's policies and procedures for implementing a variety of federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment. This must be contained in a separate section entitled ''Environmental Impact of the Digital Transition,'' and must include the Environmental Questionnaire/Certification, available from RUS, describing the impact of its digital transition. Submission of the Environmental Questionnaire/Certification alone does not constitute compliance with 7 CFR part 1794.

3. DUNS Number. As required by the OMB, all applicants for grants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The Standard Form 424 (SF–424) contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. Please see *http://www.grants.gov/applicants/request_duns_number.jsp for more information on how to obtain a DUNS number or how to verify your organization's number.*

4. Central Contractor Registration (CCR).

a. In accordance with 2 CFR part 25 applicants, whether applying electronically or by paper, must be registered in the CCR prior to submitting an application. Applicants may register for the CCR at *https://www.uscontractorregistration.com/or* by calling 1–877–252–2700. Completing the CCR registration process takes up to five business days, and applicants are strongly encouraged to begin the process

well in advance of the deadline specified in this notice.

b. The CCR registration must remain active, with current information, at all times during which an entity has an application under consideration by an agency or has an active Federal Award.

To remain registered in the CCR database after the initial registration, the applicant is required to review and update, on an annual basis from the date of initial registration or subsequent updates, its information in the CCR database to ensure it is current, accurate and complete.

C. How many copies of an application are required?

1. Applications submitted on paper: Submit the original application and two (2) copies to RUS.

2. Electronically submitted applications: The additional paper copies for RUS are not necessary if you submit the application electronically through *http://www.grants.gov.*

D. How and where to submit an application?

Grant applications may be submitted on paper or electronically.

1. Submitting Applications on Paper

a. Address paper applications for grants to the Telecommunications Program, RUS, 1400 Independence Ave. SW., Room 2844, STOP 1550, Washington, DC 20250–1550. Applications should be marked ''Attention: Director, Advanced Services Division.''

b. Paper applications must show proof of mailing or shipping consisting of one of the following:

(i) A legibly dated postmark applied by the U. S. Postal Service;

(ii) A legible mail receipt with the date of mailing stamped by the USPS; or

(iii) A dated shipping label, invoice, or receipt from a commercial carrier.

c. Non-USPS-applied postage dating, i.e. dated postage meter stamps, do not constitute proof of the date of mailing.

d. Due to screening procedures at the Department of Agriculture, packages arriving via the USPS are irradiated, which can damage the contents. RUS encourages applicants to consider the impact of this procedure in selecting their application delivery method.

2. Electronically Submitted Applications

a. Applications will not be accepted via facsimile machine transmission or electronic mail.

b. Electronic applications for grants will be accepted if submitted through the Federal government's Grants.gov initiative at *http://www.grants.gov.*

c. How to use Grants.gov:

(i) Navigate your Web browser to *http://www.grants.gov.*

(ii) Follow the instructions on that Web site to find grant information.

(iii) Download a copy of the application package.

(iv) Complete the package off-line.

(v) Upload and submit the application via the Grants.gov Web site.

d. Grants.gov contains full instructions on all required passwords, credentialing and software.

e. RUS encourages applicants who wish to apply through Grants.gov to submit their applications in advance of the deadline. Difficulties encountered by applicants filing through Grants.gov will not justify filing deadline extensions.

f. If a system problem occurs or you have technical difficulties with an electronic application, please use the customer support resources available at the Grants.gov Web site.

E. Deadlines

1. Paper applications must be postmarked and mailed, shipped, or sent overnight no later than July 17, 2012 to be eligible for FY 2012 grant funding. Late applications are not eligible for FY 2012 grant funding.

2. Electronic grant applications must be received by July 17, 2012 to be eligible for FY 2012 funding. Late applications are not eligible for FY 2012 grant funding.

V. Application Review Information

A. Criteria

1. Grant applications are scored competitively and subject to the criteria listed below.

2. Grant application scoring criteria are detailed in 7 CFR 1740.8. There are 100 points available, broken down as follows:

a. The Rurality of the Project (up to 50 points);

b. The Economic Need of the Project's Service Area (up to 25 points); and

c. The Critical Need for the project, and of the applicant, including the benefits derived from the proposed service (up to 25 points).

B. Review Standards

1. All applications for grants must be delivered to RUS at the address and by the date specified in this notice to be eligible for funding. RUS will review each application for conformance with the provisions of this part. RUS may contact the applicant for additional information or clarification.

2. Incomplete applications as of the deadline for submission will not be considered. If an application is determined to be incomplete, the applicant will be notified in writing and the application will be returned and will not be considered for FY 2012 funding.

3. Applications conforming with this part will be evaluated competitively by a panel of RUS employees selected by the Administrator of RUS, and will be awarded points as described in the scoring criteria in 7 CFR 1740.8. Applications will be ranked and grants awarded in rank order until all grant funds are expended.

4. Regardless of the score an application receives, if the RUS determines that the Project is technically or financially infeasible, the Agency will notify the applicant, in writing, and the application will be returned and will not be considered for FY 2012 funding.

C. Scoring Guidelines

1. The applicant's calculated scores in Rurality and Economic Need will be checked and, if necessary, corrected by RUS.

2. The Critical Need score will be determined by RUS based on information presented in the application. The critical need score is a subjective score based on the reviewer's assessment of the supporting arguments made in the application. The score aims to assess how the specific digital transition purpose fits with the unique need of the television station as it moves all of its equipment through the digital transition. This score is intended to capture from the rural public's standpoint the necessity and usefulness of the proposed project. This scoring category will also recognize that at a specific time, some transition purposes are perceived to be more essential than others and that, over time, that perception changes. For example, during the transition from analog to digital transmitters, which concluded on June 12, 2009, a first time transition of a primary transmitter was the most essential project that could be undertaken for most stations and would have been scored accordingly. Now that all transmitters have completed the transition to digital, the focus may shift to some of the other eligible purposes such as translators, studio and production equipment, and master control equipment. But what equipment specifically is most essential may vary from station to station. Just to name one example, local production equipment can be a high priority especially if it produces an areas' only local news or if the station has been historically active in producing local programming. In

addition to being a subjective score, the critical need score is also relative in the sense that each application is scored in comparison to other applications in the competition. These various factors explain why a similar application may receive a different critical need score in different years of this program.

VI. Award Administration Information

A. Award Notices

The Agency generally notifies applicants whose projects are selected for awards by faxing an award letter. The Agency follows the award letter with a grant agreement that contains all the terms and conditions for the grant. A copy of the standard agreement is posted on the RUS Web site at *http://www.rurdev.usda.gov/UTP_DTV Resources.html.*

An applicant must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

B. Administrative and National Policy Requirements

The items listed in the program regulation at 7 CFR 1740.9(j) implement the appropriate administrative and national policy requirements.

C. Reporting

1. All recipients of Public Television Station Digital Transition Grant Program financial assistance must provide semiannual performance activity reports to RUS until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last semiannual report. The final report must include an evaluation of the success of the project.

2. Recipient and Subrecipient Reporting

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

a. First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

b. The Total Compensation of the Recipient's Executives (5 most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *http://www.ccr.gov* by the end of the month following the month in which the award was made.

c. The Total Compensation of the Subrecipient's Executives (5 most highly compensated executives) must be reported by the Subrecipient (if the Subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the sub-award was made.

3. Systems Necessary To Meet Reporting Requirements

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparence Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, 170.110(b).

VII. Agency Contacts

A. Web site: *http://www.usda.gov/rus/.* The Web site maintains up-to-date resources and contact information for the Public Television Station Digital Transition Grant Program.

B. Phone: 202–690–4493.

C. Fax: 202–720–1051.

D. Main points of contact: Petra Schultze, Financial Analyst, Advanced Services Division, Telecommunications Program, RUS, telephone: 202–690–4493, fax: 202–720–1051, or email: *petra.schultze@wdc.usda.gov.* Additional point of contact at the same telephone number, or email: *norberto.esteves@wdc.usda.gov:* Norberto Esteves, Acting Director, Advanced Services Division.

Dated: April 12, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–12024 Filed 5–17–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC027

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, June 4–12, 2012 in Kodiak, AK.

DATES: The meetings will be held Monday, June 4, 2012 through Tuesday, June 12, 2012. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

ADDRESSES: The meetings will be held at the Kodiak Harbor Convention Center, 236 Rezanof Drive, Kodiak, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council will begin its plenary session at 8 a.m. on Wednesday, June 6 continuing through Tuesday, June 12, 2012. Council's Advisory Panel (AP) will begin at 8 a.m., Monday, June 4 and continue through Friday, June 8 at the Elks Club, 102 Marine Way. The Scientific Statistical Committee (SSC) will begin at 8 a.m. on Monday, June 4 and continue through Wednesday, June 6 at the Kodiak Inn, Harbor Room. The Enforcement Committee will meet Tuesday, June 5, from 1 p.m. until 4 p.m., meeting room to be announced. All meetings are open to the public, except executive sessions.

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

Reports

1. Executive Director's Report

NMFS Management Report (including Observer Program update)
Alaska Department of Fish & Game Report
NOAA Enforcement Report
United States Coast Guard Report
United States Fish & Wildlife Service Report
Protected Species Report Alaska Oceans Observing System (AOOS)

2. Halibut Bycatch

Review Halibut Workshop Report; Final action on Gulf of Alaska (GOA) Halibut Prohibited Species Catch (PSC); Discussion paper on GOA comprehensive halibut bycatch amendments; Discussion paper on

Bering Sea Aleutian Island (BSAI) halibut PSC limit (T).

3. Essential Fish Habitat (EFH)

Initial review of Bering Sea Habitat Area of Particular Concern (HAPC) skate egg sites.

4. BSAI Crab Rebuilding

Crab Plan Team report on Set catch Specifications for 4 stocks; Final action on Pribilof Bristol Bay Red King Crab rebuilding plan.

5. Freezer Longline (FLL) Issues

Discussion paper on revising FLL GOA cod sideboards (T); Initial review of FLL Vessel replacement.

6. Groundfish Issues

Discussion paper on limiting other gear on jig vessels; Discussion paper on BSAI Greenland turbot allocation; Discussion paper on BSAI Flatfish specification flexibility (T); Discussion paper on Grenadiers; Review and approve a 5-Year Research Priorities; Review comments & reports on Programmatic Supplemental Impact Statement (PSEIS); action as necessary; review Pacific cod assessment models (SSC only); Receive report of the Recruitment Workshop (SSC only).

7. Staff Tasking

Review Committees and tasking.

8. Other Business

The SSC agenda will include the following issues:

1. EFH
2. BSAI Crab Rebuilding
3. FFL Vessel replacement
4. 5-year Research Priorities

The Advisory Panel will address most of the same agenda issues as the Council except B reports. The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*.

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 these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meetings.

Dated: May 15, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–12076 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC028

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a meeting of the Standing, Special Shrimp and Special Reef Fish Scientific and Statistical Committees (SSC).

DATES: The meeting will convene at 1 p.m. on Tuesday, June 5, 2012 and conclude by 3 p.m., Friday, June 8, 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: Steven Atran, Population Dynamics Statistician; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Standing and Special Shrimp SSC will meet jointly on Tuesday and Wednesday, June 5–6, 2012 to review benchmark stock assessments on brown shrimp, white shrimp and pink shrimp, and may consider recommending definitions of overfishing limit (OFL) and acceptable biological catch (ABC) based on those assessments. On Thursday and Friday, June 7–8, 2012, the Standing and Special Reef Fish SSC will meet jointly. The Standing and Special Reef Fish SSC will receive a presentation on methods for setting ABC for stocks that have reliable catch data only (only reliable catch stocks—ORCS). The SSC will also review recommendations from the ABC Control Rule Working Group on possible modifications to the ABC control rule that was adopted as part of the Generic Annual Catch Limits/Accountability Measures Amendment, and may make recommendations on modifications of the ABC control rule to the Council. The SSC will also reconsider it earlier ABC recommendation for vermilion snapper in light of concern that the P-star method used did not fully capture scientific uncertainty. The SSC will review proposed terms of reference for an upcoming SEDAR mutton snapper update assessment. The SSC will review barotrauma issues, including a summary of a recent workshop on developments in methods and devices for returning fish to the water, a presentation on physiological effects of barotrauma by Dr. Karen Burns, a presentation on marine mammal interactions with released fish by Dr. Greg Stuntz, and a review of a published report by Dr. Gene Wilde on the effectiveness of venting on improving survival of released fish. Based on these reviews, the SSC may make recommendations regarding the current rules requiring possession of venting tools on vessels catching reef fish. The SSC will also discuss establishing status determination criteria for determining when stocks are overfished or experiencing undergoing overfishing for stocks that do not currently have such criteria. In addition, the SSC will conduct a routine review of the schedule and priorities for upcoming SEDAR stock assessments. Under other business, the SSC will be asked to clarify a recent request that it be provided with an annual report on the status of Gulf gray triggerfish.

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 Scientific and Statistical Committees 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 Scientific and Statistical Committees 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: May 15, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–12077 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, June 6, 2012 at 8:30 a.m.

ADDRESSES: The meeting will be held at the Radisson Hotel Plymouth Harbor, 180 Water Street, Plymouth, MA 02360; telephone: (508) 747–4900; fax: (508) 746–2609.

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 items of discussion in the committee's agenda are as follows:

The Herring Oversight Committee will meet to review and discuss public comments received regarding measures under consideration in Draft Amendment 5 to the Atlantic Herring Fishery Management Plan (FMP). They will review/discuss Enforcement Committee, Herring Plan Development Team, and Herring Advisory Panel recommendations regarding measures under consideration in Draft Amendment 5. They will also develop recommendations regarding the final selection of management measures for Amendment 5, scheduled for the June 19–21, 2012 Council meeting. The Committee will address other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: May 15, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–12116 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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, June 8, 2012 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Clarion Hotel, 1230 Congress Street, Portland, ME 04102; telephone: (207) 774–561; fax: (207) 871–0510.

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: There are three major topics for Habitat Committee consideration at this meeting. First, the Committee will recommend updated boundaries for some of the potential adverse effects minimization areas that will be forwarded to a joint process with the Groundfish Committee (these measures are part of Omnibus Essential Fish Habitat Amendment 2). Updated boundary recommendations from the PDT were discussed at the April Committee meeting, but decision-making was deferred. Second, the Committee will consider (1) a draft Memorandum of Understanding with the Mid-Atlantic Fishery Management Council related to coordination of broad-scale coral management efforts and (2) the possibility of splitting coral alternatives out of Omnibus EFH Amendment 2 and into a separate management action. Coral alternatives were approved for analysis by the Council on April 26. Finally, the PDT will provide an update to the Committee about (1) the development of Dedicated Habitat Research Areas and (2) analysis of the coral measures.

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: May 15, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–12117 Filed 5–17–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must be Received on or Before:* 6/18/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

Striking Tools

NSN: 5120–00–NIB–0001—Hammer—2 lb, Engineer's, 16″ Fiberglass Handle.
NSN: 5120–00–NIB–0002—Hammer—3 lb, Engineer's, 16″ Fiberglass Handle.
NSN: 5120–00–NIB–0003—Hammer—4 lb, Engineer's, 16″ Fiberglass Handle.
NSN: 5120–00–NIB–0004—Hammer—3 lb, Drilling, 10.5″ Fiberglass Handle.
NSN: 5120–00–NIB–0005—Hammer—4 lb, Drilling, 10.5″ Fiberglass Handle.
NSN: 5120–00–NIB–0006—Axe—3.5 lb, Michigan Style, Single Bit, 36″ Fiberglass Handle.
NSN: 5120–00–NIB–0007—Axe—3.5 lb, Michigan Style, Double Bit, 36″ Fiberglass Handle.
NSN: 5120–00–NIB–0008—Hammer—16 lb, Sledge, Double Faced, 36″ Fiberglass Handle.
NSN: 5120–00–NIB–0010—Hammer—20 lb, Sledge, Double Faced, 36″ Fiberglass Handle.
NSN: 5120–00–NIB–0011—Splitting Maul—6 lb, Sledge Eye, 36″ Fiberglass Handle.
NSN: 5120–00–NIB–0012—Splitting Maul—8 lb, Sledge Eye, 36″ Fiberglass Handle.
NPA: Keystone Vocational Services, Inc., Sharon, PA.
Contracting Activity: General Services Administration, Kansas City, MO.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NSN: MR 1169—Set, Bowl and Lid, Blue, 4 Piece.
NSN: MR 1168—Carrier, Cake and Cupcake, Collapsible.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Military Resale-Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Services

Service Type/Location: Janitorial/Custodial Service, WA104 Seattle-Marysville Air Force Reserve Center (AFRC), 13613 40th Avenue NE., Marysville, WA.
NPA: Portland Habilitation Center, Inc., Portland, OR.
Contracting Activity: Dept of the Army, W6QM MICC–ARCC North, Fort Mccoy, WI.
Service Type/Location: Document Destruction Service, Social Security Administration, Office of Disability Adjudication and Review (ODAR), (offsite: 9104 Red Branch Road, Columbia, MD), One Skyline Tower, 5107 Leesburg Pike, Falls Church, VA.
NPA: Athelas Institute, Inc., Columbia, MD
Contracting Activity: Social Security Administration, Hdqtrs—Office of Acquisition & Grants, Baltimore, MD.
Service Types/Locations: Grounds Maintenance, Gallagher Memorial, US Army Reserve Center (USARC), 1300 West Brown Road, Las Cruces, NM.
Janitorial Service, US Army Reserve Center (USARC), Building 6981, 11601 Montana, El Paso, TX.
NPA: Let's Go To Work, El Paso, TX.
Contracting Activity: Dept of the Army, W6QM MICC–Ft Hunter (RC–W), Presidio of Monterey, CA.
Service Type/Location: Laundry Service, Veterans Administration Medical Center (VAMC), (offsite: 1809 W 2nd Avenue, Indianola, IA), 601 Highway 6 West, Iowa City, IA.
NPA: Genesis Development, Jefferson, IA.
Contracting Activity: Department of Veterans Affairs, Nebraska Western-Iowa Health Care System, Omaha, NE.

Patricia Briscoe,

Deputy Director, Business Operations, (Pricing and Information Management).

[FR Doc. 2012–12113 Filed 5–17–12; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0028]

Privacy Act of 1974; Revision and Republication of Systems of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Revision and Republication of Systems of Records.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'')

is revising various Privacy Act systems of records maintained by the Commission. The CPSC is also republishing the agency's complete systems of records.

DATES: Comments on the new systems of records must be received on or before July 17, 2012. The new system of records will become effective August 1, 2012, unless comments are received by that date that justify a contrary determination.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0028, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (email), except through *www.regulations.gov*.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

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

FOR FURTHER INFORMATION CONTACT: For further information contact: Mary James, Office of Information and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7213, or by email to: *mjames@cpsc.gov*.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974 (''Privacy Act''), 5 U.S.C. 552a, the Commission has reviewed its Privacy Act systems of records, and is republishing its notices of Privacy Act systems of records with necessary changes and additions. Addresses have been changed throughout to reflect the Commission's current location and organizational structure, and a new general routine use has been added, which applies to all of CPSC's systems of records, allowing disclosure to appropriate persons and entities for purposes of response and remedial efforts in the event that there has been a breach of data contained in the systems of records.

A. Revisions to the Systems of Records

The Commission is deleting five systems of records that do not meet the Privacy Act definition of ''systems of records.'' CPSC–1 Injury Investigation Files does not contain personally identifiable information. CPSC–5 Commissioners' Biographies contain information in the public domain. CPSC–6 Office of the Inspector General Files, CPSC–8 Integrated Field System, and CPSC–14 Corrective Actions and Sample Tracking System are systems where information is not retrieved by personally identifiable information.

The Consumer Product Safety Commission is announcing seven new systems of records as follows:

CPSC–27 Requests for Information. This system will be used to maintain records of consumers who contact the CPSC to request information and publications. Congress and the Office of Management and Budget have been notified of the new system of records.

CPSC–28 Emergency Contact Information System for the Consumer Product Safety Commission. This system will be used to maintain information about employees, former employees, and other individuals who have provided emergency contact information.

CPSC–29 Tracking System for Freedom of Information Act (FOIA) and Privacy Act (PA) Requests. This system will contain information from individuals who have requested CPSC records pursuant to the Freedom of Information and/or Privacy Acts.

CPSC–30 Transit Subsidy Benefit Program. This system will contain information about employees who are applicants and recipients of fare subsidies issued by the U.S. Department of Transportation.

CPSC–31 Contests, Challenges and Awards Program. This program will contain information from individuals who have entered contests or have been nominated for awards.

CPSC–32 Correspondence Tracking System. This system will contain information from the public and the business community who contact the Commission, or members of Congress, or the President or Vice President of the United States on matters related to various product safety issues.

CPSC–33 International Trade Data System Risk Assessment Methodology System. This system will be used to monitor and request examination for shipments that are potentially in violation of safety standards enforced by the Commission or potentially defective as part of a product group that has been designated by the Commission to have properties that are hazardous. Personally Identifiable Information (PII) could be used for monitoring and requesting exams, but only between government agencies (CPSC and U.S. Customs and Border Protection).

Other changes to existing systems of records include the following:

CPSC–4 Hotline Database. The system location has been updated to reflect the current contractor information.

CPSC–13 Personnel, Payroll, Financial Management, Retirement, Attendance and Leave. Changes have been made to include financial records, retirement, attendance and leave, and award information in the categories of records in the system. The title of this system of records was revised from ''Personnel'' to ''Personnel, Payroll, Financial Management, Retirement, Attendance and Leave.'' The primary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement, business payments, budget, and cost accounting programs, and to prepare related reports to other federal agencies including the Department of the Treasury and the Office of Personnel Management.

CPSC–15 Employee Relations Files. The description of storage has been updated to include computer-based media storage.

B. Complete Systems of Records

A report of this system of records has been provided to Congress and the Office of Management and Budget. The complete system of records with the above changes follows:

Consumer Product Safety Commission Privacy Act Systems of Records

Table of Contents

CPSC–2 Advisory Committee Records
CPSC–3 Claims
CPSC–4 Hotline Database
CPSC–7 Enforcement and Investigation Files
CPSC–9 General Counsel Tracking System
CPSC–10 Procurement Files
CPSC–11 Physical Security Records
CPSC–12 Employee Outside Activity Notices
CPSC–13 Personnel, Payroll, Financial

Management, Retirement, Attendance and Leave Records
CPSC–15 Employee Relations Files
CPSC–17 Commissioned Officers Personal Data File
CPSC–20 Personnel Security File
CPSC–23 Equal Employment Opportunity (EEO) Disability/Accommodation Files
CPSC–24 Respirator Program Medical Reports
CPSC–25 FOIA Express System of Records (FOIAXpress)
CPSC–26 Learning Management System
CPSC–27 Requests for Information
CPSC–28 Emergency Information Systems for the Consumer Product Safety Commission (Commission or CPSC)
CPSC–29 Request Tracking System for Freedom of Information Act (FOIA) and Privacy Act (PA) Requests
CPSC–30 Transit Subsidy Benefit Program
CPSC–31 Contests, Challenges, and Awards Program
CPSC–32 CPSC Correspondence Tracking System (CTS)
CPSC–33 International Trade Data System Risk Assessment Methodology System

SYSTEM NAME

CPSC–2, ADVISORY COMMITTEE RECORDS

SYSTEM LOCATION:

Directorate for Health Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals seeking, nominated for, or selected for membership on CPSC Advisory Committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of applicants contain an individual's name, address, personal history and qualifications, any correspondence with the individual, and any Commission memoranda relating to the selection of the individual. Records of members additionally contain information about the member's financial compensation and Commission documents relating to the individual's service as a member.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2077 and 15 U.S.C 1275.

PURPOSE(S):

These records are used to select candidates for filling vacancies on Advisory Committees and to administer the operation of the committees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made 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. Disclosure may be made to appropriate agencies, entities, and persons when: (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy.

RETRIEVABILITY:

Records are indexed alphabetically by name of committee and then by name of applicant or member.

SAFEGUARDS:

Records are maintained in file cabinets in a secured area.

RETENTION AND DISPOSAL:

Files maintained by the Secretariat to the board, committee, or conference are maintained permanently. They are transferred to the Federal Records Center when they are five years old or upon permission of board, committee, or conference. Members' records are destroyed two years after termination of membership, or sooner, if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Health Sciences Project Manager, Directorate for Health Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information is provided by applicants, nominees for, and members of advisory committees, the National Academy of Science, and by Commission staff.

SYSTEM NAME

CPSC–3, CLAIMS

SYSTEM LOCATION:

Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CPSC employees sustaining personal property damage or loss incident to service; CPSC employees involved in situations where personal injury or property damage to others results from wrongful or negligent acts or omissions of employee acting within scope of employment; claimants sustaining injury or property damage due to activities of CPSC or its employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain claims for money damages, accident and investigative reports, and correspondence and other documents concerning claims or potential claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3721; 28 U.S.C. 1346(b), 2672.

PURPOSE(S):

(a) For processing claims and litigation under the Federal Tort Claims Act or the Military Personnel and Civilian Employee's Claims Act; (b) for preparation of reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made 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.

2. Information from a record in this system of records may be disclosed to a person or entity having a legal interest in the claim.

3. Information may be disclosed to federal, state, or local law authorities, court authorities, administrative authorities, for use in connection with civil, criminal, administrative, and regulatory proceedings and actions relating to the claim.

4. Disclosure may be made to appropriate agencies, entities, and persons when: (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or

confirmed compromise, there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy.

RETRIEVABILITY:

Records are indexed alphabetically by name of individual claimant.

SAFEGUARDS:

Records are maintained in a file cabinet in a secured area. Access to such area is limited to persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information is provided by: (1) The individual to whom the record pertains; (2) CPSC and/or its employees; (3) affidavits, statements, or testimony of witnesses; (4) official documents relating to the claim; (5) correspondence from organizations or persons involved.

SYSTEM NAME

CPSC–4, HOTLINE DATABASE

SYSTEM LOCATION:

Systems Integration Incorporated, 8201 Corporate Drive, Suite 300, Landover, MD 20785.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who contact the Consumer Product Safety Commission to report a consumer product associated injury, illness, death, incident, or perceived hazard associated with consumer products and other persons identified by the reporting persons as victims of consumer product associated incidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about accidents, injuries, illnesses, deaths, and suspected safety hazards associated with consumer products. The records contain free-form narratives, and a variety of fields dedicated to specific data about different types of products or incidents. Records contain personal information, such as the name, address, and telephone number of the person submitting the information, and in some cases, the name of the victim, if different.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 5 of the Consumer Product Safety Act, 15 U.S.C. 2054.

PURPOSE(S):

To collect data on hazards, defects, injuries, illnesses, and deaths associated with consumer products; to respond to inquiries from the public; to record personal information to permit further interaction with persons submitting data or persons named by those who submit data; to further public safety by helping determine the cause of injuries and deaths associated with consumer products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records are disclosed to contractor personnel who operate the Consumer Product Safety Commission's Hotline and who enter data into the database.

2. Copies of records are mailed to callers for their verification of the information provided.

3. Copies of records may be sent to sources of consumer products identified in the records (e.g., manufacturers, distributors, or retailers) and may be distributed to others, but any personal identifying information is deleted before such disclosure, unless permission to disclose such personal identifying information has been explicitly granted, in writing, by the person in question.

4. Copies of records may be sent to other governmental agencies having apparent jurisdiction over the products or hazards disclosed in a record.

5. Disclosure may be made to appropriate agencies, entities, and persons when: (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The contractor shall maintain records in a computer database management system on a local and wide-area network. Paper copies of individual computer records are made by the Hotline staff and are stored by month and by the name of the person who contacted the Hotline. Other paper copies are made available to Commission staff but are not stored by name or other individual identifier.

RETRIEVABILITY:

Records are retrievable by a variety of fields, including the name of the person who submitted the information.

SAFEGUARDS:

Access to the computer records requires the use of two passwords: One to access the agency's computer network and another to access the database. Access is limited to those with a particular need to know the information—select Commission employees and the contractor employees who operate the Hotline.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Hotline Contract Officer, Office of Communications, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records is initially supplied by persons who contact the Commission. The Commission may solicit additional or verifying information from those persons or from other persons who were identified as victims.

SYSTEM NAME

CPSC–7, ENFORCEMENT AND INVESTIGATION FILES

SYSTEM LOCATION:

Office of Compliance and Field Operations, Office of Import Surveillance and Inspection, and Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the authors or recipients of, or mentioned in, documents received by, or generated by, the Consumer Product Safety Commission in preparation for, or the conduct of, potential or actual administrative or judicial enforcement actions, and individuals mentioned in such documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda, correspondence, test reports, injury reports, notes, and any other documents relating to the preparation for, or conduct of, potential or actual administrative or judicial enforcement actions. The materials may contain personal information as well as purely legal and technical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 1194, 1195, 1196, 1264, 1265, 2069, 2070.

PURPOSE(S):

These files are used by Commission attorneys, compliance officers, and supporting technical staff investigating product hazards and enforcing the Commission's statutory authority.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records may be cited and quoted in the course of enforcement negotiations, and in pleadings filed with an adjudicative body and served on opposing counsel.

2. They may be disclosed to the Department of Justice in connection with the conduct of litigation.

3. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders or computer files or both.

RETRIEVABILITY:

Paper records may be filed by and retrievable by name of the document's author or addressee or by other indicia. Computer records are indexed by, and retrievable by the names and other indicia of authors and addressees, and may permit retrieval by names elsewhere in documents.

SAFEGUARDS:

Paper records are kept in secure areas. Computer records are protected by passwords available only to staff with a need to know.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel; Director, Office of Compliance and Field Operations; and Director, Office of Import Surveillance and Inspection, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

These records come from organizations and individuals under investigation; from Commission attorneys, compliance officers, investigators, and supporting technical staff; and from other sources of information relevant to an investigation or adjudication.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system of records which fall within 5 U.S.C. 552a(k)(2) (investigatory materials compiled for law enforcement purposes) are exempt from 5 U.S.C. 552a(c)(3), (mandatory accounting of disclosures); 5 U.S.C. 552a(d), (access by individuals to records that pertain to them); 5 U.S.C. 552a(e)(1), (requirement to maintain only such information as is relevant and necessary to accomplish an authorized agency purpose); 5 U.S.C. 552a(e)(4)(G), (mandatory procedures to notify individuals of the existence of records pertaining to them); 5 U.S.C. 552a(e)(4)(H), (mandatory procedures to notify individuals how they can obtain access to and contest records pertaining to them); and 5 U.S.C. 552a(e)(4)(I), (mandatory disclosure of record source categories); as well as the Commission's regulations in 16 CFR Part 1014 which implement these statutory provisions.

SYSTEM NAME

CPSC–9, GENERAL COUNSEL TRACKING SYSTEM

SYSTEM LOCATION:

Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys working in the Office of the General Counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions and dates of assignments; comments; starting and completion dates; due dates; names of attorneys to whom assignments are given; names of divisions within the Office of the General Counsel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 15 U.S.C. 2051 et seq.; 16 CFR 1000.14.

PURPOSE(S):

To manage the workflow in the Office of the General Counsel; to assure timely completion of assignments; to respond to queries from other units of the Consumer Product Safety Commission; to assist in evaluating attorney performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to appropriate agencies, entities, and

persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained by a computer database management system. Hard copy printouts of selected groups of records are made from time to time.

RETRIEVABILITY:

Records are retrievable by any field, including attorney name.

SAFEGUARDS:

Access to the records, and to fields within the records, is controlled by passwords. Records are accessible by all Office of the General Counsel staff, but not by others. Only supervisory staff may create records, assign or extend due dates, or enter completion dates.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Office, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by the attorneys themselves and by supervisors.

SYSTEM NAME

CPSC–10, PROCUREMENT SYSTEM

SYSTEM LOCATION:

Division of Procurement Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, non-incorporated, who sell goods or services to the Consumer Product Safety Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contracts, proposals, purchase orders, correspondence and other documents related to specific procurements from individuals functioning as business entities. These records may include social security number (when used as business tax ID), home address, and home telephone number when these contact points are used for business purposes. Documents related to procurements from corporations, partnerships, or other such business entities are not included in this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2076.

PURPOSE(S):

These records support all facets of the Commission's procurement activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the U.S. Department of Justice when related to litigation or anticipated litigation.
2. To the appropriate Federal, State, or local investigation or enforcement agency when there is an indication of a violation or potential violation of statute or regulation in connection with procurement.
3. To a Congressional office in response to an inquiry made at the request of the individual who is the subject of the record.
4. To the U.S. Government Accountability Office in the event of a procurement protest involving the individual.
5. To the Office of Financial Management in an effort to properly process payment of invoices.
6. To the Office of the Secretariat, Freedom of Information Officer, to properly process incoming FOIA requests in accordance with the Freedom of Information Act.
7. Disclosure may be made to appropriate agencies, entities, and persons when (a) the CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders. Extracts of these records, including tax ID number, address, and phone number, are also kept in a computer database.

RETRIEVABILITY:

Records are retrieved from the computer database by business name used by an individual or contract number. Paper records are retrieved by contract number, which may be retrieved by first searching for the contractor name in the computer database.

SAFEGUARDS:

Paper records are stored in locked cabinets in a secure area. Computer records are accessible only through the use of login and password, which are issued to those with a need to know.

RETENTION AND DISPOSAL:

Computer records are kept indefinitely. Paper records are destroyed 6 years and 3 months after final payment.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Procurement Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat,

Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Personal information in these records is normally obtained from the person to whom the records pertain.

SYSTEM NAME

CPSC–11, PHYSICAL SECURITY RECORDS

SYSTEM LOCATION:

Office of Facilities Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, and others who have received uniquely coded tokens (key cards, key fobs, etc.) to gain access to various parts of Commission facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records which show the time a token has been used; the identity of the token and, therefore, of the person to whom it is assigned; the location at which it has been used; and the access privileges of the person to whom it is assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records may be used to investigate breaches of security, theft, vandalism, other property losses, criminal offenses, and employee misconduct.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed:

1. To a law enforcement agency when the Commission becomes aware of an indication of a violation of civil or criminal law or regulation to which these records may be pertinent.

2. To the Department of Justice, a court or other tribunal (including an adjudicative or administrative body), or other third-party before such tribunal when the Commission determines that the use of these records by the entity is relevant and necessary to litigation involving the Commission or a Commission employee or former employee.

3. To an employee, an employee's attorney or other representative designated by the employee, when the Commission questions the employee's conduct based at least in part on information from this system of records.

4. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a central computer managed by a security services contractor. Printouts are stored in locked file cabinets.

RETRIEVABILITY:

These records can be retrieved by time period, location(s), and the unique identifier of a person's token, or a combination of these.

SAFEGUARDS:

These records are kept in a secure computer facility and can be retrieved only by the Commission's Physical Security Manager or designee upon request of a senior Commission official or a law enforcement officer. Printouts are stored in locked file cabinets.

RETENTION AND DISPOSAL:

These records are kept one year from the date of creation.

SYSTEM MANAGER(S) AND ADDRESS:

Physical Security Manager, Office of Facilities Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

These records are automatically generated when a token is passed through or across an electronic reading device.

SYSTEM NAME

CPSC–12, EMPLOYEE OUTSIDE ACTIVITY NOTICES

SYSTEM LOCATION:

Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees engaged in outside employment activities or outside activities such as consulting, practicing law, or teaching.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information concerning the employee's position, nature of outside activity, relation of official duties to activity, and method of compensation for outside activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12674; 5 CFR part 2635, subpart H; and 5 CFR part 8101.

PURPOSE(S):

Information in these records is used by the Ethics Counselor in making a determination as to whether an employee's outside activity constitutes a real or apparent conflict of interest with the employee's government duties and responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made 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. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist

in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on hard copy.

RETRIEVABILITY:

Records are filed by employee name.

SAFEGUARDS:

Records are maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Records such as determinations regarding attendance at widely-attended gatherings which appropriate agency ethics officials determine are related to the routine, non-precedential application of settled legal standards to common factual situations and are not interpretations of the conflict of interest statutes, 18 U.S.C. 202–209, and other ethics statutes the violation of which may result in criminal penalties or civil fines are destroyed when 3 years old or when superseded or obsolete, whichever is later. All other records are destroyed when 6 years old or when superseded or obsolete, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Designated Agency Ethics Official (General Counsel), Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

The information in these records is furnished by the employees to whom it pertains.

SYSTEM NAME

CPSC–13, PERSONNEL, PAYROLL, FINANCIAL MANAGEMENT, RETIREMENT, ATTENDANCE AND LEAVE RECORDS:

Note: The personnel system complements OPM/GOV–1, the Government wide system for general personnel records maintained by the Office of Personnel Management. This notice incorporates by reference but does not repeat all of the information contained in OPM/GOVT–1.

SYSTEM LOCATION:

Consumer Product Safety Commission (CPSC), Director, Office of Human Resources Management, Director, Division of Financial Services, and

The office to which the employee is assigned, and all offices which prepare and provide input documents and information for data processing and administrative actions. Automated personnel records are also maintained in the Federal Personnel Payroll System (FPPS) managed by the National Business Center in Denver, Colorado.

Automated financial management data for the Commission's financial management system is maintained in Delphi, an Oracle based financial management system hosted and supported by Enterprise Service Center, ESC, a shared provider located in Oklahoma City, Oklahoma.

4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of CPSC (employees), volunteers within CPSC, and contractors performing for CPSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of payroll, financial records, retirement, attendance and leave records, personnel security records, safety records, contractor payment records, and personnel records including award information. In addition, the system contains data necessary to update the Central Personnel Data File at the Office of Personnel Management, to process personnel actions, to perform detailed accounting distributions, to automatically provide for such tasks as mailing checks and bonds, and to prepare and mail tax returns and reports. Records include, but are not limited to the following categories of records:

1. Employee identification and status data such as name, social security number, date of birth, sex, work schedule, type of appointment, education, veteran's preference, military service.

2. Relevant data such as service computation date for leave, date probationary period began, and date of performance rating.

3. Position and pay data such as pay plan, occupational series, grade, step, salary, merit pay, organization location, length of service.

4. Employment data such as position description, special employment program, and target occupational series and grade.

5. Payroll data such as time; attendance; leave; federal, state, and local tax; allotments; savings bonds; and other pay allowances and deductions.

6. Personnel security data such as security clearance level and basis with dates.

7. Financial data pertaining to travel, financial obligation documents, support documentation to payment schedules and collection transactions.

8. Information on debts and debtors owed to the government as a result of overpayment, refund owed, or a debt referred for collection to another agency. This includes employees and former employees who have a liability to the Commission.

9. Information, including address and social security number, on individual vendors to the Commission. This includes employees who receive reimbursements for expenses incurred. Supporting documentation on action made to contractors are part of the payment schedule maintained in hard copy form and filed onsite at ESC for a minimum of one year from the time the action is taken. ESC provides full accounting services for CPSC.

10. Emergency contact information including name, address, phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part III, is the authority for the overall system. Specific authority for use of Social Security numbers is contained in Executive Order 9397, 26 CFR 31.6011(b)(2), and 26 CFR 31.6109–1. The authority for the personnel security clearance and statistical records is contained in Executive Order 19450, April 27, 1953, as amended; Executive Order 12065, June 28, 1978; 31 U.S.C. 686; and 40 U.S.C. 318(a) through (d). The legal authority for the FPPS and Quicktime applications is defined in the Office of Management and Budget Circular A–127.

PURPOSE(S):

The primary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement, business payments, budget, and cost accounting programs, and to prepare related reports to other federal agencies including the Department of the Treasury and the Office of Personnel Management.

This system supports the day to day operating requirements associated with personnel and finance oriented program areas from hiring employees and paying

employees and vendors to calculating estimated retirement annuities. Payroll-related outputs include a comprehensive payroll; detailed accounting distribution of costs; leave data summary reports; an employee's statement of earnings, deductions and leave every payday for each employee; State, city, and local unemployment compensation reports; federal, state, and local tax reports; W–2 wage and tax statements; and reports of withholdings and contributions. Personnel-related reports include automated personnel actions as well as organization rosters, retention registers, retirement calculations, reports of the federal civilian employment, employee master record printouts, length of service lists, and listings of within-grade increases. These records are used to provide data for agency reports and internal workforce statistics and information regarding such matters as average grade, veteran and handicap employment, retention-standing, within-grade due dates, occupational groupings, geographic employment and others related to the operation of the personnel office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses of records maintained in the system include:

1. Providing data to the Office of Personnel Management's Central Personnel Data File (CPDF).

2. Providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520.

3. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed tax withholding certificates shall be furnished to the city in response to a written request from an appropriate city official to the Assistant Administrator for Plans, Programs, and Financial Management, General Services Administration (B), Washington, DC 20405.

4. To the extent necessary, records are available to Commission and outside government agencies to monitor and document grievance proceedings, and adverse actions; and to provide reference to other agencies and persons for employees seeking employment elsewhere.

5. Some records or data elements in this system of records may also be in the Office of Personnel Management's government-wide system OPM/GOVT–1 and are subject to that system's routine uses.

6. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

7. The names, social security numbers, home addresses, dates of birth, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104–193).

8. To the U.S. Department of Justice when related to litigation or anticipated litigation.

9. To the General Accounting Office in the event of a procurement protest involving an individual.

10. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper in file folders and on computer based media.

RETRIEVABILITY:

Paper records are filed by document number. Computer records are retrievable by any data element or combination of data elements.

SAFEGUARDS:

Paper records are stored in lockable metal cabinets or in secured rooms. Password system protects access to the computerized records. Information is released only to authorized officials on a need-to know basis.

RETENTION AND DISPOSAL:

Accountable officers' records are sent to the Federal Records Center one year after the end of the fiscal year to which they pertain and kept for 6 years and 3 months. Accountable officers' records include all records concerned with accounting for and availability of, and status of public funds, General Records Schedule 6. Payroll-related records follow General Records Schedule 2 and Personnel records follow General Records Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

FOR PAYROLL AND FINANCIAL-RELATED RECORDS:

Director, Division of Financial Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

FOR PERSONNEL-RELATED RECORDS:

Director, Office of Human Resources Management, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, other agencies' management officials, non-federal sources such as private firms, and data

from the systems of records OPM/GOVT–1 and EEOC/GOVT–1.

SYSTEM NAME

CPSC–15, EMPLOYEE RELATIONS FILES

SYSTEM LOCATION:

Office of Human Resources Management, Consumer Product Safety Commission, 4430 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Consumer Product Safety Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to: (1) Disciplinary actions, complaints, grievances, potential adverse actions, and proposals, decisions, or determinations made by management relative to the foregoing; The records consist of the notices to the individuals, records of resolutions of complaints, materials placed into the record to support the decision or determination, affidavits or statements and (2) retirement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 4308, 5115, 5338, 7151, 7301, 7701, 8347; Executive Orders 9830, 10987, 11222, 11478.

PURPOSE(S):

These records and information in the records may be used as a data source for management information for production of summary descriptive statistics and analytical studies 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 utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance.

2. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.

3. To respond to a court subpoena and/or refer to a district court in connection with a civil suit.

4. To adjudicate or resolve an appeal, complaint, or grievance.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

6. To request information from a federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the issuance of a license, grant, or other benefit.

7. To provide information or disclose to a federal agency, in response to its request, in connection with the hiring or retention of an employee, or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision of that matter.

8. Disclosure may be made 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 disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

10. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and computer based media.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Records are located in a combination lock metal file cabinet and access is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

(1) For documents relating to disciplinary actions, complaints, grievances, and potential adverse actions, destroy no sooner than 7 years after case is closed. (2) For retirement records, transfer the records to the Office of Personnel Management after the employee retires, and retains copies for two years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of Human Resources Management, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records is furnished by: (1) Individual to whom the record pertains; (2) Agency officials; (3) Affidavits or statements from employee; (4) Testimonies of witnesses; (5) Official documents relating to appeal, grievance, or complaints; (6) Correspondence from specific organizations or persons.

SYSTEM NAME

CPSC–17, COMMISSIONED OFFICERS' PERSONAL DATA FILE

SYSTEM LOCATION:

A complete record on every commissioned officer is maintained in the Office of Compliance and Field Operations to which the commissioned officer is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

State employees commissioned as officers of CPSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The database system contains documents related to the commissioning of the individual and personal data including name, social security number, date of birth, educational background, employment history, medical information, home address and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 29(a)(2), Consumer Product Safety Act (15 U.S.C. 2078(a)(2)); E.O. 10450, sections 8(c), 9(a), 9(b); E.O. 10561.

PURPOSE(S):

1. Used by agency officials for purposes of review in connection with issuance, distribution, use and return of official Commission credentials to commissioned state and local officials.

2. To provide statistical reports to Congress, agencies and the public on characteristics of the Commissioned officer program.

3. As a data source for management information for production of summary descriptive statistics and analytical studies 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 utilized to respond to general requests for statistical information without personal identification of individuals under the Freedom of Information Act or to locate specific individuals for personnel research or other personal management functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To provide information to a federal or state agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit by the requesting agency.

2. To request information from a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information if necessary to obtain information relevant to an agency decision concerning the commissioning or recommissioning of an individual.

3. Disclosure to a congressional office in response to an inquiry from the congressional office made at the request of the individual.

4. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a centralized database.

RETRIEVABILITY:

Records are indexed by state and by name.

SAFEGUARDS:

Records are located in lockable metal file cabinets or metal file cabinets in secured rooms with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

The records are maintained and disposed of in accordance with Commission records management policies and procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records comes either from the individual to whom it pertains or from agency officials, CPSC supervisors, or state officials.

SYSTEM NAME

CPSC–20, PERSONNEL SECURITY FILE

SYSTEM LOCATION:

Office of Human Resources Management, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Consumer Product Safety Commission and applicants for employment with the Consumer Product Safety Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of name checks, inquiries, and investigations furnished by the Office of Personnel Management or other approved government investigative agency, to determine suitability for employment with, or continued employment by, the Consumer Product Safety Commission. Information in records may include date and place of birth, citizenship, marital status, military status, and social security status. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations of law; information from present and former supervisors, co-workers, associates, educators; credit and National Agency checks; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450; 5 U.S.C. 301.

PURPOSE(S):

The records in this system of records are used by the Director, Office of Human Resources and the Personnel Security Officer to determine whether the employment of an applicant, or retention of a current employee, is in the interest of the Commission and to determine whether to grant an employee or contractor access to non-public information or restricted areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To request from a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement

information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance to an employee, or other administrative action concerning an employee.

2. To the Office of Personnel Management in their role as an investigating agency, and in their role as the agency responsible for conducting a continuing assessment of agency compliance with federal personnel security and suitability program requirements.

3. To the Office of Personnel Management for use in other personnel matters.

4. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on computer based media.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are maintained in a safe-type combination lock file cabinet in the custody of the Office of Human Resources Management. Access is limited to the Personnel Security Officer, the Deputy Director, Office of Human Resources Management.

RETENTION AND DISPOSAL:

Records are maintained at the Consumer Product Safety Commission for at least two years from the date of any final decision placed in the record.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of Human Resources Management, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification. The Freedom of Information/Privacy Act Officer will forward the request to the agency which conducted the investigation, which will make the final determination.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Office of Personnel Management reports and reports from other federal agencies.

SYSTEM NAME

CPSC–23, EQUAL EMPLOYMENT OPPORTUNITY (EEO) DISABILITY/ACCOMMODATION FILES

SYSTEM LOCATION:

Office of Equal Employment Opportunity and Minority Enterprise, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who initiate reasonable accommodation requests pursuant to Rehabilitation Act and Americans with Disabilities Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and email requests for information submitted to the Commission regarding the request for reasonable accommodation, e.g., employee name, address, city, state, telephone number and other pertinent information related to their disability.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act, 29 U.S.C. 794, and Americans with Disabilities Act, 42 U.S.C. 12101.

PURPOSE(S):

These records are used by Commission staff responding to a request for reasonable accommodation so that requests can be tracked, evaluated and responded to accurately and in a timely manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. For the official use of those with a need to know. This may include the deciding official, the appellate authority, the Personnel Director, the Disability Program Manager, and the Office of the General Counsel.

2. Disclosure may be made 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.

3. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

4. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be maintained in hard copy in file folders or on computer disk/drive.

RETRIEVABILITY:

Records will be indexed and retrieved by name.

SAFEGUARDS:

Records are maintained in locked files in a secured area and access is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained for three years from date of final action and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Equal Employment Opportunity and Minority Enterprise, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records is furnished by: (1) Individual to whom the record pertains; (2) Agency officials; (3) Affidavits or statements from employee; (4) Testimonies of witnesses; (5) Official documents relating to appeal, grievance, or complaints; (6) Correspondence from specific organizations or persons.

SYSTEM NAME

CPSC–24, RESPIRATOR PROGRAM MEDICAL REPORTS

SYSTEM LOCATION:

Office of Facilities Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CPSC employees whose jobs may require them to wear respirators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical reports indicating (a) approval or disapproval for an employee's use of respirators; (b) allowable level of exertion and any medical conditions relevant to the use of respirators; and (c) recommended interval until next medical evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 CFR 1910.134(b)(10).

PURPOSE(S):

These records are used to keep track of employees who are authorized to work in hazardous environments requiring the use of respirators and to schedule repeat medical examinations for those employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy.

RETRIEVABILITY:

Records are retrieved by name of employee.

SAFEGUARDS:

Records are maintained in a combination lock safe-type filing cabinet.

RETENTION AND DISPOSAL:

Records are maintained until termination of employment with CPSC.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Facilities Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information is provided by the medical facility performing the medical evaluations. The evaluation is based in part on information provided by the employee to the medical facility.

SYSTEM NAME

CPSC–25, FOIA EXPRESS SYSTEM OF RECORDS (FOIAXPRESS)

SYSTEM LOCATION:

Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request information from the Consumer Product Safety Commission pursuant to the Freedom of Information Act or Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and email requests for information submitted to the Commission which may contain personal information about individuals, e.g., name, address, city, state, telephone number, fax and email address and other pertinent information related to processing and responding to their FOIA and/or Privacy Act request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 5 U.S.C. 552a.

PURPOSE(S):

These records are used by Commission staff responding to the request for information so that requests can be tracked and responded to accurately and in a timely manner.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records are used to record the requesting individual's address so a response can be forwarded.

2. These records are used to record the specific information that the individual is seeking so that the information we provide is responsive to the request.

3. Staff will search the records to determine which requests have been filled and which are still pending.

4. CPSC will use these records to prepare an annual report of FOIA activities at the end of each fiscal year and submit the report to the Attorney General, through the Department of Justice, Office of Information and Privacy.

5. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be entered into a database tracking system and given a request number. All information will be stored electronically and paper requests will eventually be destroyed.

RETRIEVABILITY:

Records will mainly be retrieved using the FOIA request number, however, records may also be retrieved by searching on a requester's first and last names, category (consumer, student, attorney, etc.), job title, address, city, state, zip code, a company name or entry date and closed date.

SAFEGUARDS:

Computer records are protected by passwords available only to staff with a need to know.

RETENTION AND DISPOSAL:

Records will be stored electronically for 2 to 6 years, contingent upon the National Archives Records Administration (NARA's General Records Schedule 14).

SYSTEM MANAGER(S) AND ADDRESS:

Alberta E. Mills, FOIA Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Personal information in these records is obtained from the individual requesting the information under FOIA or Privacy Act.

SYSTEM NAME

CPSC–26, LEARNING MANAGEMENT SYSTEM

SYSTEM LOCATION:

Office of Information Technology, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CPSC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning training courses that an employee takes during the year. The employee enters a training request by entering their social security number, date of birth, course title, vendor name, course location and other OPM specific data fields that pertain to the collection of training records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41—Training; 5 CFR part 410.

PURPOSE(S):

These records are used by Commission to respond to Office of Personnel Management's requirements that all federal agencies submit training reports on a monthly basis. The reports must include employee social security number and date of birth.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records are used by CPSC to record training information for all employees.

2. CPSC will use these records to submit monthly training reports to OPM.

3. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be entered into a database tracking system and stored electronically.

RETRIEVABILITY:

Records will mainly be retrieved using the employee's last name.

SAFEGUARDS:

Computer records are protected by passwords available only to staff with a need to know.

RETENTION AND DISPOSAL:

Training records will be stored electronically for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Personal information in these records is obtained from the individual requesting training.

SYSTEM NAME

CPSC–27, REQUESTS FOR INFORMATION

SYSTEM LOCATION:

Office of Communications, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814,

Hotline managed by Systems Integration Incorporated, 8201 Corporate Drive, Suite 300, Landover, MD 20785.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who contact the Consumer Product Safety Commission to request information and publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain personal information such as the name, address, email, and telephone number of the person submitting the request for information. Requests can be received through CPSC's toll free hotline, internet Web site, and through correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 5 of the Consumer Product Safety Act, 15 U.S.C. 2054.

PURPOSE(S):

To record personal information so that information and publications may be mailed or otherwise provided.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records are disclosed to contractor personnel who operate the Consumer Product Safety Commission's Hotline and who enter data into the database.

2. Records may be used by CPSC staff and contract staff to respond to the request for information.

3. Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined

that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The contractor maintains Hotline records in a computer database management system on a local and wide area network.

RETRIEVABILITY:

Records are retrievable by a variety of fields, including the name of the person who submitted the request for information.

SAFEGUARDS:

Access to the Hotline computer records requires the use of two passwords: One to access the agency's computer network and another to access the database. Access is limited to those with a particular need to know the information — select Commission employees and the contractor employees who operate the Hotline.

RETENTION AND DISPOSAL:

Computer records are maintained indefinitely. Paper records are kept for 10 years and then transferred to a Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Hotline Contract Officer, Office of Communications, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Information in these records is initially supplied by persons who contact the Commission.

SYSTEM NAME

CPSC 28, EMERGENCY CONTACT INFORMATION SYSTEMS FOR THE CONSUMER PRODUCT SAFETY COMMISSION

SYSTEM LOCATION:

U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, and field offices throughout the United States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and other individuals having business with the Commission who have provided emergency contact information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the records may include home phone numbers, cellular phone numbers, pager numbers, numbers where individuals can be reached while on travel or otherwise away from the office, home addresses, electronic mail addresses, driver's license information, and phone numbers of family members or other contacts, and other contact information provided by individuals covered by this system of records to the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE OF THE SYSTEM:

To maintain contact information on employees and other individuals in case of emergencies involving an employee or the Commission, or when necessary for official purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), Commission staff may provide these records to any Federal, State, local or other public authorities for the purpose of coordinating and reviewing agency continuity of operations plans or emergency contingency plans developed for responding to security threats, weather related emergencies or other critical situations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic form, on paper, plastic laminated cards, lists on shared computer drives, or lists maintained on telephones or other devices issued by the Commission.

RETRIEVABILITY:

Information is retrieved by name of the individual.

SAFEGUARDS:

Records are safeguarded by restricted computer passwords, Secure Zip software, and/or locked in file cabinets. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Periodic purging and disposal of those records concerning individuals no longer members, employees or contractors of the Commission. Otherwise, records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for emergency notification files are the Directors for the individual offices maintaining the records 4330 East West Highway, Bethesda, Maryland 20814.

NOTIFICATION PROCEDURE:

Privacy Act Officer, Office of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Request for access must be in writing and should be addressed to the Privacy Act Officer, Office of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Privacy Act Officer listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information in emergency notification files is obtained from CPSC employees and contractors whose names appear on emergency contact lists and forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NAME

CPSC–29, REQUEST TRACKING SYSTEM FOR FREEDOM OF INFORMATION ACT (FOIA) AND PRIVACY ACT (PA) REQUESTS

SYSTEM LOCATION:

Office of the Secretariat, Freedom of Information Office and National Injury Information Clearinghouse Office,

Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested CSPC records pursuant to the Freedom of Information and/or Privacy Acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records describe incoming FOIA requests, request identification number, contact/affiliation information for individuals requesting records, action taken, description of records released or denied, fees charged/waived, and final outcome of request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 15, U.S.C. 2055.

PURPOSE(S):

The system is maintained for the purpose of processing records requests under FOIA and to prepare related reports.

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 FOIA and the PA, the records maintained in the system may also be used for the following:

1. Used by the CPSC Clearinghouse staff to assure that each request is processed and receives an appropriate response and to compile data for required annual reports on activities under the FOIA.

2. As a data source for management information and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders. An index is maintained in a computer database.

RETRIEVABILITY:

By the request identification number, name of requester, type of requester, product code.

SAFEGUARDS:

Records are maintained in a secure, access-controlled file room and lockable file cabinets.

RETENTION AND DISPOSAL:

Records are maintained in accordance with CPSC Records Control Schedules as applicable to the General Records Schedule, published by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director and Lead Technical Information Specialist, Office of the National Injury Information Clearinghouse, and Freedom of Information Officer, Office of the Secretariat Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland, 20814.

NOTIFICATION PROCESS:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to this or her record, or who wants to contest the contents of the record, should write to the Freedom of Information Officer, Office of the Secretariat, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Request for access to records in this system may be made by writing to the Freedom of Information Officer at CPSC, 4330 East West Highway, Bethesda, MD 20814.

CONTESTING PROCEDURE:

Requests for correction or amendment must be submitted in writing to the address indicated above (see ''Record Access Procedures'' above). Request must adequately describe the corrective action sought.

RECORD SOURCE CATEGORIES:

Incoming Freedom of Information Act requests.

SYSTEM NAME

CPSC–30, CPSC TRANSIT SUBSIDY BENEFIT PROGRAM

SYSTEM LOCATION:

Office of Facilities Services, Consumer Product Safety Commission, 4430 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CPSC employees who are applicants and recipients of fare subsidies issued by the Department of Transportation (DOT).

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee applications for fare subsidies. Applications include name, address, date of birth, last four digits of social security number, smart trip card serial number, work email address, effective date of program participation, value of fare media provided, and effective date of termination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12191 and Public Law 103–172

PURPOSE(S):

Fare subsidy management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as part of a program designed to ensure eligibility for, and prevent misuse of funds. Disclosures may be made from this system to consumer reporting agencies (collecting on behalf of the United States Government) as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1982 (31 U.S.C. 3701(a)(3)). Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy records are stored in locking file cabinets and electronic records are stored on computers in a document library on the agency's internal document management site, which is available only to staff with a need to know.

RETRIEVABILITY:

Records are filed alphabetically and retrievable by employee name.

SAFEGUARDS:

Paper records are kept in locked cabinets in a secure area. Computer records are protected on document management sites available only to staff whose official duties require access.

RETENTION AND DISPOSAL:

Electronic and hard copies of applications are retained for three years and then destroyed in accordance with General Records Schedule Number 9, Item 7.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Information Technology, Consumer Product Safety Commission,

4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

Applications submitted by individuals for fare subsidies; notifications from DOT; and periodic certifications and reports regarding fare subsidies.

SYSTEM NAME

CPSC–31, CONTESTS, CHALLENGES, AND AWARDS PROGRAMS

SYSTEM LOCATION:

Office of Communications, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public, including children, and companies and organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the records may include individuals' names, email addresses, age, street addresses, company names, organizations names, company or organization addresses, posters, videos, products or other submissions made by individuals for contests, challenges or awards. CPSC also requests and collects social security numbers for the winners so their payments can be processed by the U.S. government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 205(9b), OMB Memorandum on the Use of Challenges and Prizes to Promote Open Government, M–10–11, March 8, 2010.

PURPOSE(S):

CPSC hosts contests, challenges, and award programs to educate the public, including adults and children, about product safety to prevent injuries and deaths associated with product hazards, and to identify and honor people and organizations that have made significant contributions to consumer product safety.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are maintained for the contest, challenge or award program for purposes of contacting winners and finalists. Categories of users include CPSC employees and Web sites hosting challenges for CPSC.

Disclosure may be made to appropriate agencies, entities, and persons when (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Once the contest or challenge is completed, CPSC's Office of the Secretariat maintains for two years hard copies of posters, videos, information/photos about products that may contain contact information for the contest, challenge or award program participants. After that time, the hard copies are destroyed.

STORAGE:

Posters, videos or other submissions for contests, challenges or awards may be stored by CPSC for use by the agency, for use in agency displays or for use in response to requests under the Freedom of Information Act. Posters, videos or other submissions are stored in locked file cabinets in the Office of the Secretariat.

RETRIEVABILITY:

Posters, videos or other submissions become the property of CPSC according to the agency's published contest rules and are not returned to the submitter. Access to the submissions may be requested to the Office of the Secretariat under the Freedom of Information Act.

SAFEGUARDS:

Posters, videos or other submissions are kept by CPSC's Office of the Secretariat in locked file cabinets.

RETENTION AND DISPOSAL:

Posters, videos or other submissions are disposed of after two years by CPSC's Office of the Secretariat.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Communications, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Same as notification.

CONTESTING RECORD PROCEDURES:

Same as notification.

RECORD SOURCE CATEGORIES:

The information is provided by the contest, challenge or award program participant, the participant's parent or the participant's company.

SYSTEM NAME

CPSC–32 CORRESPONDENCE TRACKING SYSTEM (CTS)

SYSTEM LOCATION:

Offices of the Secretariat and Small Business Ombudsman, Consumer Product Safety Commission, 430 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in the CTS include members of Congress, the President of the United States, the Vice President of the United States, members of the public at large, the business community subject to Commission regulations and standards, and CPSC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Members of the public at large: Individual's name, home address, home telephone number(s), personal cell phone number(s), and other miscellaneous information that an individual may include in his/her complaint, comments, or questions to the CPSC.

2. Members of the business community: Individual's name, home address, home telephone number(s), personal cell phone number(s), and other miscellaneous information that an individual may include in his/her complaint, comment, or question to the CPSC.

3. CPSC employees: Individual's name, work telephone number, and other miscellaneous information that a Commission employee may include in a

response to members of Congress, the President and/or Vice President, members of the public at large, and/or the business community.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S):

The CPSC uses the Correspondence Tracking system (CTS) to store, track, and manage correspondence to and from members of Congress, the President of the United States, the Vice President of the United States, members of the public at large, the business community, and CPSC employees. This correspondence may include attachments that could contain PII from individuals (members of the public and business community at large) who contacted the Commission concerning various product safety issues affecting them, e.g., telephone number and address, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the U.S. Department of Justice when related to litigation or anticipated litigation.

2. To the appropriate Federal, State, or local investigation or enforcement agency when there is an indication of a violation or potential violation of a statute or regulation in connection with procurement.

CONTESTING RECORD PROCEDURES:

Same as notification

RECORD SOURCE CATEGORIES:

The information is provided by the contest, challenge or award program participant, the participant's parent or the participant's company.

SYSTEM NAME

CPSC–32, CORRESPONDENCE TRACKING SYSTEM (CTS)

SYSTEM LOCATION:

Offices of the Secretariat and Small Business Ombudsman, Consumer Product Safety Commission, 430 East West Highway, Bethesda, MD 20814.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in the CTS include members of Congress, the President of the United States, the Vice President of the United States, members of the public at large, the business community subject to Commission regulations and standards, and CPSC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Members of the public at large: individual's name, home address, home telephone number(s), personal cell phone number(s), and other miscellaneous information that an individual may include in his/her complaint, comments, or questions to the CPSC.

2. Members of the business community: individual's name, home address, home telephone number(s), personal cell phone number(s), and other miscellaneous information that an individual may include in his/her complaint, comment, or question to the CPSC.

3. CPSC employees: individual's name, work telephone number, and other miscellaneous information that a Commission employee may include in a response to members of Congress, the President and/or Vice President, members of the public at large, and/or the business community.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE(S):

The CPSC uses the Correspondence Tracking System (CTS) to store, track, and manage correspondence to and from members of Congress, the President of the United States, the Vice President of the United States, members of the public at large, the business community, and CPSC employees. This correspondence may include attachments that could contain PII from individuals (members of the public and business community at large) who contacted the Commission concerning various product safety issues affecting them, e.g., telephone number and address, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the U.S. Department of Justice when related to litigation or anticipated litigation.

2. To the appropriate Federal, State, or local investigation or enforcement agency when there is an indication of a violation or potential violation of a statute or regulation in connection with procurement.

3. To a Congressional office in response to an inquiry made at the request of the individual who is the subject of the record.

4. To the U.S. Government Accountability Office in the event of a procurement protest involving the individual.

5. To the Office of Financial Management in an effort to properly process payment of invoices.

6. To the Office of the Secretariat, Freedom of Information Officer, to properly process incoming FOIA requests in accordance with the Freedom of Information Act.

7. Disclosure may be made to appropriate agencies, entities, and persons when (a) the CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the CTS includes paper documents, records, and files that are stored in file cabinets, and electronic records, files, and data that are stored in the Commission's computer network databases.

RETRIEVABILITY:

Paper records may be filed by and retrievable by name of the document's author or addressee or by other indicia. Computer records are indexed by, and retrievable by the names and other indicia of authors and addressees, and may permit retrieval by names elsewhere in documents.

SAFEGUARDS:

Access to the electronic files, which are housed in the Commission's computer network databases, is restricted to authorized supervisors and staff and to the Information Technology (IT) staff who maintain the Commission's computer network. Other CPSC employees and contractors may be granted access on a ''need-to-know'' basis. The CPSC computer network databases are protected by security protocols, which include controlled access, passwords, and other security features. Information resident on the database servers are backed-up routinely onto a hard disk array and computer based media. Back-up tapes are stored on-site and at a secured, off-site location. Hard copy records are maintained in secured file cabinets.

RETENTION AND DISPOSAL:

There is no established record retention schedule for this system. Records will be kept indefinitely until a records schedule is established.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of the Secretariat, and Small Business Ombudsman, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CONTESTING RECORD PROCEDURES:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD SOURCE CATEGORIES:

The sources for the information in the CTS are submitted by members of Congress, the President of the United States, the Vice President of the United States, members of the public at large, the business community subject to Commission regulations and standards, and CPSC employees. This information may include complaints, comments, or questions related to product safety issues under CPSC jurisdiction.

SYSTEM NAME

CPSC–33, INTERNATIONAL TRADE DATA SYSTEM RISK ASSESSMENT METHODOLOGY SYSTEM (ITDS/RAM)

SYSTEM LOCATION:

Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains names, social security numbers, and addresses associated with individuals and businesses importing materials into the United States. Information on individuals is stored only when they register as the entity in the transaction; usually, this is a business entity with an associated Importer Number and business addresses.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Members of the Consumer Products Trading Community: Usually business name and address. For individuals and small businesses where an individual provides personal information, their name and address is maintained.

2. Importation transactions as reported by U.S. Customs and Border Protection (U.S. CBP) for all product areas under jurisdiction at entry summary filing and for product areas of specific concern for hazard monitoring and enforcement programs at entry filing (Cargo).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 222 P.L. 110–314, 15 U.S.C. 2066(a).

PURPOSE(S):

The U.S. CPSC uses the ITDS/RAM to monitor and request examination for shipments that are potentially in violation of safety standards enforced by the Commission or potentially defective as a part of a product group that has been designated by the Commission as having properties that are hazardous. Personally Identifiable Information (PII) could be used for monitoring and requesting exams, but only between government agencies (CPSC and U.S. CBP).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To the U.S. Department of Justice when related to litigation or anticipated litigation. To the appropriate Federal enforcement agency/agencies when there is an indication of a potential violation of a statute or regulation or a predetermined hazard in connection with an importation.

2. Disclosure may be made to appropriate agencies, entities, and persons when (1) the CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the CPSC has determined that as a result of suspected or confirmed compromise there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the ITDS/RAM includes electronic records, files, and data that are stored in the Commission's computer network databases.

RETRIEVABILITY:

Computer records are indexed by, and retrievable by, names and addresses, and may permit retrieval by names elsewhere in documents.

SAFEGUARDS:

Access to electronic files, which are housed in the Commission's computer network databases, is restricted to authorized supervisors and staff and to designated Information Technology (IT) staff who maintain the Commission's computer network. CPSC project contractors may be granted access with appropriate clearance and only in support of the performance of the system. The CPSC computer network databases are protected by security protocols, which include controlled access, passwords, and other security features. Information resident on the database servers is backed-up routinely onto a hard disk array and computer based media. Back-up tapes are stored on-site and at a secured, off-site location. Hard copy records are maintained in secured file cabinets.

RETENTION AND DISPOSAL:

There is no established record retention schedule for this system. Records will be kept indefinitely until a records schedule is established and approved and then in accordance with the applicable schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Import Surveillance and Inspection, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

RECORD ACCESS PROCEDURES:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CONTESTING RECORD PROCEDURES:

Freedom of Information/Privacy Act Officer, Office of the Secretariat, Consumer Product Safety Commission,

4330 East West Highway, Bethesda, MD 20814.

RECORD SOURCE CATEGORIES:

Personally Identifiable Information (PII) is provided and updated on a periodic basis by U.S. CBP.

Dated: May 15, 2012.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2012–12060 Filed 5–17–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2011–OS–0128]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by June 18, 2012.

Title, Form, and OMB Number: Application Information—Public Schools on Military Installations; OMB Control Number 0790–TBD.

Type of Request: New.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 22 hours.

Annual Burden Hours: 1100 hours.

Needs and Uses: This is a request for information to qualify for non-competitive funds. OEA is authorized to provide up to $500 million ''to make grants, conclude cooperative agreements, or supplement other Federal funds to construct, renovate, repair, or expand elementary and secondary public schools on military installations in order to address capacity or facility condition deficiencies at such schools.'' Local Education Agencies (LEAs) representing the schools with the most serious capacity and facility condition deficiencies will be invited to submit a request for funding. Only LEAs that operate a public school on a military installation, and receive a written invitation from OEA, may request funds under this program. LEAs that are invited to apply will be asked by OEA to submit a project proposal within 90 days using the Application for Federal Assistance Standard Form 424 (OMB Number: 4040–0004). Proposal information listed in the September 9, 2011 **Federal Register** notice (76 FR 55883–55886) will supplement the application and assist OEA in determining compliance with legal and programmatic requirements. Grant awards will be made to successful applicants until the available funds are exhausted.

Affected Public: State, local, or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 17, 2012.

Patricia L. Toppings

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–12125 Filed 5–17–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2012–OS–0056]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Intelligence Agency is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on June 18, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive; East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery, Defense Intelligence Agency, DAN 1–C, 600 MacDill Blvd., Washington, DC 20340–0001 or by phone at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed changes to the record system being amended are set forth below. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: May 14, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 05–0003

SYSTEM NAME:

Joint Intelligence Virtual University (JIVU II), (April 12, 2012, 77 FR 21974)

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Advanced Global Intelligence Learning Environment (AGILE).''

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Federal employees, contractors and active duty service members who access AGILE in order to facilitate a training requirement.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Function Lead, ''Advanced Global Intelligence Learning Environment (AGILE), Directorate for Human Capital, Defense Intelligence Agency, 200 MacDill Boulevard, Washington, DC 20340–0001.''

* * * * *

[FR Doc. 2012–12027 Filed 5–17–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2012–OS–0057]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to add a new system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a new system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on June 18, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 14, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 14, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DCIO 01

SYSTEM NAME:

Defense Industrial Base (DIB) Cyber Security/Information Assurance Records.

SYSTEM LOCATION:

Director, Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Program, 1235 South Clark Street, Suite 1500, Arlington, VA 22202.

DoD Cyber Crime Center, 911 Elkridge Landing Road, Suite 200, Linthicum, MD 21090–2991.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Supporting DoD contractor (hereafter referred to as ''DIB company'') personnel (points of contact and individuals submitting incident reports) providing DIB company information.

CATEGORIES OF RECORDS IN THE SYSTEM:

DIB company point of contact information includes name, company name and mailing address, work division/group, work email, and work telephone number.

DIB incident summary information includes name, company name, work division/group, work email, work telephone and fax numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2224, Defense Information Assurance Program; 44 U.S.C. 3544, Federal Agency Responsibilities; HSPD 7, Critical Infrastructure, Identification, Prioritization, and Protection; DoD Directive (DoDD) 3020.40, DoD Policy and Responsibilities for Critical Infrastructure; DoDD 5505.13E, DoD Executive Agent for the DoD Cyber Crime Center (DC3); DoD Instruction (DoDI) 3020.45, Defense Critical Infrastructure Program (DCIP) Management; and DoDI 5205.13, Defense Industrial Base (DIB) Cyber Security/Information Assurance (CS/IA) Activities.

PURPOSE(S):

To facilitate the sharing of DIB CS/IA cyber threat information and best practices to DIB companies to enhance and supplement DIB participant capabilities to safeguard DoD information that resides on, or transits, DIB unclassified information systems. When incident reports are received, DoD Cyber Crime Center (DC3) personnel analyze the information reported for cyber threats and vulnerabilities in order to develop response measures as well as improve U.S. Government and DIB understanding of advanced cyber threat activity. DoD may work with a DIB company on a more detailed, digital forensics analysis or damage assessment, which may include sharing of additional electronic media/files or information regarding the incident or the affected systems, networks, or information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

DIB company point of contact information may be provided to other participating DIB companies to facilitate the sharing of information and expertise related to the DIB CS/IA program, cyber threat information and best practices, and mitigation strategies.

Only the DoD ''Blanket Routine Uses'' 1 and 14 set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices apply to this system:

DoD Blanket Routine Use 01 (Law Enforcement).

DoD Blanket Routine Use 14 (Counterintelligence).

Any release of information contained in this system of records outside the DoD will be compatible with the purpose(s) for which the information is collected and maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

DIB Company POC information is retrieved primarily by company name and work division/group and secondarily by individual POC name.

DIB incident reports are primarily retrieved by incident number but may also be retrieved by company name. They are not retrieved by the individual name.

SAFEGUARDS:

Records are accessed by DIB CS/IA program office and DC3 personnel with security clearances who are properly screened, trained, under a signed confidentiality agreement, and determined to have ''need to know.'' Access to records requires DoD Common Access Card (CAC) and PIN. Physical access controls include security guards, identification badges, key cards, cipher locks, and combination locks.

RETENTION AND DISPOSAL:

Disposition pending (treat records as permanent until the National Archives and Records Administration has approved the retention and disposition schedule).

SYSTEM MANAGER(S) AND ADDRESS:

Director, DIB Cyber Security/Information Assurance Office, 1235 South Clark Street, Suite 1500, Arlington, VA 22202.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address written inquiries to Director, DIB Cyber Security/Information Assurance Office, 1235 South Clark Street, Suite 1500, Arlington, VA 22202.

The individual should provide their name, company name and work division/group, and correspondence must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address a written request to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington DC 20301–1155.

The request should include the individual's name, company name and work division/group, the name and number of this system of records notice and correspondence must be signed.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents, and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, participating DIB companies, and the Joint Personnel Adjudication System (JPAS).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–12028 Filed 5–17–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant a Partially Exclusive Patent License

AGENCY: The United States Air Force, DOD.

SUMMARY: Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended; the Department of the Air Force announces its intention to grant SCADA Security Innovation, Inc., a Delaware corporation, having a place of business at 33 West First Street, Dayton, Ohio 45402, a partially exclusive license, the exclusive portion limited to the field of cyber security for embedded applications outside of industrial controls, in any right, title and interest the Air Force has in: U.S. Patent Application No. 13/190,520, filed July 26, 2011, titled ''Using Software-based Decision Procedures to Control Instruction-level Execution'' by William B. Kimball.

FOR FURTHER INFORMATION CONTACT: The Air Force intends to grant a license for the patent application and resulting patents unless a written objection is received within fifteen (15) days from the date of publication of this Notice. Written objection should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm D–14, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733.

Henry Williams Jr.,

DAF, Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2012–12056 Filed 5–17–12; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of the Draft Environmental Impact Statement for the Tarmac King Road Limestone Mine Proposed in Levy County, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE) is issuing this notice to advise the public that a Draft Environmental Impact Statement (Draft EIS) has been completed and is available for review and comment.

DATES: In accordance with the National Environmental Policy Act (NEPA), we have filed the Draft EIS with the U.S. Environmental Protection Agency (EPA) for publication of their notice of availability in the **Federal Register**. The EPA notice officially starts the 60-day review period for this document. It is the goal of the USACE to have this notice published on the same date as the EPA notice. However, if that does not occur, the date of the EPA notice will determine the closing date for comments on the Draft EIS. Comments on the Draft EIS must be submitted to the address below under **FURTHER CONTACT INFORMATION** and must be received no later than 5 p.m. Central Standard Time, Wednesday, July 11, 2012.

Scoping: Scoping Meetings were held in Inglis, FL and Chiefland, FL on March 26th and 26th, 2008 respectively, to gather information for the preparation of the Draft EIS. Public notices were posted in Levy, Citrus, Alachua and Pinellas County newspapers, and emailed and air-mailed to current stakeholder lists with notification of the public meetings and requesting input and comments on issues that should be addressed in the Draft EIS.

A public meeting for this Draft EIS will be held on Thursday, May 31, 2012 at 6:30 p.m. at the Inglis Community Center, 137 Highway 40 West, Inglis, FL 34449. The purpose of this public meeting is to provide the public the opportunity to comment, either orally or in writing, on the Draft EIS. Notification

of the meeting will be announced following same format as the Scoping Meetings announcements.

ADDRESSES: The Draft EIS can be viewed online at *http://kingroadeis.com.* Copies of the Draft EIS are also available for review at the following libraries:

Bronson Public Library—612 E Hathaway Ave., Bronson, Florida 32621.

Cedar Key Public Library—460 Second Street, Cedar Key, Florida 32625.

Luther Callaway Public Library—104 NE Third Street, Chiefland, Florida 32626.

Williston Public Library—10 SE First Street, Williston, Florida 32696.

A.F. Knotts Public Library—11 56th Street, Yankeetown, Florida 32698.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Sarfert, Senior Project Manager, U.S. Army Corps of Engineers, Jacksonville District, 41 N. Jefferson Street, Suite 301, Pensacola, Florida 32502, Telephone: 850–439–9533, Fax: 850–433–8160.

SUPPLEMENTARY INFORMATION: Tarmac America L.L.C. (Tarmac) proposes to construct a limestone mine in Levy County, Florida to produce FDOT- and commercial-grade limestone aggregate for markets within west-central Florida. As proposed, direct impacts of up to 2,069 acres of wetlands and 1,818 acres of uplands would occur directly from limestone extraction, material stockpiling, roads, and other infrastructure over a period of approximately 100 years. At present, the majority of the property is an actively managed timber operation, with most of the site in varying developmental stages of pine plantation and mixed hardwood/pine forest. Much of the surrounding land is in silviculture use, with scattered residential parcels. The information compiled in this EIS will be used by the USACE to determine whether the proposed activities should be authorized and permitted by the USACE. Tarmac would need to obtain a Department of the Army permit pursuant to Section 404 of the Clean Water Act. This Draft EIS evaluates the potential environmental impacts associated with a no action alternative, and seven onsite action alternatives, including Tarmac's preferred alternative above. Under the seven other alternatives analyzed in the Draft EIS, mining activities involving discharges of fill material in wetlands could be authorized for varying acreages and lengths of time upon issuance of a Record of Decision.

Dated: May 8, 2012.

Tori K. White,

Deputy Chief, Regulatory Division, Jacksonville District, U.S. Army Corps of Engineers.

[FR Doc. 2012–12111 Filed 5–17–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

The Release of the Draft Environmental Impact Statement and the Announcement of a Public Hearing for the Figure Eight Island Inlet and Shoreline Management Project, on Figure Eight Island, New Hanover County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, from Figure Eight Beach Homeowners' Association (HOA) to install a terminal groin structure along Rich Inlet and to conduct a supplemental beach nourishment on approximately 2.0 miles of oceanfront beach and 1,800 linear feet of back barrier shoreline to protect residential homes and infrastructures along the central and northern sections of Figure Eight Island. The terminal groin structure will be placed perpendicular on the northern tip of the island along the shoulder of Rich Inlet; and the proposed source of the material for the nourishment will be dredged from Nixon Channel, a back barrier channel. In case the quantity of material from Nixon Channel is not sufficient, material pumped from (3) nearby upland disposal islands will be used to supplement the nourishment needs. The majority of the material will be disposed within the fillet area, or down shore, of the groin. Pending storm events and shoreline changes, maintenance, or periodic nourishment, of the beach is proposed a maximum of once every five years. Nixon Channel and the upland disposal islands are the proposed material sources for the periodic maintenance, or renourishment, events.

DATES: The Public Hearing will be held at Ogden Elementary School Assembly Hall located at 3637 Middle Sound Loop Road, on June 7, 2012 at 6:30 p.m. Written comments on the Draft EIS and the proposed project must be received at (see **ADDRESSES**) no later than 5 p.m. on June 22, 2012.

ADDRESSES: Copies of comments and questions regarding the Draft EIS may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. ATTN: File Number 2006–41158, 69 Darlington Avenue, Wilmington, NC 28403. Copies of the Draft EIS can be reviewed, after it's posting on May 23, 2012, on the Corps homepage at, *http://www.saw.usace.army.mil/WETLANDS/Projects/index.html,* under Figure Eight Island Inlet and Shoreline Management Project.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS and/or to receive CD or written copies of the Draft EIS can be directed to Mr. Mickey Sugg, Wilmington Regulatory Field Office, telephone: (910) 251–4811.

SUPPLEMENTARY INFORMATION:

1. *Project Purpose and Need.* Figure Eight Beach HOA has addressed the continuing oceanfront erosion problems associated with Rich Inlet and Nixon Channel erosion hot-spot on the estuarine side of the island over the past several decades. Past actions to protect the shorelines have provided some protection, however they are seeking a longer term solution to handle shoreline erosion in order to protect the island's $1,189,810,926 (based on the 2007 reappraisal) assessed property tax value. Their stated needs of the project are the following: (1) Reduce erosion along approximately 2.0 miles of oceanfront and 0.34 miles of back barrier shorelines, (2) Provide short-term protection to imminently threatened residential structures over the next five years, (3) Provide long-term protection to homes and infrastructure over the next 30 years, (4) Maintain the tax value of homes, properties, and infrastructure, (5) Use beach compatible material, (6) Maintain navigation conditions within Rich Inlet and Nixon Channel, (7) Maintain recreational resources, and (8) Balance the needs of the human environment with the protection of existing natural resources.

2. *Proposed Action.* Within the Town's preferred alternative, the installation of the terminal groin is the main component in the protection of the oceanfront shoreline. The location of the structure will be just north of the existing homes along the shoulder of Rich Inlet. Its total length is approximately 1,600 feet, which approximately 700 feet will project seaward of the existing mean high water

shoreline. The landward 900-foot anchor section would extend across the island and terminate near the Nixon Channel Shoreline. This section will be constructed of 14,000 to 18,000 square feet of sheet pile wrapped with rock. Although engineering design plans are not finalized, basic construction design of the seaward 700-foot part of the structure will be in the form of a typical rubble (rock) mound feature supported by a 1.5-foot thick stone foundation blanket. Crest height or elevation of this section is estimated to be +6.0 feet NAVD for the first 400 feet and would slope to a top elevation of +3.0 feet NAVD on the seaward end. Approximately 16,000 tons of stone would be used to construct the terminal groin. The concept design of the structure is intended to allow littoral sand transport to move over, around, and through the groin once the accretion fillet has completely filled in.

Construction of the terminal groin will be kept within a corridor varying in width from 100 feet to 200 feet. Within this corridor, a 40–70 foot wide trench will be excavated to a depth of −2.5 feet NAVD in order to construct the foundation of the landward section. The approximate 6,000 cubic yards of excavated material will be replaced on and around the structure once it's in place. Material used to build the groin will be barged down the Atlantic Intracoastal Waterway (AIWW), through Nixon Channel, and either offloaded onto a temporary loading dock or directly onto shore. It will then be transported, via dump trucks, within the designated corridor to the construction site.

Material used for nourishment will be dredged, using a hydraulic cutterhead plant, from a designated borrow site within Nixon Channel, which has been previously used for beach fill needs. Approximately 289,800 cubic yards will be required for both the oceanfront (224,800 cubic yards) and the Nixon Channel shoreline (65,000 cubic yards) fill areas. Beach compatible material from (3) upland disposal islands would serve as a contingency sediment source.

Engineer modeling results have shown that periodic nourishment will be required approximately once every five years to maintain the beach and Nixon Channel shorelines. The combined estimated maintenance needs for both areas are 175,800 cubic yards of material every five years, equivalent to approximately 35,200 cubic yards per year. This material will come from the designated Nixon Channel borrow site and the (3) upland disposal areas.

3. *Alternatives.* Several alternatives have been identified and evaluated through the scoping process, and further detailed description of all alternatives is disclosed in Section 3.0 of the Draft EIS. The applicant's preferred alternative, Alternative 5B, is to install a terminal groin structure, to conduct initial supplemental beach nourishment, and to implement a periodic beach nourishment plan over a 30-year period.

4. *Scoping Process.* A public scoping meeting was held on March 1, 2007 and a Project Delivery Team (PDT) was developed to provide input in the preparation of the EIS. The PDT comprised of local, state, and federal government officials, local residents and nonprofit organizations.

The COE is consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and the Fish and Wildlife Coordination Act, and with the National Marine Fisheries Service under the Magnuson-Stevens Act and Endangered Species Act. Additionally, the EIS assesses the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and is coordinated with the North Carolina Division of Coastal Management (DCM) to insure the projects consistency with the Coastal Zone Management Act. The COE is coordinating closely with DCM in the development of the EIS to ensure the process complies with State Environmental Policy Act (SEPA) requirements, as well as the NEPA requirements. The Draft EIS has been designed to consolidate both NEPA and SEPA processes to eliminate duplications.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–12048 Filed 5–17–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent to Grant Partially Exclusive License of the United States Patent No. 7,824,569 B2, Issued November 2, 2010 Entitled: Soluble Salt Produced From a Biopolymer and a Process for Producing the Salt

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of a prospective partially exclusive license of the following U.S. Patent Application 12/243,084 Filed October 01, 2008 to Green Tac LLC for use of the biopolymer salt formulation related to soil stabilization and dust control.

DATES: Written objections must be filed not later than 15 days following publication of this announcement.

ADDRESSES: United States Army Engineer Research and Development Center, ATTN: CEERD–OT (Ms. Bea Shahin), 2902 Newmark Drive, Champaign, IL 61820–1076.

FOR FURTHER INFORMATION CONTACT: Ms. Bea Shahin (217) 373–7234, FAX (217) 373–7210, email: *Bea.S.Shahin@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This patent application claims a method by which a biologically-natural material can be produced in bioreactors and transformed for use as a dry solid. The resulting biopolymer material can be used in place of synthetic, petroleum-based polymers for soil amendment applications to achieve increased soil strength, reduced air transport, and decreased soil erosion. During processing, the biopolymer also can be functionalized to improve its adsorption of heavy metals.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2012–12055 Filed 5–17–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2012–0008]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to add a new system of records.

SUMMARY: The Department of the Navy proposes to add a new system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on June 18, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and

docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Department of the Navy, DNS–36, 2000 Navy Pentagon, Washington, DC 20350–2000 or call at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 14, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 15, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01070–16

SYSTEM NAME:

Naval Tactical Command Support System (NTCSS) Relational Administration (R–ADM).

SYSTEM LOCATION:

United States Navy ships and submarines. Official mailing addresses are published in the Standard Navy Distribution List available as an appendix to the Navy's compilation of systems of records notices and may be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Navy commissioned and enlisted personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), gender, race/ethnicity, birth date, place of birth, home telephone number, personal email address, mailing/home address, religious preference, security clearance, spouse information, marital status, dependent child information (citizenship, gender, date of birth, address, phone number, email address), medical information, military records, and education information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Naval Tactical Command Support System is an information system for the management of supply, maintenance, and personnel administration for ships, submarines, aviation squadrons, and intermediate maintenance activities. The NTCSS Relational Administration (R–ADM) application serves as the afloat personnel management system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DON as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of Department of the Navy's compilation of system of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secure, limited access areas. Access is limited to those individuals who require the records to perform their official assigned duties, or to review records that personally pertain to them. System is protected and controlled using encryption and passwords.

RETENTION AND DISPOSAL:

Retain on board. Destroy when personnel are transferred, separated, or when no longer needed, whichever is earlier.

SYSTEM MANAGER AND ADDRESS:

Program Manager, PEO C4I/PMW 150, 4301 Pacific Hwy, OT–1, San Diego, CA 92110–3127.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should contact their unit's Admin Office or their Division Officer.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should contact their unit's Admin Office or their Division Officer.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and Navy Training Management & Planning System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–12045 Filed 5–17–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Record of Decision for TRIDENT Support Facilities Explosives Handling Wharf at Naval Base Kitsap at Bangor, Kitsap County, WA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The United States Department of the Navy (DoN), after carefully weighing the operational and environmental consequences of the proposed action, announces its decision to construct and operate an Explosives Handling Wharf (EHW–2) adjacent to the existing Explosives Handling Wharf in Hood Canal on the waterfront of Naval Base Kitsap (NBK) at Bangor, WA. The DoN has decided to implement the preferred alternative, Alternative 1, Combined Trestle, Large Pile Wharf, as described in the TRIDENT Support Facilities EHW–2 Final Environmental Impact Statement (FEIS) dated March 2012. Alternative 1 is also the Environmentally Preferable Alternative and will fully meet the DoN's purpose and need to support future program requirements for TRIDENT submarines homeported at NBK at Bangor, Washington, and the TRIDENT II (D5) Strategic Weapons System. This decision will allow the DoN to continue support of TRIDENT Program operational requirements through 2042.

SUPPLEMENTARY INFORMATION: The complete text of the Record of Decision (ROD) is available for public viewing on the project Web site at *http://www.nbkeis.com/ehw,* along with copies of the FEIS and supporting documents. Single copies of the ROD will be made available upon request by contacting: Ms. Christine Stevenson, Naval Facilities Engineering Command Northwest, 1101 Tautog Circle, Silverdale, WA 98315–1101, telephone number 360–396–0080, email *christine.stevenson@navy.mil.*

Dated: May 15, 2012.

J.M. Beal,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2012–12109 Filed 5–17–12; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: U.S. Department of Education, President's Board of Advisors on Historically Black Colleges and Universities (Board).

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Historically Black Colleges and Universities. The notice also describes the functions of the Board. 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: Wednesday, June 6, 2012.

TIME: 9:00 a.m.–2:00 p.m.

ADDRESSES: Spelman College, Dr. Johnnetta B. Cole Auditorium–LLC II, 440 Westview Drive, Atlanta GA 30314, 404–681–3643.

FOR FURTHER INFORMATION CONTACT: John Silvanus Wilson, Jr., Executive Director, White House Initiative on Historically Black Colleges and Universities, 400 Maryland Avenue SW., Washington, DC 20204; telephone: (202) 453–5634, fax: (202) 453–5632.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities (the Board) is established by Executive Order 13532 (February 26, 2010). The Board 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 Board is to advise the President and the Secretary of Education (Secretary) on all matters pertaining to strengthening the educational capacity of Historically Black Colleges and Universities (HBCUs).

The Board shall advise the President and the Secretary in the following areas: (i) Improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs; (ii) engaging the philanthropic, business, government, military, homeland-security, and education communities in a national dialogue regarding new HBCU programs and initiatives; (iii) improving the ability of HBCUs to remain fiscally secure institutions that can assist the nation in reaching its goal of having the highest proportion of college graduates by 2020; (iv) elevating the public awareness of HBCUs; and (v) encouraging public-private investments in HBCUs.

Agenda:

The Board will receive updates from the chairman of the President's Board of Advisors on HBCUs, the Board's subcommittees and the executive director of the White House Initiative on HBCUs on their respective activities, thus far, during Fiscal Year 2012 including activities that have occurred since the Board's last meeting, which was held on February 7, 2012. In addition, the Board will discuss possible strategies to meet its duties under its charter.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or material in alternative format) should notify John P. Brown, Associate Director, White House Initiative on HBCUs, at (202) 453–5645, no later than Friday, May 25, 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.

An opportunity for public comment is available on Wednesday, June 6, 2012, from 1:30 p.m.–2:00 p.m. Individuals who wish to provide comments will be allowed three to five minutes to speak. Those members of the public interested in submitting written comments may do so by submitting them to the attention of John S. Wilson, Jr., White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202, by Friday, June 1, 2012.

Records are kept of all Board proceedings and are available for public inspection at the office of the White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC, 20202, Monday through Friday (excluding federal holidays) during the hours of 9:00 a.m. to 5:00 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 the following site: *www.ed.gov/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have 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.

Dated: May 14, 2012.

Martha J. Kanter,

Under Secretary, U.S. Department of Education.

[FR Doc. 2012–12158 Filed 5–17–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Equity and Excellence Commission

AGENCY: U.S. Department of Education, Office for Civil Rights.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Equity and Excellence Commission (Commission). The notice also describes the functions of the Commission. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify the public of their opportunity to attend.

DATES: June 4, 2012.

Time: 11:00 a.m. to 6:00 p.m. Eastern Standard Time.

ADDRESSES: The Commission will meet in Washington, DC at the United States Department of Education at 400 Maryland Avenue SW., Washington, DC 20202, in Room 1W105/108.

FOR FURTHER INFORMATION CONTACT: Guy Johnson, Designated Federal Official, Equity and Excellence Commission, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. Email: *equitycommission@ed.gov.* Telephone: (202) 453–6567.

SUPPLEMENTARY INFORMATION: On June 4, 2012 from 9:00 a.m. to 4:30 p.m. Eastern

Standard Time, the Equity and Excellence Commission will hold an open meeting in Washington, DC at the United States Department of Education at 400 Maryland Avenue SW., Washington, DC 20202, in Room 1W105/108.

The purpose of the Commission is to collect information, analyze issues, and obtain broad public input regarding how the Federal government can increase educational opportunity by improving school funding equity. The Commission will also make recommendations for restructuring school finance systems to achieve equity in the distribution of educational resources and further student performance, especially for the students at the lower end of the achievement gap. The Commission will examine the disparities in meaningful educational opportunities that give rise to the achievement gap, with a focus on systems of finance, and recommend appropriate ways in which Federal policies could address such disparities.

The agenda for the Commission's June 4, 2012 meeting will include reviewing and deliberating on a draft report to the Secretary of the U.S. Department of Education (Secretary), prepared by the Draft Review subcommittee, summarizing the Commission's findings and recommendations for appropriate ways in which Federal policies can improve equity in school finance. The Commission is also expected to discuss what materials, if any, will accompany its report to the Secretary and the timing of the release of the report. Due to time constraints, there will not be a public comment period. However, individuals wishing to provide written comments may send their comments to the Commission via email at *equitycommission@ed.gov* or via U.S. mail to Guy Johnson, Designated Federal Official, Equity and Excellence Commission, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. For comments related to the upcoming meeting, please submit comments for receipt no later than May 29, 2012.

Individuals interested in attending the meeting must register in advance, as meeting room seating may be limited. Please contact Guy Johnson at (202) 453–6567 or by email at *equitycommission@ed.gov.* Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or materials in alternative format) should notify Guy Johnson at (202) 453–6567 no later than May 29, 2012. We will attempt to meet requests for accommodations after this date but cannot guarantee availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Commission proceedings and are available for public inspection at the Department of Education, 400 Maryland Avenue SW., Washington, DC 20202 between the hours of 9 a.m. to 5 p.m. Eastern Standard Time. You may contact Guy Johnson, Designated Federal Official, Equity and Excellence Commission, at *equitycommission@ed.gov,* or at (202) 453–6567 if you have additional questions regarding inspection of records.

Sandra Battle,

Assistant Secretary for Enforcement, Office for Civil Rights.

[FR Doc. 2012–12144 Filed 5–17–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12758–004]

Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions; BOST5 Hydroelectric, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–12758–004.

c. *Date filed:* March 28, 2011.

d. *Applicant:* BOST5 Hydroelectric, LLC (BOST5).

e. *Name of Project:* Red River Lock & Dam No. 5 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing U.S. Army Corps of Engineer's (Corps) Red River Lock & Dam No. 5 on the Red River, in Bossier Parish, near the Town of Ninock, Louisiana. The proposed project would occupy 69.9 acres of land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas A. Spalding, BOST5 Hydroelectric, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* Jeanne Edwards (202) 502–6181, or by email at *jeanne.edwards@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. *Project Description:* The proposed project would utilize the existing Corps Red River Lock and Dam No. 5, and operate consistent with the Corps' current operation policy. The proposed project would consist of: (1) An excavated 416-foot-long headrace channel to convey water from the upstream Pool No. 5 of the Red River to a 301-foot-long by 90-foot-wide concrete powerhouse located northeast of the end of the existing overflow weir; (2) an excavated 495-foot-long tailrace channel to discharge water from the powerhouse to the downstream Pool No. 4 of the Red River; (3) a 28.1-megawatt horizontal Kaplan bulb turbine/generator unit; (4) a 6.5-mile-long, 34.5-kilovolt overhead transmission line which would connect to Central Louisiana Electric Company's new substation; and (5) appurtenant facilities. The proposed project would generate about 129,400 megawatt-hours annually which would be sold to a local utility.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the

''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12063 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12757–004]

Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions; BOST4 Hydroelectric, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–12757–004.

c. *Date filed:* February 24, 2011.

d. *Applicant:* BOST4 Hydroelectric, LLC (BOST4).

e. *Name of Project:* Red River Lock & Dam No. 4 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing U. S. Army Corps of Engineer's (Corps) Red River Lock & Dam No. 4 on the Red River, in Red River Parish near the Town of Coushatta, Louisiana. The proposed project would occupy 135.1 acres of land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas A. Spalding, BOST4 Hydroelectric, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* Jeanne Edwards (202) 502–6181, or by email at *jeanne.edwards@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. *Project Description:* The proposed project would utilize the existing Corps Red River Lock and Dam No. 4, and operate consistent with the Corps current operation policy. The proposed project would consist of: (1) An excavated 385-foot-long headrace channel to convey water from the upstream Pool No. 4 of the Red River to a 301-foot-long by 90-foot-wide concrete powerhouse located southwest of the end of the existing overflow weir; (2) an excavated 477-foot-long tailrace channel to discharge water from the powerhouse to the downstream Pool No. 3 of the Red River; (3) a 28.1-megawatt horizontal Kaplan bulb turbine/generator unit; (4) a 2.8 mile-long 34.5-kilovolt (kV) transmission line which would connect to an existing 34-kV overhead transmission line; and (5) appurtenant facilities. The proposed project would generate about 128,532 megawatt-hours annually which would be sold to a local utility.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions

or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12065 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–351–000]

Cheniere Creole Trail Pipeline, L.P.; Notice of Application

Take notice that on April 30, 2012, Cheniere Creole Trail Pipeline, L.P. (Cheniere), 700 Milam, Suite 800, Houston, TX 77002, filed an application in Docket No. CP12–351–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate its Creole Trail Expansion Project (Project). Cheniere's Project would consist of construction of a new 53,125 hp Gillis Compressor Station, modifications to three existing meter and regulation stations to allow bi-directional flow and increased capacity, and 200 feet of 42-inch-diameter pipeline connecting the Gillis Compressor Station to the existing Creole Trail Pipeline, all in Beauregard Parish, Louisiana.

Cheniere states that the Project would allow for a total of 1,530,000 dth per day of firm reverse flow capacity on the Creole Trail Pipeline to allow the delivery of feed gas to the Sabine Pass Liquefaction Project authorized in CP11–72–000. Cheniere proposes to construct the Project in two phases that would coincide with anticipated firm transportation service requirements of Phase 1 of the Sabine Pass Liquefaction Project. The estimated cost of the Project is approximately $104,305,155.00. A more detailed description of the project is available in the application which is on file with the Commission and open for public inspection.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659. Any questions regarding this application should be directed to Kieth Teague, Cheniere Creole Trail Pipeline, L.P., 700 Milam, Suite 800, Houston, TX 77002, (713) 375–5000 (phone), *keith.teague@cheniere.com* or Lisa M. Tonery, Fulbright & Jaworski, L.L.P., 666 Fifth Avenue, New York, NY, 10103, (212) 318–3009 (phone), *ltonery@fulbright.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right

to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 1, 2012.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12066 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2558–029]

Central Vermont Public Service Corporation; Notice of Application Ready for Environmental Analysis, Soliciting Motions To Intervene and Protests, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2558–029.

c. *Date filed:* March 31, 2010, and amended on August 1, 2011.

d. *Applicant:* Central Vermont Public Service Corporation.

e. *Name of Project:* Otter Creek Hydroelectric Project.

f. *Location:* The existing project is located on Otter Creek in Addison and Rutland counties, Vermont. The project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mike Scarzello, Generation Asset Manager, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, VT 05701; Telephone: (802) 747–5207.

i. *FERC Contact:* Aaron Liberty, (202) 502–6862, *aaron.liberty@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The existing Otter Creek Project consists of three developments with a combined installed capacity of 18.279 megawatts (MW). The project produces an average annual generation of 67,258 megawatt-hours. The energy from the project will be used to serve Central Vermont's retail customers.

The Proctor development, located at river mile 64.2, consists of the following facilities: (1) An existing 13-foot-high, 128-foot-long dam with a 3-foot-high inflatable flashboard system; (2) an existing 95-acre reservoir with a storage capacity of 275 acre-feet at a normal maximum water surface elevation of 469.5 feet above mean sea level (msl); (3) a gated-forebay intake structure approximately 14 feet deep by 115 feet long with a maximum width of 48 feet; (4) two intakes with two penstocks: a 9-foot-diameter, 460-foot-long, riveted steel penstock that decreases to 8 feet in diameter, and a 7-foot-diameter, 500-foot-long, spiral welded steel penstock; (5) an original concrete and brick masonry powerhouse measuring 100 by 33 feet containing four vertical shaft turbines: three 750-kilowatt (kW) units and one 1,680-kW unit with a combined maximum hydraulic capacity of 565 cubic feet per second (cfs); (6) an additional steel structure measuring 28 by 48 feet attached to the original powerhouse containing one 3,000-kW vertical shaft unit with a maximum hydraulic capacity of 325 cfs; (7) generator leads; (8) two banks of 0.48/4.16-kilovolt (kV) single-phase transformers; (9) a 0.48/43.8-kV three winding transformer; and (10) appurtenant facilities.

The Beldens development, located at river mile 23, consists of the following facilities: (1) Two existing concrete dams on either side of a ledge/bedrock island with 2.5-foot-high wooden flashboards: a 15-foot-high, 56-foot-long dam (west) and a 24-foot-high, 57-foot-long dam (east); (2) an existing 22-acre reservoir with a storage capacity of 253 acre-feet at a normal maximum water surface elevation of 282.52 feet msl; (3) two intakes equipped with trashracks: a 79-foot-long intake and a 35-foot-long intake with a 95-foot-long sluiceway; (4) a 12-foot-diameter, 30-foot-long steel penstock that bifurcates into two 10-foot-diameter sections, each leading to an original powerhouse; (5) a 12-foot-diameter, 45-foot-long concrete penstock that leads to a newer powerhouse; (6) an original concrete and masonry powerhouse measuring 40 by 44 feet containing a 800-kW vertical shaft unit and 949-kW vertical shaft unit with combined maximum hydraulic capacity of 650 cfs; (7) a second, newer concrete powerhouse measuring 40 by 75 feet containing a 4,100-kW vertical shaft unit with a maximum hydraulic capacity of 1,350 cfs; (8) generator leads; (9) a 2.4/46-kV step-up transformer bank; and (10) appurtenant facilities.

The Huntington Falls development, located at river mile 21, consists of: (1) An existing 31-foot-high, 187-foot-long concrete dam with a 2.5-foot-high inflatable flashboard system; (2) an existing 23-acre reservoir with a storage capacity of 234 acre-feet at a normal maximum water surface elevation of 217.8 feet msl; (3) two intakes equipped with trashracks: a 40-foot-long intake and a 26-foot-long intake; (4) three penstocks: two 10-foot-diameter, 30-foot-long steel penstocks leading to an original powerhouse, and a 12-foot-diameter, 75-foot-long concrete penstock leading to a newer powerhouse; (5) an original brick masonry powerhouse measuring 42 by 60 feet containing a 600-kW vertical shaft unit and a 800-kW vertical shaft unit with a combined maximum hydraulic capacity of 660 cfs; (6) a second, newer powerhouse measuring 40 by 75 feet containing a 4,100-kW vertical shaft unit with a maximum

hydraulic capacity of 1,350 cfs; (7) generator leads; (8) a 2.4/46-kV step-up transformer bank; and (9) appurtenant facilities.

Currently, the Proctor development operates in a modified run-of-river mode, with infrequent diversions at the direction of the Independent System Operator—New England, while the Beldens and Huntington Falls developments operate in a run-of-river mode. The Proctor development currently provides a continuous downstream minimum flow of 100 cfs or inflow to the development, whichever is less, with minimum flows from April through mid-June equal to at least 50 percent of project inflows. A bypassed reach minimum flow of 5 cfs is currently released at the Beldens development through an opening in the flashboards along the west dam. A bypassed reach minimum flow of 15 cfs is currently released at the Huntington Falls development via a minimum flow gate at the right abutment of the dam.

Central Vermont proposes several physical changes to existing project facilities at the Proctor and Huntington Falls developments. At the Proctor development, Central Vermont proposes to: (1) Realign the intake headworks, such that the existing structure and components (sluice gate, trashracks, and/or headgates) will be modified with the entrance widened and deepened to reduce significant head losses through the intake structure; (2) install a new runner at Unit 1; replace Units 2–4 with new turbines/generators; and install new electrical switchgear, breakers, controls, and relays, resulting in an increase in nameplate capacity from 6,930 kW to a preliminary estimated design of 9,402 kW, and an increase in the existing hydraulic capacity from 890 cfs to approximately 1,158 cfs; and (3) install a new trashrack with 2-inch clear bar spacing, oriented at 42.5 degrees to river flow.

At the Huntington Falls development, Central Vermont proposes to: (1) Upgrade Units 1 and 2, resulting in an increase in nameplate capacity from 5,500 kW to a preliminary estimated design of 6,344 kW, and an increase in the existing hydraulic capacity from 2,010 cfs to approximately 2,144 cfs; (2) install new switchgear, breakers, control, and relays; and (3) install a new trashrack for the Unit 3 intake that would have 3-inch clear bar spacing and be oriented at a 90 degree angle to river flow.

Central Vermont proposes operational changes to existing project operations at the Proctor development. Central Vermont proposes to eliminate the existing 4-foot drawdown of the reservoir surface, with the exception of infrequent emergency operations and maintenance, and to implement a cycling operation that would utilize a 1.5-foot drawdown/refill cycle between June 16 and March 31, provided that the existing downstream minimum flow requirement of 100 cfs is maintained during refill. Central Vermont also proposes to refrain from conducting reservoir drawdowns during the period of April 1 to June 15, when Proctor would be operated in a run-of-river mode. In addition, peaking constraints would be utilized under normal operations of no greater than a 4.5:1 ratio between maximum and minimum flow in a 24-hour period.

Central Vermont is also proposing to alter the existing bypassed reach minimum flows at the Proctor and Beldens developments. At the Proctor development, Central Vermont is proposing to provide a continuous bypassed reach minimum flow of 54 cfs, and to provide the remainder of the existing 100-cfs minimum tailrace flow through the powerhouse. At the Beldens development, Central Vermont is proposing to provide a 10-cfs minimum flow in both the east and west channels.

Central Vermont is also proposing the following environmental measures: (1) Improve and enhance the existing take-out for the canoe portage around the Beldens dam; and (2) formalize and enhance the tailwater access site at the Proctor development.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in Item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title ''PROTEST,'' or ''MOTION TO INTERVENE,'' or ''COMMENTS,'' ''REPLY COMMENTS,'' RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon the representative of the applicant. A copy of all other filings must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. A license applicant must file, no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12069 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12756–003]

Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions; BOST3 Hydroelectric, LLC

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–12756–003.

c. *Date filed:* July 26, 2010.

d. *Applicant:* BOST3 Hydroelectric, LLC (BOST3).

e. *Name of Project:* Red River Lock & Dam No. 3 Hydroelectric Project.

f. *Location:* The proposed project would be located at the existing U.S. Army Corps of Engineer's (Corps) Red River Lock & Dam No. 3 on the Red River, in Natchitoches Parish near the City of Colfax, Louisiana. The proposed project would occupy 60.2 acres of land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Douglas A. Spalding, BOST3 Hydroelectric, LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426; (952) 544–8133.

i. *FERC Contact:* Jeanne Edwards (202) 502–6181, or by email at *Jeanne.edwards@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. *Project Description:* The proposed project would utilize the existing Corps Red River Lock and Dam No. 3, and operate consistent with the Corps' current operating policy. The proposed project consists of: (1) An excavated 635-foot-long headrace channel to convey water from the upstream Pool No. 3 of the Red River to a 301-foot-long by 90-foot-wide concrete powerhouse located southwest of the end of the existing spillway, on the right (west) abutment of the Corps' Lock and Dam No. 3; (2) an excavated 820-foot-long tailrace channel to discharge water from the powerhouse to the downstream Pool No. 2 of the Red River; (3) a 36.2-megawatt horizontal Kaplan bulb turbine/generator unit; (4) a 8,400-foot-long, 13.2-kilovolt transmission line which would connect to an existing Central Louisiana Electric Company substation; and (5) appurtenant facilities. The proposed project would generate about 172,779 megawatt-hours annually which would be sold to a local utility.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must: (1) Bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12064 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–100–000.

Applicants: Alpha Gas and Electric, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Alpha Gas and Electric, LLC.

Filed Date: 5/10/12.

Accession Number: 20120510–5142.

Comments Due: 5 p.m. ET 5/31/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2179–010; ER10–2181–010; ER10–2182–010.

Applicants: R.E. Ginna Nuclear Power Plant, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC.

Description: On 5/10/12 CENG Nuclear Entities submits Notice of Change in Status and on 5/11/12 submits Supplemental Information.

Filed Date: 5/10/12; 5/11/12.

Accession Number: 20120510–5146; 20120511–5139.

Comments Due: 5 p.m. ET 5/31/12.

Docket Numbers: ER12–397–001.

Applicants: Midwest Independent Transmission System Operator, Inc.
Description: G491 Compliance filing to be effective 11/15/2011 under ER12–397 Filing Type: 80.
Filed Date: 5/11/12.
Accession Number: 20120511–5158.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1152–000; ER12–1153–000.
Applicants: Bounce Energy PA, LLC, Bounce Energy NY, LLC.
Description: Bounce Energy Companies' Additional Information.
Filed Date: 5/11/12.
Accession Number: 20120511–5059.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1152–002.
Applicants: Bounce Energy PA, LLC.
Description: Market-Based Rate Application Deficiency Filing to be effective 2/24/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5016.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1153–002.
Applicants: Bounce Energy NY, LLC.
Description: Market-Based Rate Application Deficiency Filing to be effective 2/24/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5018.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1471–003.
Applicants: Canastota Windpower, LLC.
Description: Canastota Windpower, LLC Amendment to Electric Tariff to be effective 5/12/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5015.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1761–000.
Applicants: PJM Interconnection, L.L.C.
Description: Revisions to the PJM Tariff to add a new Schedule 10–Michigan-Ontario Interface to be effective 4/5/2012.
Filed Date: 5/10/12.
Accession Number: 20120510–5148.
Comments Due: 5 p.m. ET 5/31/12.

Docket Numbers: ER12–1762–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Modifications to PASNY Revenue Decoupling Mechanism to be effective 5/11/2012.
Filed Date: 5/10/12.
Accession Number: 20120510–5149.
Comments Due: 5 p.m. ET 5/31/12.

Docket Numbers: ER12–1763–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3284; Queue No. W3–139 to be effective 4/13/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5017.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1764–000.
Applicants: Amplified Power & Gas, LLC.
Description: Baseline New to be effective 7/16/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5093.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1765–000.
Applicants: International Transmission Company.
Description: Notice of Succession to be effective 7/13/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5113.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1766–000.
Applicants: Southern California Edison Company.
Description: True-Up to Tie-Line Fac Agmt with NRG Solar Blythe LLC, Blythe Solar 1 Project to be effective 7/11/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5114.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1767–000.
Applicants: Southern California Edison Company.
Description: True-Up to LGIA SERV AG with NRG Solar Blythe LLC, Blythe Solar 1 Project to be effective 7/11/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5115.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1768–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3285; Queue No. X1–082 to be effective 4/13/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5151.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1769–000.
Applicants: Viridian Energy NG, LLC.
Description: Market-Based Rate Tariff to be effective 7/1/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5156.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1770–000.
Applicants: DES Wholesale, LLC.
Description: Baseline Filing to be effective 5/11/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5159.
Comments Due: 5 p.m. ET 6/1/12.

Docket Numbers: ER12–1771–000
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3318; Queue No. X3–075 to be effective 5/1/2012.
Filed Date: 5/11/12.
Accession Number: 20120511–5160.
Comments Due: 5 p.m. ET 6/1/12.

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 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 11, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–12079 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER12–678–000 and ER12–679–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Deadlines for Filing Post-Conference Comments

As announced in the Notice of Technical Conference issued on April 4, 2012, and as required in the Commission's March 30, 2012 order in these dockets,[1] there will be a technical conference in these proceedings on May 15, 2012 at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC, Room 3M–2A&B. The technical conference will be led by staff, and will be open for the public to attend.

Parties wishing to file comments on the matters discussed at the technical conference, and wishing to reply to comments filed by others, should do so on the following schedule:

Comments: Due on or before June 5, 2012.

Reply comments: Due on or before June 19, 2012.

[1] *Midwest Independent Transmission System Operator, Inc.,* 138 FERC ¶ 61,235 (2012).

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12073 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–96–000]

El Paso Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Norte Crossing Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Norte Crossing Project involving construction and operation of facilities by El Paso Natural Gas Company (EPNG) in El Paso County, Texas. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on June 13, 2012.

You may submit comments in written. Further details on how to submit written comments are in the Public Participation section of this notice.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

EPNG provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?''. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

EPNG proposes to construct a new border crossing at the international boundary between the United States and Mexico in El Paso County, Texas. The Norte Crossing Project would consist of the construction of approximately 1,500 feet of 36-inch-diameter pipeline, directionally drilled underneath the Rio Grande River in El Paso County, Texas. The new pipeline would have a maximum daily export capacity of 366,000 million cubic feet per day (Mcf/d), designed to transport natural gas to a new delivery interconnect with Tarahumara Pipeline at the United States/Mexico border to power five new power plants proposed for construction by the Mexican Commission Federal de Electricidad (CFE) over the next 15 years.

The Norte Crossing Project would consist of the following facilities:

- 1,500 feet of 36-inch-diameter natural gas pipeline located adjacent to the existing Samalayuca Lateral;
- new upstream meter station with related appurtenances; and
- a 36-inch-diameter pig launcher and a new tie-in that would connect the Project pipeline to the existing Samalayuca Lateral.

The general location of the project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the Project pipeline would affect a total of 3.72 acres of land owned by EPNG. Construction of the new upstream facilities (meter station, pig launcher, and tie-in) would likewise occur entirely within the 3.72-acre property. No new access roads or expansion of existing access roads would be required. EPNG would utilize existing access roads to the Project site.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA[3]. Agencies that

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before June 13, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP12–96–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are available on the Commission's Web site at *http://www.ferc.gov/help/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12–96). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12074 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13843–001]

Qualified Hydro 24, LLC; Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comments

a. *Type of Filing:* Notice of Intent to file license application and pre-application document.

b. *Project No.:* 13843–001.

c. *Date filed:* January 3, 2012.

d. *Applicant:* Qualified Hydro 24, LLC.

e. *Name of Project:* Cle Elum Project.

f. *Location:* On the Cle Elum River, in Kittitas County, Washington. A portion of the project occupies United States lands administered by U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.5 and 5.6 of the Commission's regulations.

h. *Potential Applicant Contact:* Ramya Swaminathan, Qualified Hydro 24, LLC, 239 Causeway Street, Suite 300, Boston, MA 02114; (978) 283–2822.

i. *FERC Contact:* Jim Hastreiter at (503) 552–2760; or email at *james.hastreiter@ferc.gov.*

j. *Deadline for filing information, study requests, and scoping comments:* July 13, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

k. The proposed project would use the existing dam, intake structure, discharge conduit, and outlet conduit to generate power by using flow releases from Reclamation's existing Cle Elum Dam. The proposed project would consist of following new structures: (1) A 25-foot-long, steel lined bifurcation; (2) a steel 100-foot-long, 12-foot-diameter penstock; (3) a steel 50-foot-diameter, 140-foot-tall surge tank; (4) a 50- by 80-foot concrete powerhouse with associated control equipment; (5) two vertical Francis turbines and two 3.7 MW generators; (6) a 70- by 160-foot-long concrete tailrace; a 35- by 40-foot substation; a 1,000-foot-long, 12.5 kilovolt transmission line; a 1000-foot-long access road; and appurtenant facilities.

l. A copy of the NOI and PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Scoping Process

The Commission intends to prepare an Environmental assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Scoping Meeting

Date: Wednesday, June 13, 2012
Time: 2:00 p.m.
Place: Suncadia Lodge
Address: 3600 Suncadia Trail, Cle Elum, Washington 98922

Public Scoping Meeting

Date: Wednesday, June 13, 2012
Time: 7:00 p.m..
Place: Suncadia Lodge
Address: 3600 Suncadia Trail, Cle Elum, Washington 98922

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EIS were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item l above).

Environmental Site Review

The Applicant, Bureau of Reclamation, and FERC staff will conduct a project Environmental Site Review beginning at 9:00 a.m. on June 13, 2012. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Cle Elum dam. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review should contact Mr. Alan Topalian of Qualified Hydro 24, LLC at 978–283–2822, ext. 122.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12068 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13287–004]

City of New York; Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with Commission and is available for public inspection:

a. *Type of Application:* Major project, existing dam.

b. *Project No.:* 13287–004.

c. *Date filed:* February 29, 2012.

d. *Applicant:* City of New York.

e. *Name of Project:* Cannonsville Hydroelectric Project.

f. *Location:* On the West Branch of the Delaware River, near the Township of Deposit, Delaware County, New York. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Anthony J. Fiore, Chief of Staff—Operations, New York City Department of Environmental Protection, 59–17 Junction Blvd., Flushing, NY 11373–5108, (718) 595–6529 or *afiore@dep.nyc.gov.*

i. *FERC Contact:* John Mudre, (202) 502–8902 or *john.mudre@ferc.gov.*

j. *Deadline for filing scoping comments:* July 13, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Project facilities would include:* (1) An existing 2,800-foot-long, 45-foot-wide earthen embankment dam with a crest elevation of 1,175.0 feet above mean sea level; (2) an existing 800-foot-long stone masonry spillway; (3) an existing 12-mile-long, 4,670-acre impoundment (Cannonsville Reservoir); (4) four proposed penstocks branching from an existing 12-foot-diameter intake; (5) a proposed 168-foot-long by 54-foot-wide powerhouse containing four horizontal shaft Francis generating units; (6) a proposed tailrace occupying approximately one acre; (7) a proposed transmission system consisting of a 150-foot-long underground and 1,200-foot-long overhead 12.47-kilovolt (kV) line, a substation, and a 460-foot-long overhead 46-kV line; and (8) appurtenant facilities. The project would have a total installed capacity of 14.08 megawatts and would generate approximately 42,281 megawatt-hours of electricity annually.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Scoping Meeting

Date: Wednesday, June 13, 2012.
Time: 1:00 p.m.
Place: Homewood Suites Hotel.
Address: 3603 Vestal Parkway East, Vestal, NY.

Public Scoping Meeting

Date: Wednesday June 13, 2012.
Time: 7:00 p.m.
Place: Walton Veterans Club.
Address: 10 Park Street, Walton, NY.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA are being distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review beginning at 10:00 a.m. on Wednesday June 13, 2012. All interested individuals, organizations, and agencies are invited to attend. All participants should meet in the parking lot at the Cannonsville Dam at 10:00 a.m. The dam is located about 4 miles east of the town of Deposit, New York on State Highway 10. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review (or needing directions) should contact Ms. Zinnia Rodriguez at (718) 595–6553, or *zinniar@dep.nyc.gov.* Those individuals planning to participate in the Environmental Site Review should notify Ms. Zinnia of their intent no later than June 6, 2012.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12070 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1769–000]

Viridian Energy NG, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Viridian Energy NG, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is June 4, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12071 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–68–000]

Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, Alta Wind XI, LLC, Alta Wind XII, LLC, Alta Wind XIII, LLC, Alta Wind XIV, LLC, Alta Wind XV, LLC, Alta Windpower Development, LLC, TGP Development Company, LLC; Notice of Petition for Declaratory Order

Take notice that on May 10, 2012, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Alta Wind VII, LLC, Alta Wind IX, LLC, Alta Wind X, LLC, Alta Wind XI, LLC, Alta Wind XII, LLC, Alta Wind XIII, LLC, Alta Wind XIV, LLC, Alta Wind XV, LLC, Alta Windpower Development, LLC, and TGP Development Company, LLC (collectively, Petitioners), jointly submitted a Petition for Declaratory Order requesting the Commission to (1) confirm the Petitioners' priority to firm transmission rights to the capacity of three transmission lines to be constructed by Alta VII and Alta IX to interconnect the full planned capacity of Petitioners' wind and solar generation projects to the integrated transmission grid and (2) waive Order Numbers 888, 889, and 890, and the Standards of Conduct, unless and until a third party submits a valid request for transmission service.

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: 5:00 p.m. Eastern Time on June 11, 2012.

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12075 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–57–000]

MidAmerican Energy Company; Notice of Petition for Declaratory Order

Take notice that on April 20, 2012, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, MidAmerican Energy Company, submitted a petition requesting the Commission to issue a declaratory order approving proposed re-delineation and re-classification of its electric facilities between transmission and local distribution.

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: 5:00 p.m. Eastern Time on May 21, 2012.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12067 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13314–000]

Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Corral Creek South Hydro, LLC

On April 3, 2012, Corral Creek South Hydro, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Corral Creek Pumped Storage Hydroelectric Project (project) to be located near Twin Falls in Twin Falls County, Idaho. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following new facilities: (1) A 180-foot-high, 8,400-foot-long upper earthen dam; (2) an upper reservoir with surface area of 118 acres, storage capacity of 9,120 acre-feet, and maximum pool elevation of 6,620 feet mean sea level (msl); (3) a 200-foot-high, 4,140-foot-long lower earthen dam; (4) a lower reservoir with surface area of 113 acres, storage capacity of 10,880 acre-feet, and maximum pool elevation of 5,500 feet msl; (5) a 30-foot-diameter, 4,710-foot-long steel penstock; (6) a powerhouse containing 4 pump/turbine units with a total installed capacity of 1,100 megawatts; (7) a 10.6-mile-long, 500-kilovolt transmission line; and (8) appurtenant facilities. The estimated annual generation of the project would be 3,212 gigawatt-hours.

Applicant Contact: Mr. Brent L. Smith, COO, Symbiotics LLC, 811 SW Naito Parkway Ste. 120, Portland, OR 97204; phone: (503)235–3424.

FERC Contact: Kelly Wolcott; phone: (202) 502–6480.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13314) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 11, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12062 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at the Louisiana Public Service Commission's Business and Executive Session Meeting

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meeting noted below. Their attendance is part of the Commission's ongoing outreach efforts.

Louisiana Public Service Commission's Business and Executive Session Meeting

May 23, 2012 9:30 a.m.

This meeting will be held at the Lafayette Consolidated Government Building Council Auditorium, 705 West University Ave., Lafayette, LA 70506.

The discussions may address matters at issue in the following proceedings:

Docket No. OA07–32	Entergy Services, Inc.
Docket No. EL00–66	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL01–88	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL08–51	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL08–60	Ameren Services Co. v. Entergy Services, Inc.
Docket No. EL09–43	Arkansas Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–50	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–61	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–65	Louisiana Public Service Commission v. Entergy Services, Inc.

Docket No. EL11–34	Midwest Independent System Transmission Operator, Inc.
Docket No. EL11–63	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. ER05–1065	Entergy Services, Inc.
Docket No. ER07–682	Entergy Services, Inc.
Docket No. ER09–833	Entergy Services, Inc.
Docket No. ER10–794	Entergy Services, Inc.
Docket No. ER10–1350	Entergy Services, Inc.
Docket No. ER10–1676	Entergy Services, Inc.
Docket No. ER10–2001	Entergy Arkansas, Inc.
Docket No. ER10–3357	Entergy Arkansas, Inc.
Docket No. ER11–3156	Entergy Arkansas, Inc.
Docket No. ER11–3657	Entergy Arkansas, Inc.
Docket No. ER12–480	Midwest Independent Transmission System Operator, Inc.
Docket No. ER12–1384	Entergy Services, Inc.
Docket No. ER12–1385	Entergy Services, Inc.
Docket No. ER12–1386	Entergy Services, Inc.
Docket No. ER12–1387	Entergy Services, Inc.
Docket No. ER12–1388	Entergy Services, Inc.
Docket No. ER12–1390	Entergy Services, Inc.

The meeting is open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: May 14, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–12072 Filed 5–17–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9349–8]

Access to Confidential Business Information by Several Student Services Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will be authorizing several Student Services contractors to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about April 30, 2012.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8956; fax number: (202) 564–8955; email address: *moseley.pamela@epa.gov.* For specific information about this clearance contact Scott M. Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA–Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) in Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the agency taking?

Under Order Number EP–12–H–000389, a Student Services contractor will assist the Office of Science Policy (OSCP), Office of Research and Development (ORD) in the research on hydraulic fracturing impact on drinking water. This includes data analysis of data from nine hydraulic fracturing companies and nine well owner/operators. In time several other Student Services contractors will be involved in this activity under different order numbers. No further notice will be given for these persons clearances.

In accordance with 40 CFR 2.306(j), EPA has determined that under Order Number EP–12–H–000389, Student Services contractors will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Student Services contractors personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all

sections of TSCA that EPA may provide Student Services contractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until August 30, 2014. If the contracts are extended, this access will also continue for the duration of the extended contracts without further notice.

The Student Services contractors personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: May 5, 2012.

Mario Caraballo,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2012–11973 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9003–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements filed 05/07/2012 through 05/11/2012.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

SUPPLEMENTARY INFORMATION: EPA is seeking agencies to participate in its e-NEPA electronic EIS submission pilot. Participating agencies can fulfill all requirements for EIS filing, eliminating the need to submit paper copies to EPA Headquarters, by filing documents online and providing feedback on the process. To participate in the pilot, register at: *https://cdx.epa.gov.*

EIS No. 20120146, Final EIS, USFS, OR, Jackson Vegetation Management Project, Implementation, Paulina Ranger District, Ochoco National Forest, Crook and Wheeler Counties, OR, Review Period Ends: 06/18/2012, Contact: Jeff Marszal 541–416–6500.

EIS No. 20120147, Final Supplement, USFS, OR, Cobbler II Timber Sale and Fuels Reduction Project, Updated Information to Revise and Clarify Aspects of the Analyses Presented in the FEIS of October 2010, Proposing Vegetation and Fuels Management to Improve Health and Vigor Upland Forest Stands and Reduce Hazardous and Ladder Fuels, Walla Walla Ranger District, Umatilla National Forest, Wallowa and Union Counties, OR, Review Period Ends: 06/18/2012, Contact: Kimpton Cooper 509–522–6290.

EIS No. 20120148, Draft EIS, USFS, NM, La Jara Mesa Mine Project, Development, Operation and Mine Reclamation up to 20 Years, Approval, Mt. Taylor Ranger District, Cibola National Forest, Cibola County, NM, Comment Period Ends: 07/16/2012, Contact: Keith Baker 505–346–3820.

EIS No. 20120149, Draft Supplement, FTA, CA, Capitol Expressway Corridor Project, To Construct an Extension of the Capitol Light Rail System from Alum Rock Station to the Eastridge Transit Center, Santa Clara Valley Transportation Authority, City of San Jose, Santa Clara County, CA, Comment Period Ends: 07/03/2012, Contact: Eric Eidlin 415–744–2502.

EIS No. 20120150, Draft EIS, FHWA, CA, Interchange 5/State Route 56 Interchange Project, Connection between southbound I–5 to eastbound SR–56 and northbound SR 56 to northbound I–5, San Diego County, CA, Comment Period Ends: 07/02/2012, Contact: Manuel E. Sanchez 619–699–7336.

EIS No. 20120151, Final EIS, USFS, MT, Sparring Bulls Project, Proposes Timber Harvest, Non-commercial Fuels Reduction, Prescribed Burning, and Watershed Improvement Activities, Three Rivers Ranger District, Kootenai National Forest, Lincoln County, MT, Review Period Ends: 06/18/2012, Contact: Leslie McDougall 406–295–4693.

EIS No. 20120152, Draft EIS, FHWA, CA, San Diego Freeway (I–405) Improvement Project, between State Route 73 and Interstate 605, USACE Section 404 Permit, Orange and Los Angeles Counties, CA, Comment Period Ends: 07/02/2012, Contact: Tay Dam 213–605–2013.

EIS No. 20120153, Draft EIS, NOAA, 00, Southeastern U.S. Shrimp Fisheries, To Reduce Incidental Bycatch and Mortality of Sea Turtles, Tidally Influenced Waters and Substrates of the Gulf of Mexico and South Atlantic and its Estuaries of LA, MS, AL, and NC and extending out to the limit of the U.S. Exclusive Economic Zone, Comment Period Ends: 07/02/2012, Contact: Michael Barnette 727–824–5312.

EIS No. 20120154, Final EIS, USFWS, MT, Charles M. Russell National Wildlife Refuge and UL Bend National Wildlife Refuge prehensive Conservation Plan, To Provide Alternatives and Identify Consequences, Fergus, Petroleum, Garfield, McCone, Valley, and Phillips Counties, MT, Review Period Ends: 06/18/2012, Contact: Laurie Shannon 303–236–4317.

EIS No. 20120155, Final EIS, USFS, NC, Uwharrie National Forest, Proposed Land and Resource Management Resource Plan, Implementation, Montgomery, Randolph and Davidson Counties, NC, Review Period Ends: 06/18/2012, Contact: Ruth Berner 828–257–4862.

EIS No. 20120156, Draft Supplement EIS, USFS, AK, Bell Island Geothermal Leases, To Update Analysis in the Programmatic EIS to Address Roadless Concerns, Consideration for Lease Approval, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, Ketchikan Gateway Borough, AK, Comment Period Ends: 07/02/2012, Contact: Sarah Samuelson 907–789–6274.

Amended Notices

EIS No. 20120073, Draft EIS, USACE, CA, Isabella Lake Dam Safety Modification Project, To Remediate Seismic, Seepage, and Hydrologic Deficiencies in the Main Dam, Spillway and Auxiliary Dam, Kern County, CA, Comment Period Ends: 05/22/2012, Contact: Tyler M. Stalker 916–557–5107.

Revision to FR Notice Published 03/23/2012; Extending Comment Period from 05/07/12 to 05/22/2012.

EIS No. 20120130, Final EIS, USFS, CA, Algoma Vegetation Management Project, Proposing to Protect and Promote Conditions of Late-Successional Forest Ecosystem on 4,666 Acres, Shasta-Trinity National Forest, Siskiyou County, CA, Review Period Ends: 06/11/2012, Contact: Emelia Barnum 530–926–9600.

Revision to FR Notice Published 05/04/2012; Correction to Title.

EIS No. 20120142, Draft EIS, USN, 00, Atlantic Fleet Training and Testing Activities, To Support and Conduct

Current, Emerging, and Future Training and Testing Activities along the Eastern Coast of the U.S. and Gulf of Mexico, Comment Period Ends: 07/10/2012, Contact: Jene Nissen 757–836–5221.

Revision to FR Notice Published 05/11/2012; Extending Comment Period from 06/25/12 to 07/10/2012.

EIS No. 20120143, Draft EIS, USN, 00, Hawaii-Southern California Training and Testing Activities, To Support and Conduct Current, Emerging and Future Training and Testing Activities off Southern California and around the Hawaiian Islands, CA, HI, Comment Period Ends: 07/10/2012, Contact: Alex Stone 619–545–8128.

Revision to FR Notice Published 05/11/2012; Extending Comment Period from 06/25/12 to 07/10/2012.

Dated: May 15, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–12112 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0003; FRL–9348–6]

SFIREG Full Committee; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/ State FIFRA Issues Research and Evaluation Group (SFIREG), Full Committee will hold a 2-day meeting, beginning on June 18, 2012 and ending June 19, 2012. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, June 18, 2012 from 8:30 a.m. to 5:00 p.m. and 8:30 a.m. to 12 noon on Tuesday June 19, 2012.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at EPA. One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA, 22202, 1st Floor South Conference Room.

FOR FURTHER INFORMATION CONTACT: Ron Kendall, Field External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5561; fax number: (703) 305–1850; email address: *kendall.ron@epa.gov.* or Grier Stayton, SFIREG Executive Secretary, P.O. Box 466, Milford, DE 19963; telephone number (302) 422–8152; fax (302) 422–2435; email address: *stayton.grier@aapco-sfireg@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are interested in pesticide regulation issues affecting States and any discussion between EPA and SFIREG on FIFRA field implementation issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process. You are invited and encouraged to attend the meetings and participate as appropriate. Potentially affected entities may include, but are not limited to:

Those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetics Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and those who sell, distribute or use pesticides, as well as any Non Government Organization.

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 person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2012–0003. 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.

II. Tentative Agenda Topics

1. Office of Pesticide Programs update
2. Office of Compliance and Enforcement update
3. Responses to SFIREG Bed Bug and Endangered Species Act Consultation letters
4. Pollinator Protection issues
5. Methomyl fly bait restricted use classification
6. Pyrethroid Label Changes
7. Regional issues/responses to pre-SFIREG questionnaire
8. Report on ''State Regulator in Residence'' program—issues and opportunities
9. Tribal certification policy implementation—Issues and information exchange
10. Performance Measures Development
11. Imprelis update/discussion on ''down stream'' effects of pesticides outside control of applicator (e.g. hot compost, treated irrigation water)
12. Interactions of EPA Regions and State Lead Agencies on:
    a. Support for/involvement with
    b. Enforcement/compliance efforts
    c. Certification/training efforts
    d. Environmental programs
    e. Registration issues
13. Grant Negotiation Procedures
14. Distributor Label Enforcement coordination
15. Update on progress of referred cases

III. How can I request to participate in this meeting?

This meeting is open for the public to attend. You may attend the meeting without further notification.

List of Subjects Environmental protection.

Dated: May 5, 2012.

R. McNally,

Director, Field External Affairs Division, Office of Pesticide Programs.

[FR Doc. 2012–11971 Filed 5–17–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 12–122; File No. CSR–8529–P; DA 12–739]

Game Show Network, LLC v. Cablevision Systems Corp.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document designates a program carriage complaint for hearing before an Administrative Law Judge (''ALJ'') to resolve the factual disputes and to return an Initial Decision.

DATES: Game Show Network, LLC (''GSN'') and Cablevision Systems Corp. (''Cablevision'') shall each file with the Chief, Enforcement Bureau and Chief ALJ, by May 21, 2012, its respective elections as to whether it wishes to proceed to Alternative Dispute Resolution (''ADR''). The hearing proceeding is suspended during this time. If only one party elects ADR and the other elects to proceed with an adjudicatory hearing, then the hearing proceeding will commence on May 22, 2012. In order to avail itself of the opportunity to be heard, GSN and Cablevision, in person or by their attorneys, shall each file with the Commission, by May 29, 2012, a written appearance stating that it will appear on the date fixed for hearing and present evidence on the issues specified herein.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact David Konczal, *David.Konczal@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 12–739, adopted and released on May 9, 2012. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis of the Order

I. Introduction

1. By the *Hearing Designation Order and Notice of Opportunity for Hearing for Forfeiture* (''*Order*''), the Chief, Media Bureau (''Bureau''), pursuant to delegated authority, hereby designates for hearing before an ALJ the above-captioned program carriage complaint filed by GSN against Cablevision. The complaint alleges that Cablevision, a vertically integrated multichannel video programming distributor (''MVPD''), discriminated against GSN, a video programming vendor, on the basis of affiliation, with the effect of unreasonably restraining GSN's ability to compete fairly, in violation of section 616(a)(3) of the Communications Act of 1934, as amended (''the Act''), and § 76.1301(c) of the Commission's Rules. The complaint arises from Cablevision's decision to move GSN from a basic tier to a premium sports tier, resulting in a loss of Cablevision subscribers for GSN.

2. After reviewing GSN's complaint, we find that GSN has put forth sufficient evidence supporting the elements of its program carriage discrimination claim to establish a *prima facie* case. Below, we review the evidence from GSN's complaint establishing a *prima facie* case. While we rule on a threshold procedural issue regarding application of the program carriage statute of limitations, we do not reach the merits on any of the other issues discussed below.[1] While we do not summarize each of Cablevision's counter-arguments below, our review of the existing record, including Cablevision's Answer and other pleadings, makes clear that there are substantial and material questions of fact as to whether Cablevision has engaged in conduct that violates the program carriage provisions of the Act and the Commission's rules. We therefore initiate this hearing proceeding. We direct the Presiding Judge to develop a full and complete record and to conduct a *de novo* examination of all relevant evidence in order to make an Initial Decision.

II. Background

3. Section 616(a)(3) of the Act directs the Commission to establish rules governing program carriage agreements and related practices between cable operators or other MVPDs and video programming vendors that, among other things, ''prevent [an MVPD] from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors.'' In implementing this statutory provision, the Commission adopted § 76.1301(c) of its rules, which closely tracks the language of section 616(a)(3).

4. The Commission has established specific procedures for the review of program carriage complaints. While those procedures provide for resolution on the basis of a complaint, answer, and reply, the Commission expected that, in most cases, it would be unable to resolve carriage complaints solely on the basis of a written record. Rather, it anticipated that the majority of complaints would require a hearing before an ALJ, given that alleged section 616 violations typically involve contested facts and behavior related to program carriage negotiations. In such cases, where the complainant is found to have established a *prima facie* case but disposition of the complaint requires the resolution of factual disputes or extensive discovery, the parties can elect either ADR or an adjudicatory hearing before an ALJ. If the parties proceed to a hearing before an ALJ, any party aggrieved by the ALJ's Initial Decision may file an appeal directly with the Commission. The appropriate relief for violation of the program carriage provisions is determined on a case-by-case basis. Available sanctions and remedies include forfeiture and/or mandatory carriage and/or carriage on terms revised or specified by the Commission. For purposes of our *prima facie* determination, we discuss below the factual bases for GSN's claim of program carriage discrimination.

5. Cablevision is a cable operator that owns or manages cable systems serving more than 3.3 million subscribers, primarily in New York, New Jersey, and Connecticut.[2] Both prior to and after its repositioning of GSN to a premium sports tier in February 2011, Cablevision has been affiliated with the WE tv and Wedding Central national cable networks.[3] WE tv was launched in the

[1] As set forth below, the following matters are not designated for the ALJ to resolve: (i) Whether GSN has put forth evidence in its complaint sufficient to warrant designation of this matter for hearing; and (ii) whether GSN's complaint was filed in accordance with the program carriage statute of limitations. As required by the Commission's Rules, to the extent Cablevision seeks Commission review of our decision on these issues, such review, if any, shall be deferred until exceptions to the Initial Decision in this proceeding are filed. *See* 47 CFR 1.115(e)(3).

[2] Cablevision is an MVPD as defined in § 76.1300(d) of the Commission's Rules. *See* 47 CFR 76.1300(d).

[3] Prior to July 2011, Cablevision wholly owned WE tv and Wedding Central. On June 30, 2011, Cablevision spun off WE tv and Wedding Central into a new company, AMC Networks, Inc. GSN notes that Cablevision and AMC Networks are

1990s as ''Romance Classics,'' rebranded in 2001 as ''WE: Women's Entertainment,'' and renamed WE tv in 2006. Cablevision states that WE tv features programming on topics of interest to women, including high-profile, original series and specials, as well as off-network licensed dramas and comedies. Cablevision states that Wedding Central, which was launched in August 2009 and subsequently closed in July 2011, featured series, specials, and movies related to weddings, dating, and relationships. Cablevision has carried WE tv on an expanded basic tier since its launch and also carried Wedding Central on an expanded basic tier from its launch until its closing in July 2011.

6. GSN is a national cable network launched on December 1, 1994 under the name ''Game Show Network,''[4] which was subsequently rebranded in 2004 as ''GSN.'' GSN characterizes itself as a ''general interest network that features extensive female-oriented original programming (much, but not all of it, consisting of games of skill and chance and reality programs of various kinds), which typically accounts for more than 80% of its primetime schedule.'' GSN's predecessor and Cablevision entered into an affiliation agreement. Cablevision claims that it did not believe that GSN's programming had the potential to add significant value to Cablevision's existing channel lineups, but it was willing to agree to a deal if GSN was willing to provide Cablevision certain favorable terms. One of these favorable terms provided Cablevision with ''carriage flexibility.'' For almost 14 years (June 1997–February 2011), Cablevision distributed GSN on an expanded basic tier.

7. On December 3, 2010, Cablevision notified GSN that Cablevision would reposition GSN from an expanded basic tier to a premium sports tier effective February 1, 2011. Cablevision claims that its decision was based on its efforts to find programming cost savings and that GSN was a good candidate for repositioning because, among other things, (i) GSN had historically received low viewership among Cablevision subscribers; and (ii) GSN, as a general family entertainment network, did not offer anything unusual to attract a particular segment of viewers. GSN's attempts to persuade Cablevision to reverse its decision were unsuccessful. Cablevision moved GSN to the premium sports tier on February 1, 2011.[5] As a result of the repositioning, GSN's Cablevision subscribers fell.

8. Pursuant to § 76.1302(b) of the Commission's rules, GSN provided Cablevision with its pre-filing notice on September 26, 2011. On October 12, 2011, GSN filed its Complaint as well as a Petition for Temporary Relief asking the Commission to order Cablevision to restore GSN to basic tier carriage while GSN's program carriage complaint is pending. On December 7, 2011, the Bureau denied the Petition, finding that GSN had failed to satisfy its burden of demonstrating that interim relief was warranted.

III. Discussion

9. Based on our review of the complaint and as explained more fully below, we conclude that GSN has established a *prima facie* case of program carriage discrimination pursuant to section 616(a)(3) of the Act and § 76.1301(c) of the Commission's Rules. When filing a program carriage complaint, the video programming vendor carries the burden of proof to establish a *prima facie* case that the defendant MVPD has engaged in behavior prohibited by section 616 and the Commission's implementing rules. In previous cases assessing whether a complainant has established a *prima facie* case of program carriage discrimination, the Bureau has considered whether the complaint contains sufficient evidence to support the elements of a program carriage discrimination claim.

10. As an initial matter, all complaints alleging a violation of any of the program carriage rules must contain evidence that (i) the complainant is a video programming vendor as defined in section 616(b) of the Act and § 76.1300(e) of the Commission's Rules or an MVPD as defined in section 602(13) of the Act and § 76.1300(d) of the Commission's Rules; and (ii) the defendant is an MVPD as defined in section 602(13) of the Act and § 76.1300(d) of the Commission's Rules. A *prima facie* case of discrimination ''on the basis of affiliation or nonaffiliation'' can be based on direct evidence or circumstantial evidence or both. A complaint relying on direct evidence requires documentary evidence or testimonial evidence (supported by an affidavit from a representative of the complainant) that supports the claim that the defendant discriminated on the basis of affiliation or non-affiliation of vendors. A complaint relying on circumstantial evidence requires (i) evidence that the complainant provides video programming that is similarly situated to video programming provided by a programming vendor affiliated with the defendant MVPD, based on a combination of factors, such as genre, ratings, license fee, target audience, target advertisers, target programming, and other factors; and (ii) evidence that the defendant MVPD has treated the video programming provided by the complainant differently than the similarly situated video programming provided by the programming vendor affiliated with the defendant MVPD with respect to the selection, terms, or conditions for carriage. Regardless of whether the complaint relies on direct or circumstantial evidence of discrimination ''on the basis of affiliation or nonaffiliation,'' the complaint must also contain evidence that the defendant MVPD's conduct has the effect of unreasonably restraining the ability of the complainant to compete fairly.[6]

11. The parties do not dispute that GSN is a video programming vendor[7] and that Cablevision is an MVPD as defined in the Act and the Commission's Rules.[8] In addition, Cablevision does not contest that it was affiliated with the WE tv and Wedding Central cable networks pursuant to the Commission's attribution rules when it repositioned GSN to a premium sports tier in February 2011. With respect to the remaining factors, we conclude that GSN has put forth sufficient circumstantial evidence in its complaint to establish a *prima facie* case that Cablevision has engaged in unlawful discrimination in the ''selection of * * * video programming'' by

''affiliated'' pursuant to the cable attribution rules because they share a common controlling shareholder (the Dolan family) and thus are under common control.

[4] Sony Pictures Entertainment, Inc. and DIRECTV have ownership interests in GSN. GSN states that it is a video programming vendor as defined in § 76.1300(e) of the Commission's Rules.

[5] Specifically, Cablevision repositioned GSN to its ''iO Sports and Entertainment Pak,'' for which subscribers must pay a fee of $6.95 per month in addition to the fees for purchasing an entry-level package of digital cable programming and a digital cable box. In addition to GSN, this premium sports tier includes the following networks: ESPN Classic, ESPN–U, MLB Network, NHL Network, TVG Network (horseracing), FUEL–TV (extreme sports), FCS Pacific (West Coast collegiate conferences), FCS Central (Midwest collegiate conferences), FCS Atlantic (East Coast collegiate conferences), Outdoor Channel, Versus, Go1TV (soccer), Golf Channel, MavTV, CBS College Sports, Big Ten, NBA TV, FOX Soccer Plus, Sportsman Channel, Neo Cricket, and Fight Now TV.

[6] In previous cases, the Media Bureau has made this assessment based on the impact of the defendant MVPD's adverse carriage action on the programming vendor's subscribership, licensee fee revenues, advertising revenues, ability to compete for advertisers and programming, and ability to realize economies of scale.

[7] *See* 47 U.S.C. 536(b) (defining ''video programming vendor''); 47 CFR 76.1300(e) (same).

[8] *See* 47 U.S.C. 522(13) (defining ''MVPD''); 47 CFR 76.1300(d) (same).

repositioning GSN to a premium sports tier, while carrying comparable affiliated networks on a more widely distributed tier.[9] We do not reach the merits of this claim. Rather, we find that the existing record, including Cablevision's Answer, makes clear that there are significant and material questions of fact warranting resolution at hearing.[10]

A. Procedural Issues

12. As a threshold matter, we reject Cablevision's contention that GSN's complaint is foreclosed as untimely filed under the program carriage statute of limitations. Pursuant to § 76.1302(f) of the Commission's Rules, an aggrieved programmer has a one-year period in which to file a program carriage complaint that commences upon the occurrence of one of three specified events. We find that the third of those triggering events—the provision of an aggrieved programmer's pre-filing notification pursuant to § 76.1302(b) of the Commission's Rules—is present in this case.[11] The plain language of the rule allows a program carriage complaint to be filed within one year of the pre-filing notice. As the Commission and the Bureau have recognized previously, § 76.1302(f)(3) could be read to allow a complainant to file a program carriage complaint based on allegedly unlawful conduct that occurred years before the submission of the pre-filing notice provided the complaint was filed within one year of the pre-filing notice. We are not presented with such a case here. Cablevision informed GSN on December 3, 2010 that it would reposition the network to a premium sports tier and it subsequently took this allegedly impermissible discriminatory action on February 1, 2011. GSN filed its program carriage complaint on October 12, 2011, within one year of these dates, as well as within one year of its pre-filing notice. Accordingly, we conclude that the complaint was timely filed pursuant to § 76.1302(f)(3) of the Commission's Rules.[12]

13. We disagree with Cablevision that GSN's complaint is barred by § 76.1302(f)(1) of the Rules, which establishes a one-year period for the filing of a program carriage complaint that commences with the ''[execution of] a contract with [an MVPD] that a party alleges to violate one or more of the [program carriage] rules.'' [13] Although the parties executed and extended their existing carriage agreement well over one year ago, GSN does not claim that this agreement contains unlawfully discriminatory prices, terms, or conditions. Nor do the parties dispute that Cablevision has abided by the explicit terms of the agreement. The agreement at issue does not specify the tier on which Cablevision must carry GSN. The gravamen of GSN's complaint is that Cablevision exercised this discretion in an impermissibly discriminatory manner by repositioning GSN to a premium sports tier while at the same time continuing to carry its allegedly similarly situated affiliated networks on a more widely distributed tier, and has thus failed to meet its obligation under section 616(a)(3) of the Act and § 76.1301(c) of the Commission's Rules to avoid discrimination on the basis of affiliation. It is this allegedly discriminatory act of repositioning of GSN, not the terms of the contract, which forms the basis for GSN's complaint.

14. This interpretation is consistent with Bureau precedent establishing that, despite the execution of a carriage contract more than one year prior to the filing of a program carriage complaint, the complaint may nonetheless be timely if the basis for the claim is an allegedly discriminatory decision made by the MVPD, such as tier placement, that the contract left to the MVPD's discretion. The exercise of such discretion is subject to the MVPD's obligations under the program carriage statute, which prohibits an MVPD from ''discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage * * *.'' As the Bureau explained in the *NFL Enterprises HDO,* ''[w]hether or not [an MVPD] had the right to [make a tiering decision] pursuant to a private agreement is not relevant to the issue of whether doing so violated section 616 of the Act and the program carriage rules. Parties to a contract cannot insulate themselves from enforcement of the Act or our rules by agreeing to acts that violate the Act or rules.'' [14] As in the *Tennis Channel HDO, NFL Enterprises HDO,* and *MASN II HDO,* we designate the present case for a hearing to determine whether Cablevision exercised its discretion consistent with its obligations under the program carriage statute and rules when it repositioned GSN to a premium sports tier.

15. This precedent is consistent with the decision of the Cable Services Bureau in *EchoStar* dismissing a program access case on procedural grounds.[15] The contract at issue in *EchoStar* specified the rate the complainant would pay for the defendant's programming. Over one year after the parties entered into the contract, however, the complainant sought to renegotiate the rate set forth in

[9] 47 U.S.C. 536(a)(3). As discussed below, GSN does not contend that its affiliation agreement with Cablevision contains discriminatory ''terms'' or ''conditions.'' Rather, GSN claims that Cablevision has impermissibly discriminated in its ''selection'' of GSN for placement on a premium sports tier while selecting its affiliated networks for placement on a more widely distributed programming tier. *See Tennis Channel HDO,* 25 FCC Rcd 14149 (MB 2010) (program carriage complaint alleging that defendant impermissibly discriminated by selecting complainant for placement on sports tier while selecting affiliated networks for placement on a more widely distributed programming tier); *NFL Enterprises HDO,* 23 FCC Rcd 14787 (MB 2008) (same).

[10] Because we are not ruling on the merits of GSN's claims at this *prima facie* stage, we find it premature to address Cablevision's argument that requiring Cablevision to reposition GSN back to an expanded basic tier would infringe upon Cablevision's First Amendment rights.

[11] We agree with Cablevision that the limitations period in § 76.1302(f)(2) of the Commission's Rules, which governs carriage offers unrelated to existing affiliation agreements, is inapplicable in this case.

[12] Similarly, in the *Tennis Channel HDO, NFL Enterprises HDO,* and *MASN II HDO,* the complainant filed its complaint within one year of the pre-filing notice as well as within one year of the allegedly impermissible discriminatory act. *Tennis Channel HDO,* 25 FCC Rcd 14149, 14154–56, para. 11 (MB 2010); *NFL Enterprises HDO,* 23 FCC Rcd at 14819–20, paras. 69–70 (MB 2008); *MASN II HDO,* 23 FCC Rcd at 14833–35, paras. 102–105 (MB 2008). In the *2011 Program Carriage NPRM,* the Commission acknowledged that § 76.1302(f)(3) could be read to provide that a complaint is timely filed even if the allegedly discriminatory act occurred many years before the filing of the complaint and that, based on such a reading, ''Section 76.1302(f)(3) undermines the fundamental purpose of a statute of limitations 'to protect a potential defendant against stale and vexatious claims by ending the possibility of litigation after a reasonable period of time has elapsed.' '' *Revision of the Commission's Program Carriage Rules,* Notice of Proposed Rulemaking, 26 FCC Rcd 11494, 11522–23, para. 38 (2011) (''2011 *Program Carriage NPRM*'') (quoting *Bunker Ramo Corp.,* Memorandum Opinion and Order, 31 FCC 2d 449, para. 12 (Review Board 1971)). To address this concern, the Commission ''propose[d] to revise our program carriage statute of limitations to provide that a complaint must be filed within one year of the act that allegedly violated the program carriage rules.'' *2011 Program Carriage NPRM,* 26 FCC Rcd at 11523, para. 39. GSN's complaint would be timely even under the Commission's proposed revised program carriage statute of limitations.

[13] The timeliness of GSN's complaint is not an issue designated for resolution by the Presiding Judge. As required by the Commission's Rules, to the extent Cablevision seeks Commission review of our decision on this issue, such review, if any, shall be deferred until exceptions to the Initial Decision in this proceeding are filed. *See* 47 CFR 1.115(e)(3).

[14] *NFL Enterprises HDO,* 23 FCC Rcd at 14821, para. 72 (MB 2008). Subsequent to the Bureau's decision in *NFL Enterprises HDO,* the Chief ALJ supported this view in denying a motion for a ruling on judicial estoppel and laches issues. *See NFL Enters. LLC* v. *Comcast Cable Communications, LLC,* Memorandum Opinion and Order, FCC 09M–36 (Chief ALJ 2009), at para. 3.

[15] *See EchoStar Communications Corp.* v. *Fox/Liberty Networks,* LLC, 13 FCC Rcd 21841 (CSB 1998), *recon. denied, EchoStar Communications Corp.* v. *Fox/Liberty Networks, LLC,* 14 FCC Rcd 10480 (CSB 1999).

the contract. The Bureau found that the complaint was barred by the applicable statute of limitations, which requires that program access complaints be brought within one year of the date of execution of an affiliation agreement that allegedly violates the Commission's program access requirements. Thus, unlike the present case where the contract at issue does not specify the tier on which Cablevision will carry GSN and instead leaves tier placement to Cablevision's discretion, *EchoStar* involved a complainant's attempt to renegotiate a rate set forth in the contract more than one year after the contract's execution date. Here, GSN's complaint does not relate to any of the specific rates, terms, or conditions set forth in the parties' contract, but rather, Cablevision's allegedly discriminatory tiering decision that occurred subsequent to the contract's execution.

16. Notwithstanding this clear Bureau precedent, Cablevision argues that GSN should have filed its complaint within one year of the contract execution date. We disagree. Under Cablevision's interpretation of the program carriage statute of limitations, a programmer would be forever barred from bringing a discrimination claim unless the claim is brought within one year from the date the contract was executed. Such an interpretation would preclude programmers from bringing program carriage discrimination claims after the first year of a contract even if the MVPD exercises its discretion pursuant to the contract by moving the programmer to a less-distributed tier in order to favor its own affiliated network. Such an interpretation would allow even blatant affiliation-based discrimination to go unremediated, provided the defendant waits at least one year before taking the discriminatory action. Moreover, we note that Cablevision characterizes the pertinent term of the contract as ''favorable'' to Cablevision and that it sought such terms in particular from ''new networks that were seeking to grow subscribers in the New York DMA.'' Under Cablevision's interpretation of the program carriage statute of limitations, MVPDs could use their leverage over ''new networks'' to extract ''favorable'' terms that circumvent the protections provided by the program carriage statute. Under Cablevision's view of the program carriage statute of limitations, an MVPD could delete an unaffiliated network from all of its systems one year after the execution of the contract in order to favor its affiliated network and then claim that such conduct cannot be challenged under the program carriage rules because it occurred outside of the one-year window for filing a complaint. We find this view untenable as it would eviscerate the protections provided by the program carriage statute.

B. Discrimination Claim

1. Circumstantial Evidence

a. Similarly Situated

17. We find that GSN has provided evidence sufficient to demonstrate for purposes of establishing a *prima facie* case of program carriage discrimination that it is similarly situated with Cablevision-affiliated networks—WE tv and Wedding Central. As discussed above, a complaint relying on circumstantial evidence of discrimination ''on the basis of affiliation or nonaffiliation'' requires evidence that the complainant provides video programming that is similarly situated to video programming provided by a programming vendor affiliated with the defendant MVPD, based on a combination of factors, such as genre, ratings, license fee, target audience, target advertisers, target programming, and other factors.[16] In its complaint, GSN provides evidence with respect to the following factors: Genre, ratings (on a national basis and within the New York DMA, as well as among specific demographic groups), license fee, target audience, competition for viewers (including audience duplication data), and competition for advertisers. (Cablevision disputes that GSN is similarly situated to WE tv and Wedding Central.)

b. Differential Treatment

18. We also find that GSN has put forth evidence sufficient to demonstrate for purposes of establishing a *prima facie* case of program carriage discrimination that Cablevision has treated GSN differently ''on the basis of affiliation or nonaffiliation'' from Cablevision's similarly situated, affiliated networks. Cablevision distributes its affiliated WE tv network on an expanded basic tier, and such subscribers need not pay an additional fee to receive this programming network. Cablevision also distributed its affiliated Wedding Central network on an expanded basic tier, although GSN states that no other major distributor provided Wedding Central with this level of distribution. By contrast, Cablevision customers wishing to receive GSN must subscribe to the ''iO Sports and Entertainment Pak,'' for which subscribers must pay a fee of $6.95 per month in addition to the fees for purchasing an entry-level package of digital cable programming and a digital cable box. In addition, GSN claims that Cablevision places all of its affiliated cable networks (American Movie Classics (AMC), Fuse, Independent Film Channel, WE tv), including its affiliated sports network (MSG), on a highly penetrated tier, whereas Cablevision's premium sports tier is occupied only by unaffiliated networks. (Cablevision argues that its differential treatment of GSN is justified by various legitimate and non-discriminatory reasons.)

c. Harm to Ability To Compete Fairly

19. GSN has put forth evidence sufficient to demonstrate for purposes of establishing a *prima facie* case of program carriage discrimination that Cablevision's decision to reposition GSN to a premium sports tier and its disparate treatment of the network have unreasonably restrained GSN's ability to compete fairly. GSN claims that all of the harms resulting from the repositioning of GSN to a premium sports tier have ''constrain[ed] GSN's ability to continue to grow—to develop itself as a network, to make adequate investments in content, promotion, and marketing, and to engage staff and talent—making it more difficult for GSN to compete effectively against other networks, including its competitor WE tv.'' In its complaint, GSN provides the following evidence of how Cablevision's repositioning of GSN to a premium sports tier and its disparate treatment of the network have unreasonably restrained GSN's ability to compete fairly: (i) Loss of subscribers from repositioning results in reduced license fee revenue; (ii) loss of subscribers from repositioning results in reduced advertising revenue; (iii) loss of subscribers from repositioning impairs GSN's ability to compete for advertisers; (iv) placement on a premium sports tier impairs GSN's ability to compete for viewers; and (v) placement on a premium sports tier impairs GSN's ability to secure distribution agreements. (Cablevision disputes that GSN has been unreasonably restrained in its ability to compete fairly.)

2. Direct Evidence

20. In addition to circumstantial evidence, GSN also provides what it claims to be direct evidence of discrimination ''on the basis of affiliation or nonaffiliation.'' Specifically, GSN provides a declaration

[16] The Commission has also emphasized that ''[a]lthough no single factor is necessarily dispositive, the more factors that are found to be similar, the more likely the programming in question will be considered similarly situated to the affiliated programming.'' *2011 Program Carriage Order,* 26 FCC Rcd at 11504–05, para. 14.

from Derek Chang, Executive Vice President of Content Strategy and Development at DIRECTV and representative of DIRECTV on GSN's board of directors, setting forth the following facts regarding carriage negotiations with Cablevision. On December 3, 2010, Cablevision notified GSN that Cablevision would reposition GSN to a sports tier effective February 1, 2011. After receiving this notification, GSN's CEO asked Mr. Chang to contact Cablevision's Chief Operating Officer (''COO'') to persuade Cablevision to reconsider. In response to Mr. Chang's inquiry, Cablevision's COO asked Mr. Chang to speak with Josh Sapan, President and COO of Cablevision's programming subsidiary, Rainbow Media Holdings (''Rainbow''). Mr. Chang states that, during his conversations with Mr. Sapan and other Rainbow staff, ''it was made clear to me that Cablevision would consider continuing GSN's broad distribution on Cablevision's systems if DIRECTV would consider giving distribution to Cablevision's new service, Wedding Central.'' Mr. Chang declined because DIRECTV had previously decided that Wedding Central did not merit distribution on DIRECTV.

3. Conclusion

21. Based on the foregoing, we find it appropriate to designate the captioned complaint on the issues specified below for a hearing before an ALJ.[17] While we question whether GSN's alleged direct evidence of discrimination, standing alone, is sufficient to establish a *prima facie* case, we need not address this issue because GSN has put forth sufficient circumstantial evidence of discrimination ''on the basis of affiliation or nonaffiliation'' to warrant referral of this matter to an ALJ. We emphasize that our determination that GSN has offered sufficient evidence on each required element to meet the threshold for establishing a *prima facie* case does not mean that we have found each evidentiary proffer set forth above necessarily persuasive, nor have we weighed GSN's evidence in light of rebuttal evidence offered by Cablevision. At hearing, the ALJ will be able to fully weigh all evidence offered by the parties.

4. Referral to ALJ or ADR

22. Pursuant to § 76.7(g)(2) of the Commission's Rules, each party will have ten days following release of this *Order* to notify the Chief, Enforcement Bureau and Chief ALJ, in writing, of its election to resolve this dispute through ADR. The hearing proceeding will be suspended during this ten-day period. In the event that both parties elect ADR, the hearing proceeding will remain suspended, and the parties shall update the Chief, Enforcement Bureau and Chief ALJ on the first of each month, in writing, on the status of the ADR process. If both parties elect ADR but fail to reach a settlement, the parties shall promptly notify the Chief, Enforcement Bureau and Chief ALJ in writing, and the proceeding before the ALJ will commence upon the receipt of such notification. If both parties elect ADR and reach a settlement, the parties shall promptly notify the Chief, Enforcement Bureau, Chief ALJ, and Chief, Media Bureau in writing, and the hearing designation will be terminated upon the Media Bureau's order dismissing the complaint becoming a final order. If only one party elects ADR and the other elects to proceed with an adjudicatory hearing, then the hearing proceeding will commence the day after the ten-day period has lapsed.

23. Notwithstanding our determination that GSN has made out a *prima facie* case of program carriage discrimination by Cablevision, we direct the Presiding Judge to develop a full and complete record in the instant hearing proceeding and to conduct a *de novo* examination of all relevant evidence in order to make an Initial Decision on each of the outstanding factual and legal issues. In addition, we direct the Presiding Judge to make all reasonable efforts to issue his Initial Decision on an expedited basis.[18] In furtherance of this goal, the Presiding Judge may consider placing limitations on the extent of discovery to which the parties may avail themselves.

IV. Ordering Clauses

24. Accordingly, *it is ordered,* that pursuant to section 409(a) of the Communications Act of 1934, as amended, 47 U.S.C. 409(a), and §§ 76.7(g) and 1.221 of the Commission's Rules, 47 CFR 76.7(g), 1.221, the captioned program carriage complaint filed by Game Show Network, LLC against Cablevision Systems Corporation is *Designated for Hearing* at a date and place to be specified in a subsequent order by an Administrative Law Judge upon the following issues:

(a) To determine whether Cablevision has engaged in conduct the effect of which is to unreasonably restrain the ability of GSN to compete fairly by discriminating in video programming distribution on the basis of the complainant's affiliation or non-affiliation in the selection, terms, or conditions for carriage of video programming provided by GSN, in violation of section 616(a)(3) of the Act and/or § 76.1301(c) of the Commission's Rules; and

(b) In light of the evidence adduced pursuant to the foregoing issue, to determine whether Cablevision should be required to carry GSN on its cable systems on a specific tier or to a specific number or percentage of Cablevision subscribers and, if so, the price, terms, and conditions thereof; and/or whether Cablevision should be required to implement such other carriage-related remedial measures as are deemed appropriate.

25. *It is further ordered,* that pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and § 76.7(g)(2) of the Commission's Rules, 47 CFR 76(g)(2), GSN and Cablevision *shall each file* with the Chief, Enforcement Bureau and Chief ALJ, by May 21, 2012, its respective elections as to whether it wishes to proceed to Alternative Dispute Resolution. The hearing proceeding *is hereby suspended* during this time. If only one party elects ADR and the other elects to proceed with an adjudicatory hearing, then the hearing proceeding will commence on May 22, 2012. If both parties elect ADR, the hearing proceeding will remain suspended, and GSN and Cablevision shall update the Chief, Enforcement Bureau and Chief ALJ on the first of each month, in writing, on the status of the ADR process. Such updates shall be provided in writing and shall reference the MB docket number and file number assigned to this proceeding.

[17] The question of whether GSN has put forth evidence sufficient to warrant designation of this matter for hearing is not an issue before the Presiding Judge. As required by the Commission's Rules, to the extent Cablevision seeks Commission review of our decision on this issue, such review, if any, shall be deferred until exceptions to the Initial Decision in this proceeding are filed. *See* 47 CFR 1.115(e)(3).

[18] In the *2011 Program Carriage Order,* the Commission adopted a rule directing the ALJ to release an initial decision within 240 calendar days after one of the parties informs the Chief ALJ that it elects not to pursue ADR or, if the parties have mutually elected to pursue ADR, within 240 calendar days after the parties inform the Chief ALJ that they have failed to resolve their dispute through ADR. *See 2011 Program Carriage Order,* 26 FCC Rcd at 11509–10, para. 21; *see also* 47 CFR 0.341(f). While this rule does not apply to this complaint, we encourage the ALJ to make all reasonable efforts to comply with this deadline. Pursuant to § 76.10(c)(2) of the Commission's Rules, a party aggrieved by the ALJ's decision on the merits may appeal such decision directly to the Commission in accordance with §§ 1.276(a) and 1.277(a) through (c) of the Commission's Rules. 47 CFR 76.10(c)(2).

26. *It is further ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), in order to avail itself of the opportunity to be heard, GSN and Cablevision, in person or by their attorneys, *shall each file* with the Commission, by May 29, 2012, a written appearance stating that it will appear on the date fixed for hearing and present evidence on the issues specified herein, provided that, if both parties elect ADR, each party shall file such written appearance within five calendar days after notifying the Chief, Enforcement Bureau and Chief ALJ that it has failed to settle the dispute through ADR.[19]

27. *It is further ordered* that, if GSN fails to file a written appearance by the deadline specified above, or fails to file prior to the deadline either a petition to dismiss the above-captioned proceeding without prejudice, or a petition to accept, for good cause shown, a written appearance beyond such deadline, the Administrative Law Judge *shall dismiss* the above-captioned program carriage complaint with prejudice for failure to prosecute and *shall terminate* this proceeding.

28. *It is further ordered* that, if Cablevision fails to file a written appearance by the deadline specified above, or fails to file prior to the deadline a petition to accept, for good cause shown, a written appearance beyond such deadline, its opportunity to present evidence at hearing will be deemed to have been waived. If the hearing is so waived, the Presiding Judge expeditiously *shall terminate* this hearing proceeding and certify to the Commission the above-captioned program carriage complaint for resolution based on the existing record.

29. *It is further ordered* that in addition to the resolution of issues (a) and (b) in paragraph 39 above, the Presiding Judge shall also determine, pursuant to section 503(b) of the Communications Act of 1934, as amended, whether an Order for Forfeiture shall be issued against Cablevision for each willful and/or repeated violation, except that the amount issued for any continuing violation shall not exceed the amount specified in section 503(b)(2)(A), 47 U.S.C. 503(b)(2)(A), for any single act or failure to act.

30. *It is further ordered* that for the purposes of issuing a forfeiture, this document constitutes notice, as required by section 503 of the Communications Act of 1934, as amended, 47 U.S.C. 503.

31. *It is further ordered* that a copy of this *order* shall be sent by Certified Mail—Return Receipt Requested and regular first class mail to (i) Game Show Network, LLC, 2150 Colorado Avenue, Santa Monica, CA 90404, with a copy (including a copy via email) to Stephen A. Weiswasser, Esq., Covington and Burling LLP, 1201 Pennsylvania Avenue NW., Washington, DC 20004–2401 (*sweiswasser@cov.com*); and (ii) Cablevision Systems Corporation, 1111 Stewart Avenue, Bethpage, NY 11714, with a copy (including a copy via email) to Howard J. Symons, Esq., Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., 701 Pennsylvania Avenue NW., Suite 900, Washington, DC 20004 (*HJSymons@mintz.com*).

32. *It is further ordered* that the Chief, Enforcement Bureau, is made a party to this proceeding without the need to file a written appearance, and she shall have the authority to determine the extent of her participation therein.

33. *It is further ordered* that a copy of this *order* or a summary thereof *shall be published* in the **Federal Register**.

34. This action is taken pursuant to authority delegated by §§ 0.61 and 0.283 of the Commission's Rules, 47 CFR 0.61, 0.283.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2012–12146 Filed 5–17–12; 8:45 am]

BILLING CODE 6712–01–P

[19] In the *2011 Program Carriage Order,* the Commission adopted a specific deadline for filing written appearances in a program carriage complaint proceeding referred to an ALJ for an initial decision. *See 2011 Program Carriage Order,* 26 FCC Rcd at 11510–11, para. 22; *see also* 47 CFR 1.221(h)(1). This rule does not apply to this complaint. Thus, the general rule in § 1.221(c) applies. *See* 47 CFR 1.221(c). In light of the expedited basis of this hearing proceeding, the deadline for filing written appearances set forth in § 1.221(c) of the Commission's Rules, 47 CFR 1.221(c), is waived and replaced with the deadlines set forth above. In addition, § 1.221(f) of the Commission's Rules, 47 CFR 1.221(f), provides that a ''fee must accompany each written appearance filed with the Commission in certain cases designated for hearing.'' However, neither the Act nor our rules specify a fee for hearings involving program carriage complaints. *See* 47 CFR 1.1104; *see also* 47 U.S.C. 158. Accordingly, neither GSN nor Cablevision is required to pay a fee in connection with the filing of their respective appearances in this proceeding.

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 June 4, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Elizabeth A. Murphy, individually, and the Elizabeth A. Murphy 2011 Irrevocable Trust,* both of Omaha, Nebraska; to acquire control of Ameriwest Corporation, and thereby indirectly acquire control of First Westroads Bank, Inc., both in Omaha, Nebraska.

Board of Governors of the Federal Reserve System, May 15, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–12043 Filed 5–17–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise

noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 14, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *King Kalispell, LLC,* to remain a bank holding company by continuing to control King Family GNB, L.P. and King Family VB, L.P. and thereby indirectly control Great Northern Bancshares, Inc., and its subsidiary, Three Rivers Bank of Montana, and Valley Bancshares, Inc., and its subsidiary, Valley Bank of Kalispell, all in Kalispell, Montana.

In connection with this application, King Family GNB, L.P., will remain a bank holding company by continuing to control Great Northern Bancshares, Inc., both in Kalispell, Montana.

In addition, King Family VB, L.P., will remain a bank holding company by continuing to control Valley Bancshares, Inc., both in Kalispell, Montana.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Valliance Financial Corp.,* Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of Valliance Texas Financial Holdings, Inc., and thereby indirectly acquire voting shares of Valliance Bank, both in McKinney, Texas.

Board of Governors of the Federal Reserve System, May 15, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–12044 Filed 5–17–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From the Hanford Site in Richland, WA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from the Hanford site in Richland, Washington, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Hanford site.

Location: Richland, Washington.

Job Titles and/or Job Duties: All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors.

Period of Employment: July 1, 1972 to December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–12094 Filed 5–17–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From Joslyn Manufacturing and Supply Co., in Ft. Wayne, IN, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from Joslyn Manufacturing and Supply Co., in Ft. Wayne, Indiana, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Joslyn Manufacturing and Supply Co.

Location: Ft. Wayne, Indiana.

Job Titles and/or Job Duties: All employees.

Period of Employment: January 1, 1944 to December 31, 1952.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2012–12095 Filed 5–17–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10389]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number). *Title of Information Collection:* The Home and Community-Based Service (HCBS) Experience Survey. *Use:* This study is a one-time pilot field test involving individuals who receive HCBS from Medicaid programs. The field test to be conducted under this request will be done for the following purposes: (a) To assess survey methodology—to determine how well a face-to-face survey and telephone survey performs with individuals who receive HCBS services. (b) Psychometric Analysis—to

provide information for the revision and shortening of the survey based on the assessment of the reliability and construct validity of survey items and composites. (c) Case mix adjustment analysis—Assess the variables that may be considered as case mix adjusters.

These preliminary research activities are not required by regulation, and will not be used by CMS to regulate or sanction its customers. They will be entirely voluntary and the confidentiality of respondents and their responses will be preserved.

The information collected will be used to revise and test the survey instrument described in the Background section of the Supporting Statement. Within the PRA package, Attachment B includes two versions of the survey (one modified for accessibility) and Attachment C has the introductory information. The end result will be an improvement in information collection instruments and in the quality of data collected, a reduction or minimization of respondent burden, increased agency efficiency, and improved responsiveness to the public. Following the field test, CMS will seek approval from the CAHPS consortium for the HCBS Experience Survey to be a new addition to the CAHPS® family of surveys.

Form Number: CMS–10389 (OCN 0938–New). *Frequency:* Once. *Affected Public:* 1 Individuals and households. *Number of Respondents:* 18,000. *Total Annual Responses:* 18,000. *Total Annual Hours:* 9,000. (For policy questions regarding this collection contact Anita Yuskauskas at 410–786–0268. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *July 17, 2012:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 15, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–12080 Filed 5–17–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10136]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement of a previously approved collection; *Title of Information Collection:* Physician Group Practice Transition Demonstration (PGP–TD) Performance Assessment Tool (''PAT''); *Use:* The Physician Group Practice (PGP) Demonstration was mandated by section 412 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 and is the precursor to the Medicare Shared Savings Program. Section 1899(k) of the Social Security Act, as added by section 10307(k) of the Affordable Care Act (as amended by section 10307 of the Health Care and Education Reconciliation Act of 2010), states ''the Secretary may enter into an agreement with an ACO under the Demonstration under section 1866A, subject to rebasing and other modifications deemed appropriate by the Secretary.'' The Demonstration extension is entitled the PGP Transition Demonstration (PGP–TD).

We are seeking reinstatement of the collection of information as it was erroneously discontinued. Only a portion of the information collection requirements previously approved under 0938–0941 should have been discontinued. The collection of information is strictly voluntary in nature and was developed in conjunction with the industry and Demonstration participants. Only organizations that voluntarily respond and elect to participate in the Demonstration will be reporting the measures. Moreover, CMS will not be using this information to regulate or sanction but rather to provide financial incentives for improving the quality of care. The collection of information to be used under this extension is being used to test quality data collection systems and determine incentive payment levels to participating physician group practices participating in the PGP–TD. In addition, this data will be used to evaluate the effectiveness of these payment models and provide insight into the most appropriate way for the agency to collect clinical information. *Form Number:* CMS–10136 (OCN: 0938–0941); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and not-for-profit institutions. *Number of Respondents:* 10. *Number of Responses:* 10. *Total Annual Hours:* 790. (For policy questions regarding this collection contact Heather Grimsley at 410–786–1048. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *June 18, 2012*.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974. Email: *OIRA_submission@omb.eop.gov*.

Dated: May 15, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–12078 Filed 5–17–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10424 and CMS–10416]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Cooperative Agreement to Support Establishment of the Affordable Care Act's Health Insurance Exchanges; *Use:* All States (including the 50 States, consortia of States, and the District of Columbia, herein referred to as States) are eligible for the Cooperative Agreement to Support Establishment of the Affordable Care Act's Health Insurance Exchanges. Section 1311 of the Affordable Care Act provides for grants to States for the planning and establishment of these Exchanges. Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, federal requirements, and goals of the statute.

In order to provide appropriate and timely guidance and technical assistance, the Secretary must have access to timely, periodic information regarding State progress. Consequently, the information collection associated with these grants is essential to facilitating reasonable and appropriate federal monitoring of funds, providing statutorily-mandated assistance to States to implement Exchanges in accordance with Federal requirements, and to ensure that States have all necessary information required to proceed, such that retrospective corrective action can be minimized.

There are two levels of awards for States to apply for the Establishment grants. Level One grants are open to States that are participating in either the Federally-facilitated Exchange, including States that will be collaborating with the Federally-facilitated Exchange on certain activities, or developing a State-based Exchange. Level Two Establishment grants are open to States that are establishing a State-based Exchange. Level One Establishment grantees may apply for additional funding under Level Two Establishment grants once they have achieved the benchmarks identified in the Level Two Establishment review criteria.

HHS anticipates releasing this funding opportunity on June 15, 2012. There will be ten opportunities for applicants to apply for funding. HHS anticipates Level One Establishment and Level Two Establishment applications will be due: August 1, 2012; November 1, 2012; February 1, 2013; May 1, 2013; August 1, 2013; November 1, 2013; February 3, 2014; May 1, 2014; August 1, 2014; and November 3, 2014. The Period of Performance for Level One Establishment grants is up to one year after date of award. The Period of Performance for Level Two Establishment grants is up to three years after date of award. *Form Number:* CMS–10424 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Number of Responses:* 331; *Total Annual Hours:* 50,158. (For policy questions regarding this collection contact Katherine Harkins at 301–492–4445. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Blueprint for Approval of Affordable State-based and State Partnership Insurance Exchanges *Use:* All States (including the 50 States, the Territories, and the District of Columbia herein referred to as States) have the opportunity under Section 1311(b) of the Affordable Care Act to establish an Exchange no later than October 1, 2013 (Plan Year 2014).

Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, federal requirements, and goals of the statute.

States seeking to establish an Exchange must build an Exchange that meets the requirements set out in Section 1311(d) of the Affordable Care Act and 45 CFR 155.105. In order to ensure that a State seeking approval as a State Exchange or State Partnership Exchange in the Federally-facilitated Exchange meet all applicable requirements the Secretary will require a State to submit a Blueprint for approval during the Fall of 2012 and to demonstrate operational readiness through virtual or on-site readiness review. The Blueprint has two sections: The Blueprint Declaration Letter and the Blueprint Application. Submission of this Blueprint Declaration Letter will be online and on paper and submission of the Blueprint Application will be online. *Form Number:* CMS–10416 (OCN: 0938–New) *Frequency:* Once; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 56; *Number of Responses:* 56; *Total Annual Hours:* 11,816. (For policy questions regarding this collection, contact Sarah Summer 301–492–4443. For all other issues call (410) 786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to

Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on June 18, 2012. OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: May 15, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–12108 Filed 5–16–12; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5052–N2]

Medicare Program; Solicitation for Proposals for the Medicare Graduate Nurse Education Demonstration—Deadline Extension

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

ACTION: Notice of extension of deadline.

SUMMARY: This notice extends the deadline for submission of proposals to apply to participate in the Medicare Graduate Nurse Education (GNE) Demonstration.

DATES: Proposals will be considered timely if they are received on or before 5 p.m., Eastern Standard Time (E.S.T.) on May 25, 2012.

ADDRESSES: Proposals should be mailed to the following address: Centers for Medicare & Medicaid Services, Center for Medicare & Medicaid Innovation, Attention: Alexandre Laberge, Mail Stop: WB–06–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

FOR FURTHER INFORMATION CONTACT: Alexandre Laberge (410) 786–8625 or by email at *GNE@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

General Information: Please refer to file code (CMS–5052–N2) on the application. Proposals (an unbound original and 10 electronic copies on CD–ROM) must be typed for clarity and should not exceed 50 double-spaced pages, exclusive of cover letter, the executive summary, resumes, forms, and no more than 15 pages supporting documentation. Because of staffing and resource limitations, we cannot accept proposals by facsimile (FAX) transmission. Applicants may, but are not required to, submit a total of 10 copies to assure that each reviewer receives a proposal in the manner intended by the applicant (for example, collated, tabulated color copies). Hard copies and CD–ROM electronic copies must be identical.

Eligible Organizations: As set forth in section 5509 of the Affordable Care Act an ''eligible hospital'' may apply to perform the responsibilities specified. Section 5509(e)(5) of the Affordable Care Act defines an ''eligible hospital'' to mean a hospital (as defined in section 1861(e) of the Social Security Act (the Act) (42 U.S.C. 1395x)) or a critical access hospital (as defined in section 1861(mm)(1) of the Act) that has a written agreement in place with—(A) 1 or more applicable schools of nursing; and (B) 2 or more applicable non-hospital community-based care settings. The written agreement must meet specific requirements set forth in section 5509 of the Affordable Care Act including—(1) The obligations of the eligible partners with respect to the provision of qualified training; and (2) the obligation of the eligible hospital to reimburse such eligible partners applicable (in a timely manner) for the costs of such qualified training attributable to partner. The Demonstration will include up to five eligible hospitals.

I. Background

We are seeking eligible hospital applicants, which includes critical access hospitals, to partner with one or more applicable schools of nursing (SONs) and two or more applicable nonhospital community-based care settings (CCSs) to provide advanced practice registered nurse (APRN) students with qualified training. See section 5509(e) of the Affordable Care Act for the definitions of the terms used in the preceding sentence. At least half of the clinical training must be provided in non-hospital CCSs which may include federally qualified health centers (FQHCs), rural health clinics (RHCs), and other nonhospital settings as determined appropriate by the Secretary. However, the Secretary may waive the requirement under section 5509(e)(7)(A)(ii) of the Affordable Care Act with respect to eligible hospitals located in rural or medically underserved areas.

On March 22, 2012, we posted a solicitation for proposals on the Innovation Center Web site. In addition, in the March 22, 2012 **Federal Register** (77 FR 16841) we published a notice of solicitation for proposals to participate in the Graduate Nurse Education (GNE) Demonstration. The Demonstration provides a source of Medicare funding for the reasonable costs for clinical training attributable to the incremental increase in the number of APRN students enrolled in participating SONs during the Demonstration relative to an established baseline. Section 5509 of the Affordable Care Act sets forth limitations on the reasonable costs reimbursable under the Demonstration. We will make interim payments to selected hospitals with a cost settlement process using Medicare reasonable cost principles. Participating eligible hospitals must establish written agreements with one or more applicable SONs and two or more applicable non-hospital CCSs that define the obligations of each partner with respect to the provision of qualified training and the corresponding eligible hospital's obligation to reimburse eligible partners applicable (in a timely manner) for the costs of such qualified training attributable to the partner and the mechanism for partner reimbursement. As outlined in the GNE Solicitation, applicant hospitals may partner with other hospitals in the Demonstration and we will support an expanded configuration of hospital relationships under certain circumstances. For more details, see the Solicitation, which is available on the Innovation Center Web site at *http://www.innovations.cms.gov/initiatives/GNE/index.html.*

II. Provisions of This Notice

The CMS Innovation Center has received much interest and a large number of inquires about the GNE Demonstration announced on the CMS Web site and in the **Federal Register**. In response to requests from the community of potential applicants to allow for some additional time to prepare the proposals for participation in the Demonstration, and in light of our continued commitment to work in partnership with our stakeholders, the Innovation Center has modified the deadline for proposals so that the applications from eligible hospital applicants are due by the date specified in the **DATES** section of this notice.

III. Information Collection Requirements

In accordance with section 5509(a)(4) of the Affordable Care Act, this information collection requirement is not subject to the Paperwork Reduction Act of 1995. Consequently, it need not be reviewed by the Office of Management and Budget under the

authority of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Authority: Section 5509 of the Affordable Care Act.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 15, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–12131 Filed 5–17–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9073–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2012

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

ACTION: Notice.

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January through March 2012, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone No.
I CMS Manual Instructions	Ismael Torres	(410) 786–1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786–4481
III CMS Rulings	Tiffany Lafferty	(410) 786–7548
IV Medicare National Coverage Determinations	Wanda Belle	(410) 786–7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786–6877
VI Collections of Information	Mitch Bryman	(410) 786–5258
VII Medicare-Approved Carotid Stent Facilities	Sarah J. McClain	(410) 786–2294
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	JoAnna Baldwin, MS	(410) 786–7205
IX Medicare's Active Coverage-Related Guidance Documents	Lori Ashby	(410) 786–6322
X One-time Notices Regarding National Coverage Provisions	Lori Ashby	(410) 786–6322
XI National Oncologic Positron Emission Tomography Registry Sites	Stuart Caplan, RN, MAS	(410) 786–8564
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	JoAnna Baldwin, MS	(410) 786–7205
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	JoAnna Baldwin, MS	(410) 786–7205
XIV Medicare-Approved Bariatric Surgery Facilities	Kate Tillman, RN, MAS	(410) 786–9252
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	Stuart Caplan, RN, MAS	(410) 786–8564
All Other Information	Annette Brewer	(410) 786–6580

I. Background

Among other things, the Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Revised Format for the Quarterly Issuance Notices

While we are publishing the quarterly notice required by section 1871(c) of the Act, we will no longer republish duplicative information that is available to the public elsewhere. We believe this approach is in alignment with CMS' commitment to the general principles of the President's Executive Order 13563 released January 2011entitled ''Improving Regulation and Regulatory Review,'' which promotes modifying and streamlining an agency's regulatory program to be more effective in achieving regulatory objectives. Section 6 of Executive Order 13563 requires agencies to identify regulations that may be ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand or repeal them in accordance with what has been learned.'' This approach is also in alignment with the President's Open Government and Transparency Initiative that establishes a system of transparency, public participation, and collaboration.

Therefore, this quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS Web site or the appropriate data registries that are used as our resources. This information is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the Web site list provides more timely access for beneficiaries, providers, and suppliers. We also believe the Web site offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the Web sites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the Web site. These listservs avoid the need to check the Web site, as notification of

updates is automatic and sent to the subscriber as they occur. If assessing a Web site proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals*.

Authority: (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: May 11, 2012.

Kathleen Cantwell,

Acting Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: August 8, 2011 (76 FR 48564), November 4, 2011 (76 FR 68467), December 16, 2011 (76 FR 78267), and February 21, 2012 (77 FR 9931). For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the Web site to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (January through March 2012)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare National Coverage Determination publication titled Autologous Cellular Immunotherapy Treatment of Metastatic Prostate Cancer -use CMS-Pub. 100-03, Transmittal No. 140.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual. For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our Web site at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
Medicare General Information (CMS-Pub. 100-01)	
76	Allowing Physician Assistants to Perform Skilled Nursing Facility (SNF) Level of Care Certifications and Recertifications
77	July 2012 Quarterly Updates to the CMS Standard File for Reason Codes for the Fiscal Intermediary Shared System (FISS)
Medicare Benefit Policy (CMS-Pub. 100-02)	
153	Allowing Physician Assistants to Perform Skilled Nursing Facility (SNF) Level of Care Certifications and Recertifications
Medicare National Coverage Determination (CMS-Pub. 100-03)	
140	Autologous Cellular Immunotherapy Treatment of Metastatic Prostate Cancer
141	Intensive Behavioral Therapy for Obesity Screening for Sexually Transmitted Infections (STIs) and High-Intensity Behavioral Counseling (HIBC) to Prevent STIs
142	Intensive Behavioral Therapy for Obesity

Medicare Claims Processing (CMS-Pub. 100-04)	
2379	Summary of Policies in the CY 2012 Medicare Physician Fee Schedule (MPFS) Final Rule and the Telehealth Originating Site Facility Fee Payment Amount
2380	Autologous Cellular Immunotherapy Treatment of Metastatic Prostate Cancer
2382	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2383	FISS Claims Processing Updates for Ambulance Services MAC Bill Processing Guidelines Effective April 1, 2002, as a Result of Fee Schedule Implementation
2384	Quarterly Update to the Correct Coding Initiative (CCI) Edits, Version 18.1, Effective April 1, 2012
2386	January 2012 Update of the Hospital Outpatient Prospective Payment System (OPPS) Policy and Billing Instructions for Condition Code 44 Cardiac Resynchronization Therapy Payment Window for Outpatient Services Treated as Inpatient Services Use of Modifiers for Discontinued Services
2387	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2388	Update to Pub 100-04, Medicare Claims Processing Manual, Chapter 3: Inpatient Hospital Billing Billing Coverage and Utilization Rules for PPS and Non-PPS Hospitals
2389	Issued to a specific audience, not to posted to Internet/Intranet due to Confidentiality of Instruction
2390	Revised Editing for Hepatitis B Administration Code G0010 Healthcare Common Procedure Coding System (HCPCS) and Diagnosis Codes
2391	New Hospice Condition Code for Out of Service Area Discharges Data Required on the Institutional Claim to Medicare Contractor Billing for Hospice Denials Billing for Denial of Hospice Room and Board Charges
2393	Inpatient Rehabilitation Facility (IRF) No-Pay Billing for Medicare Advantage (MA) Patients Update Additional Payment Amounts for Hospitals with Disproportionate Share of Low-Income Patients
2394	CWF Editing for Autologous Cellular Immunotherapy Treatment of Metastatic Prostate Cancer (PROVENGE®) Medicare Summary Notices (MSNs), Remittance Advice Remark Codes (RARCs), Claim Adjustment Reason Codes (CARCs), and Group Codes
2395	Multiple Procedure Payment Reduction (MPPR) for Physician Services for Certain Diagnostic Imaging Procedures in Critical Access Hospitals (CAH) Optional Method for Outpatient Services: Cost-Based Facility Services Plus 115 percent Fee Schedule Payment for Professional Services Multiple Procedure Payment Reduction (MPPR) on Certain Diagnostic Imaging Procedures Rendered by Physicians
2396	April 2012 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
2397	Update to Abortion Condition Codes Associated With Reason Code 32809
2398	Issued to a specific audience, not posted to Internet/Intranet/ due to Confidentiality of Instruction
2399	Clarification for Skilled Nursing Facility (SNF) and Swing Bed (SB) Part A Billing - Updating System Requirements for Assessment Date Reporting and Removal of the Occurrence Code 16 Reporting Requirement Billing SNF PPS Services
2400	Issued to a specific audience, not posted to Internet/Intranet/ due to Confidentiality of Instruction
2401	Issued to a specific audience, not posted to Internet/Intranet/ due to Confidentiality of Instruction
2402	Screening for Sexually Transmitted Infections (STIs) and High Intensity Behavioral Counseling (HIBC) to Prevent STIs (ICD-10) Healthcare Common Procedure Coding System (HCPCS) Codes for Screening for STIs and HIBC to Prevent STIs Diagnosis Code Reporting Billing Requirements Types of Bill (TOBs) and Revenue Codes Payment Method Specialty Codes and Place of Service (POS)
2403	Medicare System Update to Include a Rendering Provider Field to Allow Correct Physician National Provider Identifier (NPI) Reporting for the Primary Care Incentive Program (PCIP) for Critical Access Hospitals (CAHs) Reimbursed Under the Optional Method Identifying Primary Care Services Eligible for the PCIP
2404	Issued to a specific audience, not posted to Internet/Intranet/ due to Confidentiality of Instruction
2405	Issued to a specific audience, not posted to Internet/Intranet/ due to Confidentiality of Instruction
2406	Announcement of Medicare Rural Health Clinic (RHC) and Federally Qualified Health Centers (FQHC) Payment Rate Increases
2407	Revised and Clarified Place of Service (POS) Coding Instructions Site of Service Payment Differential Place of Service (POS) Instructions for the Professional Component (PC or Interpretation) and the Technical Component (TC) of Diagnostic Tests Provider of Service or Supplier Information Place of Service Codes (POS) and Definitions Carrier Instructions for Place of Service (POS) Codes
2408	New Waived Tests
2409	Intensive Behavioral Therapy for Obesity Intensive Behavioral Therapy for Obesity (Effective November 29, 2011) Policy Institutional Billing Requirements Professional Billing Requirements Claim Adjustment Reason Codes (CARCs), Remittance Advice Remark Codes (RARCs), Group Codes, and Medicare Summary Notice (MSN) Messages Common Working File (CWF) Edits

2410	New Hospice Condition Code for Out of Service Area Discharges Data Required on the Institutional Claim to Medicare Contractor Billing for Hospice Denials Billing for Denial of Hospice Room and Board Charges
2411	Redesign of the Medicare Summary Notice (MSN) – Final Implementation – And Major Update to Chapter 21 of the Medicare Claims Process Manual Basic Concepts and Approaches Format Conventions for the MSN Specifications for Section I: Summary (Page 1) Specifications for Header for Other Pages Specifications for Section 2: Making the Most of Your Medicare (Page 2) Specifications for Section 3: Claims Claims Calculations Specifications for Section 4 (Last Page): Denials & Appeals Specifications for Pay MSN Cover Sheet & Check Specifications for Envelopes Exhibits of the Extended Family of MSNs in Black & White Exhibits of Alternate Scenarios Exhibits of MSNs in Spanish Exhibits of the Extended Family of MSNs of Color
2412	Instructions for Downloading the Medicare ZIP Code File for July 2012
2413	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2414	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2415	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2416	Healthcare Provider Taxonomy Codes (HPTC) Update April 2012
2417	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2418	April 2012 Update of the Hospital Outpatient Prospective Payment System (OPPS) Transitional Outpatient Payments (TOPs) for CY 2010 through February 29, 2012
2419	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2420	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2421	Intensive Behavioral Therapy for Obesity Intensive Behavioral Therapy for Obesity Policy Institutional Billing Requirements Professional Billing Requirements Claim Adjustment Reason Codes (CARCs), Remittance Advice Remark Codes (RARCs), Group Codes, and Medicare Summary Notice (MSN) Messages Common Working File (CWF) Edits
2422	Revision of Medicare Summary Notice (MSN) for Non-Competitive Bid Claims
2423	April 2012 Integrated Outpatient Code Editor (I/OCE) Specifications Version 13.1
2424	Influenza Virus Vaccine Annual Payment Limit Effective Date Drugs and Biologicals Exceptions to Average Sales Price (ASP) Payment Methodology
2425	April 2012 Update of the Ambulatory Surgical Center (ASC) Payment System
2426	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2427	2012 Durable Medical Equipment Prosthetics, Orthotics, and Supplies Healthcare Common Procedure Coding System (HCPCS) Code Jurisdiction
2428	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2429	April Update to the CY 2012 Medicare Physician Fee Schedule Database (MPFSDB)
2431	Screening for Depression in Adults Screening for Depression in Adults Coverage Requirements A/B Medicare Administrative Contractor (MAC) and Carrier Billing Requirements Frequency Place of Service (POS) Common Working File (CWF) Edits Professional Billing Requirements Institutional Billing Requirements
2432	Intensive Behavioral Therapy for Cardiovascular Disease (CVD) Coding Requirements for IBT for CVD Claims Processing Requirements for IBT for CVD Correct Place of Services (POS) Codes for IBT for CVD on Professional Claims Provider Specialty Edits for IBT for CVD on Professional Claims Correct Types of Bill (TOB) for IBT for CVD on Institutional Claims Frequency Edits for IBT for CVD Claims Common Working File (CWF) Edits for IBT for CVD Claims
2433	Alcohol Screening and Behavioral Counseling Interventions in Primary Care to Reduce Alcohol Misuse Policy Institutional Billing Requirements Professional Billing Requirements Claim Adjustment Reason Codes, Remittance Advice Remark Codes, Group Codes and Medicare Summary Notice Messages Common Working File (CWF) Requirements
2434	Quarterly Update to the Correct Coding Initiative (CCI) Edits, Version 18.2, Effective July 1, 2012
2435	Revised and Clarified Place of Service (POS) Coding Instructions Site of Service Payment Differential Place of Service (POS) Instructions for the Professional Component (PC or Interpretation) and the Technical Component (TC) of Diagnostic Tests
2436	Claim Status Category and Claim Status Codes Update
Medicare Secondary Payer (CMS-Pub. 100-05)	
00	None

Medicare Financial Management (CMS-Pub. 100-06)	
202	Recovery Audit Program MAC-issued Demand Letters Adjusting the Claim
203	Notice of New Interest Rate for Medicare Overpayments and Underpayments - 2nd Notification for FY 2012
204	Notice of New Interest Rate for Medicare Overpayments and Underpayments - 2nd Notification for FY 2012 Immediate Recoupment Requirements Additional Requirements for Demand Letters Example 1-Sample of the 935 First Demand Letter for Part A & B Payments Made Upon Notice of Demand or Through an Immediate Recoupment Request Immediate Recoupment Requirements for Non-935 Overpayment Recovery from the Physicians and Other Suppliers Part B Non-935 Overpayment Demand Letters to Physicians/Other Suppliers
205	Immediate Recoupment for Fee for Service Claims Overpayments Immediate Recoupment Requirements Additional Requirements for Demand Letters Example 1-Sample of the 935 First Demand Letter Payments Made Upon Notice of Demand or Through a Requested Immediate Recoupment Immediate Recoupment Requirements for Overpayment Recovery from the Physicians and Other Suppliers Part B Overpayment Demand Letters to Physicians/Other Suppliers
206	Processing of Recovery Audit Program Error Files Error Files
Medicare State Operations Manual (CMS-Pub. 100-07)	
79	Revised Exhibit 286, Hospital/CAH Database Worksheet
80	Revised Exhibit 286, Hospital/CAH Database Worksheet
81	Revisions to State Operations Manual (SOM), Appendix A, Hospitals
Medicare Program Integrity (CMS-Pub. 100-08)	
402	Advanced Diagnostic Imaging (ADI) Accreditation Enrollment Procedures (This CR Fully Rescinds and Replaces CR 7177.) Advanced Diagnostic Imaging
403	Claims against Surety Bonds for Suppliers of Durable Medicare Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Claims Against Surety Bonds
404	General Update to Chapter 15 of the Program Integrity Manual (PIM) – Part I
405	General Update to Chapter 15 of the Program Integrity Manual (PIM) – Part III
406	Issued to a specific audience not posted to Internet/Intranet due to Confidentiality of Instruction
407	Advanced Diagnostic Imaging (ADI) Accreditation Enrollment Procedures (This CR Fully Rescinds and Replaces CR 7177.) Advanced Diagnostic Imaging
408	Additional Provider and Supplier Enrollment Requirements for Fixed Wing and Helicopter Air Ambulance Operators. Air Ambulance Suppliers
409	Issued to a specific audience not posted to Internet/Intranet due to Confidentiality of Instruction
410	Instructions for Processing Form CMS-855O Submissions Ordering/Referring Suppliers Who Do Not Have Medicare Billing Privileges Ordering/Referring Suppliers – Background Processing Initial Form CMS-855O Submissions Processing Form CMS-855O Change of Information Requests Form CMS-855O Revocations Model Approval Letter - Initial Form CMS-855O Submissions Model Rejection Letter - Form CMS-855O Submissions Model Denial Letter - Form CMS-855O Submissions Model Revocation Letter - Form CMS-855O
411	Issued to a specific audience not posted to Internet/Intranet due to Confidentiality of Instruction
412	General Update to Chapter 15 of the Program Integrity Manual (PIM) – Part II
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
00	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
00	None
Medicare Managed Care (CMS-Pub. 100-16)	
00	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
00	None
Demonstrations (CMS-Pub. 100-19)	
82	Implementation Support and Payment Processing for the Multi-Payer Advanced Primary Care Practice (MAPCP) Demonstration- Additional Requirements
83	Issued to a specific audience not posted to Internet/Intranet due to Confidentiality of Instruction
One Time Notification (CMS-Pub. 100-20)	
1012	Use of Revised Remittance Advice Remark Code (RARC) N103 When Denying Services Furnished to Federally Incarcerated Beneficiaries
1013	Contractor Instructions to Implement International Classification of Diseases-10th Revision (ICD-10) Plans
1014	Instructions to Teaching Hospitals for Reporting the Internal Revenue Service (IRS) Refund of Medical Resident FICA Taxes
1015	Emergency Update to the CY 2012 Medicare Physician Fee Schedule Database (MPFSDB)
1016	Direct Mailing to Medicare Providers About the 2012 Electronic Prescribing Payment
1017	Instructions to Teaching Hospitals for Reporting the Internal Revenue Service (IRS) Refund of Medical Resident FICA Taxes
1018	Issuances to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1019	Update to the Fiscal Year (FY) 2012 List of Codes Exempt from Reporting Present on Admission (POA)

1021	Automated Tracking and Reporting of Recovery Audit-Associated Reopening and Appeals
1022	Fee for Service Common Eligibility Services Conference Calls and Research
1023	Common Edits and Enhancements Module (CEM) and Receipt, Control, and Balancing Updates - July 2012
1024	Common Edits and Enhancements Modules (CEM) Code Set Update
1025	Enterprise Electronic Change Information Management Portal (ECHIMP)
1026	Implementation of the HIPAA Version 5010 276/277 Claim Status Edits July 2012 Release
1027	New Occurrence Span Code to Report Antepartum Days
1028	Contractor Instructions to Implement International Classification of Diseases-10th Revision (ICD-10) Plans
1029	Delayed Work from CR 7589: Request to Require Hours for Research and Conference Calls with Maintainers, MACs, and EDCs and Additional Requirements for IDR Shared Systems
1030	Health Insurance Portability and Accountability Act (HIPAA) 5010 837 Institutional (837I) Edits and 5010 837 Professional (837P) Edits – July 2012 Version
1031	Analysis and Design of Edits to Correct Recovery Auditor Identified Improper Payments in MCS.
1032	Revisions to the Hospice Medicare Summary Notice (MSN)
1033	Analysis of Improper Overpayments to Design Edits to Correct these Overpayments in CWF, MCS, and FISS.
1034	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1035	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1036	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1037	Health Insurance Portability and Accountability (HIPAA) 5010/D.0 Fixes – July 2012
1038	Updates to Editing of Patient Discharge Status Codes on Hospice Claims
1039	International Classification of Diseases-10th Edition (ICD-10), Inclusion of Type of Bill (TOB) 33X, Home Health, Outpatient (includes HHA visits under a Part A Plan of treatment)
1040	Interaction of Multiple Procedure Payment Reduction (MPPR) on Imaging Procedures and the Outpatient Prospective Payment System (OPPS) Cap on the Technical Component of Imaging Procedures
1041	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1042	Creation of New Indicator for Use on the Ambulatory Surgical Centers (ASCs) Payment Indicator File for Reporting Quality Measures
1043	Delayed Work from CR 7589: Request to Require Hours for Research and Conference Calls with Maintainers, MACs, and EDCs and Additional Requirements for IDR Shared Systems
1044	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1045	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1046	Fiscal Intermediary Shared System (FISS) and Common Working File (CWF) System Enhancement for Storing Line Level Rendering Physicians/Practitioners National Provider Identifier (NPI) and Physician Specialty Code Information
1047	Enhancements to the Recovery Audit Mass Adjustment/Reporting Process in the ViPS Medicare System (VMS)
1048	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1049	Implement Fraud Prevention Predictive Modeling Prepayment Edits – Analysis and Design Only
1050	Automated Tracking and Reporting of Recovery Audit-Associated Reopenings and Appeals
1051	Analysis of Improper Overpayments to Design Edits to Correct these Overpayments in CWF, MCS, and FISS.
1052	Analysis and Design of Edits to Correct Recovery Auditor Identified Improper Payments in MCS.
1053	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1054	Use of Revised Remittance Advice Remark Code (RARC) N103 When Denying Services Furnished to Federally Incarcerated Beneficiaries
1055	Medicare Fiscal Intermediaries Shared System (FISS), HealthCare Integrated General Ledger Accounting System (HIGLAS), and Change of Ownership Process Revisions for IRS Form 1099 Reporting
1056	Revision of Medicare Summary Notice (MSN) for Non-Competitive Bid Claims
1057	Implementation of a Correction of Initial Default Values for Medically Unlikely Edits (MUEs)
1058	Emergency March 2012 Update (MCTRJCA) to the CY 2012 Medicare Physician Fee Schedule (MPFS) Database
Medicare Quality Reporting Incentive Programs (CMS-Pub. 100-22)	
5	Medicare Quality Reporting Incentive Programs Manual Update

Addendum II: Regulation Documents Published in the Federal Register (January through March 2012)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following

Web site http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our Web site at: http://www.cms.gov/quarterlyproviderupdates/downloads/Regs-1Q12QPU.pdf

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters. The rulings can be accessed at http://www.cms.gov/Rulings/CMSR/list.asp#TopOfPage. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (January through March 2012)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site. For the purposes of this quarterly notice, we list only the specific updates that have occurred in the 3-month period. This information is available on our Web site at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle (410-786-7491).

Title	NCDM Section	Transmittal Number	Issue Date	Effective Date
Autologous Cellular Immunotherapy for Prostate Cancer	110.22	R2394CP	01/25/2012	06/30/2011
Screening for Sexually Transmitted Infections and High Intensity Behavioral Counseling to Prevent STIs	210.10	R141NCD R2402CP	01/26/2012	11/08/2011
Intensive Behavioral Therapy for Obesity	210.12	R142NCD R2409CP	02/03/2012	11/29/2011
Screening for Depression in Adults	210.90	R2431CP	03/23/2012	10/14/2011
Intensive Behavioral Therapy for Cardiovascular Disease	210.11	R2432CP	03/23/2012	11/08/2011
Screening for Behavioral Counseling Interventions in Primary Care to Reduce Alcohol Misuse	210.80	R2433	03/26/2012	10/14/2011

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (January through March 2012)

Addendum V includes listings of the FDA-approved investigational device exemption (IDE) numbers that the FDA assigns. The listings are organized according to the categories to which the devices are assigned (that is, Category A or Category B), and identified by the IDE number. For the purposes of this quarterly notice, we list only the specific updates to the Category B IDEs as of the ending date of the period covered by this notice and a contact person for questions or additional information. For questions or additional information, contact John Manlove (410-786-6877).

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved investigational device exemption (IDE). Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the notice published in the April 21, 1997 **Federal Register** (62 FR 19328).

IDE	Device	Start Date
BB14724	Tissue Genesis Cell Isolation System (CIS)	03/09/12
BB14958	Celution One System	01/26/12
BB15013	Magellan System	03/16/12
G100096	Accent MRI Pacemaker and Tendril MRI lead IDE study	03/07/12
G110208	AcrySof IQ Toric Intraocular Lens (IOL) Model SN6AT2	01/18/12

G110232	Phoenix Children's Hospital PhotoMedex	01/04/12
G110239	Neurostar TMS Therapy	01/13/12
G110244	Bioness Stimrouter Neuromodulation System	01/20/12
G110249	Avinger, Inc. Chronic Total Occlusion Crossing	01/26/12
G120003	Incraft AAA Stent Graft System	02/02/12
G120004	Ulthera System	02/03/12
G120005	Synvisc-One	02/03/12
G120007	Firefly Flourescence Imaging	02/02/12
G120012	Device Registry	02/03/12
G120013	Activa Tremor Control System	02/09/12
G120017	EXABLATE TRANSCRAINIAL MR GUIDED FOCUSED ULTRASOUND	02/16/12
G120022	PLICATED LAPAROSCOPIC ADJUSTABLE GASTRIC BANDING	02/10/12
G120023	Hires Optima Strategy	02/21/12
G120024	Mitraclip System The Coapt Trial	02/23/12
G120025	Celsius Thermocool Radiofrequency Ablation Catheter	02/24/12
G120026	Cardiac Resynchronization Therapy Device	02/24/12
G120028	Penumbra System	02/22/12
G120037	Tria Beauty Fan Device	02/29/12
G120038	Trinity Biolox Delta Ceramic Total Hip System	03/07/12
G120040	Meso Biomatrix Implant	03/08/12
G120042	Acrysof IQ Restor Multifocal Toric Intraocular Lens	03/01/12
G120044	Osseofix Spinal Fraction Reduction System	03/15/12
G120048	Spectra Optia Apheresis System	03/28/12

Addendum VI: Approval Numbers for Collections of Information (January through March 2012)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact Mitch Bryman (410-786-5258).

Addendum VII: Medicare-Approved Carotid Stent Facilities, (January through March 2012)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available on our Web site at:
http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage
For questions or additional information, contact Sarah J. McClain (410-786-2294).

Facility	Provider Number	Effective Date	State
The following facilities are new listings for this quarter.			
Providence Saint Joseph Medical Center 501 South Buena Vista Street, Burbank, CA 91505	050235	01/04/2012	CA
San Francisco General Hospital Medical Center 1001 Potrero Avenue, San Francisco, CA 94110	1164609962	01/05/2012	CA
Memorial Hospital 325 South Belmont Street P.O. Box 15118 York, PA 17405	39-0101	01/11/2012	PA
Elmhurst Memorial Healthcare 155 E. Brush Hill Road, Elmhurst, IL 60126	140200	01/12/2012	IL
Northwest Medical Center 6200 North La Cholla Boulevard, Tucson, AZ 85741	030085	01/12/2012	AZ
SSM St. Mary's Health Center 6420 Clayton Road, Richmond Heights, MO 63117	1962572396	01/12/2012	MO
Kaiser Foundation Hospital Santa Clara 700 Lawrence Expressway, Santa Clara, CA 95051	1326119967	02/10/2012	CA
HCA Northside Hospital – Galencare 6000 49th Street North, St. Petersburg, FL 33709	100238	02/17/2012	FL
Mountain Vista Medical Center 1301 South Crismon Road, Mesa, AZ 85209	03012	02/29/2012	AZ
Central Maine Heart And Vascular Institute 300 Main Street, Lewiston, ME 04240	1689653487	02/29/2012	ME
Corpus Christi Medical Center 7101 South Padre Island Drive Corpus Christi, TX 78412	1508810573	03/03/2012	TX
Hill Country Memorial Hospital 1020 South State Highway 16 Fredericksburg, TX 78624	450604	03/03/2012	TX
Methodist Mansfield Medical Center 2700 East Broad Street, Mansfield, TX 76063	670023	03/03/2012	TX

Facility	Provider Number	Effective Date	State
McAllen Heart Hospital 1900 D Street, McAllen, TX 78503	450119	03/10/2012	TX
McLaren – Central Michigan 1221 South Drive, Mt. Pleasant, MI 48858	230080	03/10/2012	MI
Saint Mary's Health Care 200 Jefferson Avenue SE, Grand Rapids, MI 49503	230059	03/14/2012	MI
UPMC East 2775 Mosside Boulevard, Monroeville, PA 15146	1225323983	03/29/2012	PA
Editorial changes (shown in bold) were made to the facilities listed below.			
Florida Hospital Memorial Medical Center 301 Memorial Medical Parkway Daytona Beach, FL 32117	100068	07/20/2005	FL
Mission Trail Baptist Hospital 3333 Research Plaza San Antonio, TX 78235	450058	10/04/2005	TX

Addendum VIII:
American College of Cardiology's National Cardiovascular Data Registry Sites
(January through March 2012)

Addendum VIII includes a list of the American College of Cardiology's National Cardiovascular Data Registry Sites. We cover implantable cardioverter defibrillators (ICDs) for certain clinical indications, as long as information about the procedures is reported to a central registry. Detailed descriptions of the covered indications are available in the NCD. In January 2005, CMS established the ICD Abstraction Tool through the Quality Network Exchange (QNet) as a temporary data collecton mechanism. On October 27, 2005, CMS announced that the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD Registry satisfies the data reporting requirements in the NCD. Hospitals needed to transition to the ACC-NCDR ICD Registry by April 2006.

Effective January 27, 2005, to obtain reimbursement, Medicare NCD policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare NCD Manual, which is on the CMS Web site at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the ACC-NCDR ICD registry. Therefore, for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry. The entire list of facilities that participate in the ACC-NCDR ICD registry can be found at www.ncdr.com/webncdr/common

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred to the list of Medicare-approved ICD facilities in the 3-month period. This information is available by accessing our Web site and clicking on the link for the American College of Cardiology's National Cardiovascular Data Registry at: www.ncdr.com/webncdr/common. For questions or additional information, contact Joanna Baldwin, MS (410-786-7205).

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
El Centro Regional Medical Center	1415 Ross Avenue	El Centro	CA	92243
Brookhaven Memorial Hospital Medical Center	101 Hospital Road	Patchogue	NY	11772
Brookhaven Memorial Hospital Medical Center	185 Hospital Road	Winchester	TN	37398
Carolinas Medical Center - Pineville	10628 Park Road	Charlotte	NC	28210
Cincinnati Children's Hospital Medical Center	3333 Burnet Avenue	Cincinnati	OH	45229
Southside Regional Medical Center	200 Medical Park Boulevard	Petersburg	VA	23805
Hollywood Presbyterian Hospital	1300 North Vermont Avenue	Los Angeles	CA	90027
Huron Medical Center	1100 S. Van Dyke Road	Bad Axe	MI	48413
Palm Bay Hospital	1425 Malabar Road NE	Palm Bay	FL	32907
City Hospital (WVUH-East)	2500 Hospital Drive	Martinsburg	WV	25401
Marietta Memorial Hospital	401 Matthew Street	Marietta	OH	45750
Beebe Medical Center	424 Savannah Road	Lewes	DE	19958
Dyersburg Regional Medical Center	400 Tickle Street	Dyersburg	TN	38024
Northern Louisiana Medical Center	401 East Vaughn Avenue	Ruston	LA	71270
Adventist Health-Castle Medical Center	640 Ulukahiki Street	Kailua	HI	96734

Greenwood Leflore Hospital	1401 River Road	Greenwood	MS	38930
Indiana University Health Saxony Hospital (IU Heal)	13000 East 136th Street	Fishers	IN	46037
Somerset Hospital	225 South Center Avenue	Somerset	PA	15501
Knox Community Hospital	1330 Coshocton Road	Mount Vernon	OH	43050
Natchez Community Hospital	129 Jeff Davis Boulevard	Natchez	MS	39120
The following facility is no longer a participant as of this notice.				
Spring Valley Hospital	5400 South Rainbow Boulevard.	Las Vegas	NV	89118

Addendum IX: Active CMS Coverage-Related Guidance Documents (January through March 2012)

There were no CMS coverage-related guidance documents published in the January through March 2012 quarter. To obtain full-text copies of these documents, visit the CMS Coverage Web site at http://www.cms.gov/mcd/index_list.asp?list_type=mcd_1 and click on the archives link. For questions or additional information, contact Lori Ashby (410-786-6322).

Addendum X: List of Special One-Time Notices Regarding National Coverage Provisions (January through March 2012)

There were no special one-time notices regarding national coverage provisions published in the January through March 2012 quarter. This information is available at www.cms.hhs.gov/coverage. For questions or additional information, contact Lori Ashby (410-786-6322).

Addendum XI: National Oncologic PET Registry (NOPR) (January through March 2012)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry.

For the purposes of this notice, we are providing only the specific updates that occurred in this 3-month period.

This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage.

For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564)

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Lakeview Hospital	927 West Churchill Street	Stillwater	MN	55082
Lake City Imaging, LLD DBA Invision – Lake City	3140 NW Medical Center Land, Suite 100	Lake City	FL	32055
Valley View Medical Center	5330 S. Highway 95	Fort Mohave	AZ	86426
AHMC International Cancer Center	605 N. Garfield Avenue, 1st Floor	Monterey Park	CA	91754
Alaska Regional Hospital	2801 DeBarr Road	Anchorage	AK	99514
Alle-Kiski Medical Center	651 Fourth Avenue	New Kensington	PA	15068
Alliance Imaging - Rancho San Antonio	7777 Milliken Avenue	Rancho Cucamonga	CA	91730
Audrain Medical Center	620 E Monroe Street	Mexico	MO	65202
Aurora Medical Center Summit	36500 Aurora Drive	Summit	WI	53066
Banner MD Anderson Cancer Center	2946 E Banner Gateway Drive	Gilbert	AZ	85234
Baptist Hospital of Miami	8900 N Kendall Drive	Miami	FL	33176
Bates County Memorial Hospital	615 W Nursery Street	Butler	MO	64730
Bon Secours DePaul Medical Center	150 Kingsley Lane	Norfolk	VA	23505
California Pacific Medical Center	2333 Buchanan Street	San Francisco	CA	94115
Cancer Care Partners-CCC	301 East Day Road	Mishawaka	IN	46545

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Cancer Care Specialists of Central IL	210 W McKinley Avenue Suite 1	Decatur	IL	62526
Cancer Radiation and Specialty Clinics of El Paso	7812 Gateway East Suite 120	El Paso	TX	79915
CHRISTUS Schumpert Health System	One St. Mary Place	Shreveport	LA	71111
Comanche County Memorial Hospital	110 NW 31st Street	Lawton	OK	73502
CP Advanced Imaging	155 Canal Street	New York	NY	10013
Crossroads Cancer Center	905 Medical Park Drive	Effingham	IL	62401
Desert Springs Cancer Care	21803 N. Scottsdale Road, #110	Scottsdale	AZ	85255
Diagnostic PET/CT of Chattanooga	2205 McCallie Avenue, Suite 400 A	Chattanooga	TN	37404
Doctors Imaging	4204 Teuton Street	Metairie	LA	70006
Eden Medical Center	20103 Lake Chabot Road	Castro Valley	CA	94546
Ellis Fischel Cancer Center	115 Business Loop 70 West	Columbia	MO	65203
First Coast Oncology	10881 San Jose Boulevard	Jacksonville	FL	32223
First Coast Oncology, Nassau	1340 South 18th Street, Suite 103	Fernandina Beach	FL	32034
Florida Cancer Specialists – HUD	7651 Medical Drive	Hudson	FL	34667
Florida Cancer Specialists – PRY	8763 River Crossing Boulevard	New Port Richey	FL	34655
Florida Cancer Specialists – SHP	4003 Mariner Boulevard	Spring Hill	FL	34609
Florida Cancer Specialists – Broadway	3840 Broadway	Ft Myers	FL	33901
Florida Cancer Specialists – GNV	1147 NW 64th Terrace	Gainesville	FL	32605
Florida Cancer Specialists – Sebring	4420 Sun N Lake Boulevard	Sebring	FL	33872
Florida Hospital DeLand	680 Peachwood Drive	DeLand	FL	32720
Freeman Health System	932 East 34th Street	Joplin	MO	64804
Georgia Health Sciences University	821 St. Sebastian Way	Augusta	GA	30912

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Grande Ronde Hospital	900 Sunset Drive	La Grande	OR	97850
Greenbrier Valley Medical Center	202 Maplewood Avenue	Ronceverte	WV	24970
Highlands Oncology Group-Rogers	808 South 52nd Street	Rogers	AR	72758
Hutchinson Area Health Care	1095 Highway 15 South	Hutchinson	MN	55350
Licking Memorial Hospital	88 McMillen Drive	Newark	OH	43055
Litchfield Oncology Institute	209 Limestone Pass	Cottage Grove	WI	53527
Logan Regional Medical Center	601 Holden Road	Logan	WV	25601
Maine Medical Center	100 Campus Drive	Scarborough	ME	04074
Mary Bird Perkins Covington	1203 Southe Tyler	Covington	LA	70433
Mayo Clinic Health System – Eau Claire Hospital	1221 Whipple Street	Eau Claire	WI	54702
McCullogh-Hyde Memorial Hospital	110 North Poplar Street	Oxford	OH	45056
Medical Arts Radiology	146 Manetto Hill Road	Plainview	NY	11803
Medical Imaging Center	5008 Brittonfield Parkway, Ste. 100	East Syracuse	NY	13057
Medical Imaging of Baltimore	6715 N. Charles Street	Baltimore	MD	21204
Mercy Imaging Center Carmichael	6305 Coyle Avenue	Carmichael	CA	95608
Mitchell County Hospital	400 West 8th Street	Beloit	KS	67420
Modern Nuclear, Inc.	3010 W. Orange Avenue	Anaheim	CA	92804
Northfield Hospital	200 North Avenue	Northfield	WI	55057
Northside Medical Center Valley Care Health Systems	500 Gypsy Lane	Youngstown	OH	44501
Northwest Medical Center	609 West Maple Avenue	Springdale	AR	72765
Ohio Valley Medical Center	2000 Eoff Street	Wheeling	WV	26003
Oklahoma Oncology, Inc.	11212 E 48th Street	Tulsa	OK	74146
Oncology Associates of Monroe	1162 Oliver Road	Monroe	LA	71201

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Our Lady of Bellefonte Hospital	1000 St. Christopher Drive	Ashland	KY	41101
Palmetto Health Baptist PETCT	Taylor at Marion Streets	Columbia	SC	20920
Palo Alto Medical Foundation	795 El Camino Real	Palo Alto	CA	94301
Physicians for CURE	1561 West Fairbanks Avenue Suite100	Winter Park	FL	32789
Physicians for CURE	3201 SW 33rd Road	Ocala	FL	34474
Physicians for CURE	717 West Robertson Street	Brandon	FL	33511
Precision Imaging Centers - Gate Parkway	7860 Gate Parkway	Jackonsville	FL	32256
Promedica St. Luke's Hospital	5901 Monclova Road	Maumee	OH	43537
Riverwalk	9900 Stockdale Highway	Bakersfield	CA	93311
Robert Wood Johnson University Hospital	1 Robert Wood Johnson Place	New Brunswick	NJ	08901
Saint Luke's Hospital East	100 Northeast Saint Luke's Boulevard	Lee's Summit	MO	64086
Shared Medical Services	3722 S Harlem	Riverside	IL	60546
Sharp Grossmont Hospital	9000 Wakarusa Street	La Mesa	CA	91942
Shields PET/CT at Tufts Medical Center	55 Christy's Drive	Brockton	MA	02301
SimonMed Imaging Newport Beach	3300 West Coast Highway	Newport Beach	CA	92263
South Lake Hospital	1900 Don Wickham Drive	Clermont	FL	34711
Southwest General Medical Center	18181 Pearl Road	Strongsville	OH	44136
Southwestern Regional Medical Center	10109 East 79th Street	Tulsa	OK	74133
SSM St. Clare Health Center	1015 Bowles Avenue	Fenton	MO	63026
SSM St. Joseph Hospital West	400 Medical Plaza	Lake Saint Louis	MO	63367
St. Francis Tulsa	6161 S Yale Avenue	Tulsa	OK	74136
St. Joseph Elgin	77 N. Airlite Street	Elgin	IL	60123
Stockton Diagnostic Imaging	2800 North California Street	Stockton	CA	95204
Swedish Hospital	751 NE Blakely Drive	Issaquah	WA	98029

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Issaquah				
Texas Oncology - Amarillo	1000 S. Coulter, Suite 100	Amarillo	TX	79106
The Cancer Center at Kishwaukee Community Hospital	10 Health Services Drive	Dekalb	IL	60115
Tower Saint John's Imaging	2202 Wilshire Boulevard	Santa Monica	CA	90403
Trident Diagnostic Services	9313 Medical Plaza Drive, Suite 101	North Charleston	SC	29406
UMC at Orange Grove Radiation Oncology	1891 W. Orange Grove Road	Tucson	AZ	85704
Union Imaging Center	445 Chestnut Street	Union	NJ	07083
Wilkes-Barre General Hospital – PET Scan Center	345 N. River Street	Wilkes-Barre	PA	18702
Wooster Community Hospital	1761 Beall Avenue	Wooster	OH	44691
Zilkha Radiology	369 East Main Street, Suite 14	East Islip	NY	11738
Editorial changes (shown in bold) were made to the facilities listed below.				
Genesis Healthcare Partners-Genesis Imaging	5395 Ruffin Road, Suite 202	San Diego	CA	92123
Baptist Memorial Hospital Tipton Germantown Pet/CT	7945 Wolf River Boulevard	Germantown	TN	38138
Pinnacle Health Imaging-Tristan Radiology	4520 Union Deposit Road	Harrisburg	PA	17111
Long Beach PET Imaging Center	**2708 E. Willow Street**	**Signal Hill**	**CA**	**90755**
Saint Joseph Imaging Center	3475 Richmond Road	Lexington	KY	40509
Ark-La-Tex Diagnostics, Inc d/b/a Open Air MRI of Cen-La	5419 A Jackson Street Ext	Alexandria	LA	71303
Schuylkill Medical Center South Jackson Street	700 E Norwegian Street	Pottsville	PA	17901

Facility Name	Address 1	City	State	Zip Code
The following facilities are new listings for this quarter.				
Advanced Radiology GBMC MRI and PET CT	6715 N Charles Street	Baltimore	MD	21204

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (January through March 2012)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates that have occurred to the list of Medicare-approved facilities that meet our standards in the 3-month period. This information is available on our Web site at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage. For questions or additional information, contact JoAnna Baldwin, MS (410-786-7205).

Facility	Provider Number	Date Approved	State
The following facilities are new listings for this quarter.			
UC Health University Hospital 234 Goodman Street Cincinnati, OH 45219	360003	01/11/2012	OH
Loma Linda University Medical Center and Children's Hospital 11234 Anderson Street Loma Linda, CA 92354	050327	2/17/2012	CA
NYU Hospitals Center 550 First Avenue New York, NY 10016	330214	2/15/2012	NY
The Christ Hospital 2139 Auburn Avenue Cincinnati, OH 45219	360163	2/18/2012	OH
University of Texas Medical Branch 301 University Boulevard Galveston, TX 77555	450018	3/5/2012	TX

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (January through March 2012)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There were no additions to the listing of facilities for lung volume reduction surgery published in the January through March 2012 quarter. This information is available on our Web site at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact JoAnna Baldwin, MS (410-786-7205).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (January through March 2012)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric

Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

For the purposes of this quarterly notice, we list only the specific updates to Medicare-approved facilities that meet CMS's minimum facility standards for bariatric surgery and have been certified by ACS and/or ASMBS in the 3-month period. This information is available on our Web site at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Kate Tillman, RN, MAS (410-786-9252).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (January through March 2012)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the January through March 2012 quarter.

This information is available on our Web site at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact Stuart Caplan, RN, MAS (410-786-8564).

[FR Doc. 2012–11995 Filed 5–17–12; 8:45 am]

BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of the Award of Single Source Expansion Supplement Grants to 11 Personal Responsibility Education Program Innovative Strategies (PREIS) Grantees

AGENCY: Family and Youth Services Bureau, ACYF, ACF, HHS.

ACTION: Notice of the award of single source expansion supplement grants to 11 Personal Responsibility Education Program Innovative Strategies (PREIS) grantees to support the expansion of program services necessary to meet the requirements for reporting performance measures and conducting evaluation-related activities.

CFDA Number: 93.297.

Statutory Authority: Section 2953 of the Patient Protection and Affordable Care Act of 2010 (ACA), Public Law 111–148, which adds a new Section 513 to Title V of the Social Security Act, codified at 42 U.S.C. 713, authorizing the Personal Responsibility Education Program.

SUMMARY: The Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB), Division of Adolescent Development and Support (DADS) announces the award of single source expansion supplement grants to 11 PREIS grantees for the purpose of expanding program participation and/or sites to support the increase of data necessary to determine the level of program effectiveness. In FY 2010, FYSB awarded thirteen cooperative agreement grants under Funding Opportunity Announcement (FOA) number: OPHS/OAH/TPP PREP Tier 2–2010. Under this FOA a total of $9.7 million was made available on a competitive basis to implement and test innovative strategies.

The award of 11 single source expansion supplement grants to PREIS grantees is required because of the necessary expansion of the original scope of approved activities. In the provision of evaluation related technical assistance to grantees during the first year of the project, it was determined by FYSB that all grantees needed to increase the number of program participants and/or sites for program implementation. Increased funding will help the grantee programs obtain the minimal statistical power required to report significant outcome data that can be utilized to determine the effectiveness of the implemented pregnancy prevention models. Thus, the increased number of program participants supports the evaluation requirements outlined in the FOA and by ACA.

Additionally, grantees are required to report on performance measures that were specifically defined by FYSB and are pending approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3520). The data collection will require additional staff time and other resources to compile and report on performance indicators. Performance indicators are based upon the performance measures established by HHS, to include: (a) The number of youth served and hours of service delivery; (b) fidelity to the program model or adaptation of the program model for the target population; (c) community partnerships and competence in working in working with the target population; (d) reported gains in knowledge and intentions and changes in self-reported behaviors of participants; and (e) community data, like birth rates and the incidence of sexually transmitted infections.

The 11 single source expansion supplement grants will support activities from September 30, 2011 through September 29, 2012. The grantees are:

Grantee	City	State	Award amount
Child & Family Resources, Inc.	Tucson	AZ	$64,652.00
Childrens Hospital Los Angeles	Los Angeles	CA	86,208.00
OhioHealth Research & Innovation Institute	Columbus	OH	23,040.00
Oklahoma Institute for Child Advocacy	Oklahoma City	OK	160,011.00
Demoiselle 2 Femme, NFP	Chicago	IL	67,320.00
Philadelphia Health Management Corporation	Philadelphia	PA	42,656.00
The Village for Families & Children Inc.	Hartford	CT	76,113.00
Big Brothers Big Sisters of Northern Nevada	Reno	NV	67,500.00
Cicatelli Associates Inc.	New York	NY	100,000.00
Education Development Center, Inc.	Newton	MA	72,289.00
Teen Outreach Pregnancy Services	Tucson	AZ	89,000.00

DATES: September 30, 2011—September 29, 2012.

For Further Information CONTACT: Marc Clark, Director, Division of Teen Pregnancy Prevention, Family and Youth Services Bureau, 1250 Maryland Avenue SW., Suite 800, Washington, DC 20024, Phone: 202–205–8496.

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2012–12021 Filed 5–17–12; 8:45 am]

BILLING CODE 4184–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0471]

Agency Information Collection Activities: Proposed Collection; Comment Request; User Fee Cover Sheet; Form FDA 3397

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Form FDA 3397, User Fee Cover Sheet, which must be submitted along with certain drug and biologic product applications and supplements.

DATES: Submit either electronic or written comments on the collection of information by July 17, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

User Fee Cover Sheet; Form FDA 3397—(OMB Control Number 0910–0297)—Extension

Under sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g and 379h), as amended, FDA has the authority to assess and collect user fees for certain drug and biologics license applications and supplements. Under this authority, pharmaceutical companies pay a fee for certain new human drug applications, biologics license applications, or supplements submitted to the Agency for review. Because the submission of user fees concurrently with applications and supplements is required, review of an application by FDA cannot begin until the fee is submitted. Form FDA 3397, the user fee cover sheet, is designed to provide the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to account for and track user fees. The form provides a cross-reference of the fee submitted for an application by using a unique number tracking system. The information collected is used by FDA's Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) to initiate the administrative screening of new drug applications, biologics license applications, and supplemental applications.

Respondents to this collection of information are new drug and biologics manufacturers. Based on FDA's database system for fiscal year (FY) 2011, there are an estimated 260 manufacturers of products subject to the Prescription Drug User Fee Act (Public Law 105–115). The total number of annual responses is based on the number of submissions received by FDA in FY 2011. CDER received 3,363 annual responses that include the following submissions: 114 new drug applications; 4 biologics license applications; 1,900 manufacturing supplements; 1,209 labeling supplements; and 136 efficacy supplements. CBER received 768 annual responses that include the following submissions: 6 biologics license applications; 698 manufacturing supplements; 44 labeling supplements; and 20 efficacy supplements. The estimated hours per response are based on past FDA experience with the various submissions.

FDA is revising Form FDA 3397 in the following ways: (1) By updating the applicable Web sites; (2) adding a Privacy Act Notice pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(3)j; (3) by adding 351(k) applications to the CDER and CBER lists of applications and supplements for which Form FDA 3397 need not be submitted; (4) by adding ''or proper name'' to instruction number 3; and (5) by making minor editorial changes.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Form FDA 3397	260	15.89	4,131	[2] 0.5	2,065.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] 30 minutes.

Dated: May 14, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–12038 Filed 5–17–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–P–0604]

Determination That PITRESSIN TANNATE IN OIL (Vasopressin Tannate) Injection, 5 Pressor Units/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for vasopressin tannate injection, 5 pressor units/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Molly Flannery, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6246, Silver Spring, MD 20993–0002, 301–796–3543.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, is the subject of NDA 03–402, held by Parke-Davis Pharmaceutical Research (Parke-Davis). PITRESSIN TANNATE IN OIL is indicated for the control or prevention of the symptoms and complications of diabetes insipidus due to a deficiency of endogenous posterior pituitary antidiuretic hormone.

In a letter dated April 23, 1993, Parke-Davis requested the withdrawal of NDA 03–402 for PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL. In the **Federal Register** of September 25, 1998 (63 FR 51359), FDA announced that it was withdrawing approval of NDA 03–402, effective September 25, 1998.

Lachman Consultant Services, Inc., submitted a citizen petition dated November 19, 2010 (Docket No. FDA–2010–P–0604), under 21 CFR 10.30, requesting that the Agency determine whether PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to PITRESSIN TANNATE IN OIL (vasopressin tannate) Injection, 5 pressor units/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 14, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–12040 Filed 5–17–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0573]

International Conference on Harmonisation; Addendum to International Conference on Harmonisation Guidance on S6 Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''S6 Addendum to Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals'' (S6 addendum). The S6 addendum was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The S6 addendum is intended to incorporate new knowledge and experience gained since the implementation of the ICH guidance

entitled ''S6 Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals'' (ICH S6) and to clarify and provide greater detail to enable the development of safe and effective biopharmaceuticals.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Regarding the guidance: Anne M. Pilaro, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 2324, Silver Spring, MD 20993–0002, 301–796–2320; or Mercedes A. Serabian, Center for Biologics Evaluation and Research (HFM–760), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–4119. Regarding the ICH: Michelle Limoli, Office of International Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm 3506, Silver Spring, MD 20993, 301–796–4600.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of December 17, 2009 (74 FR 66980), FDA published a notice announcing the availability of a draft guidance entitled ''Addendum to ICH S6: Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals (S6)(R1).'' The notice gave interested persons an opportunity to submit comments by February 1, 2010.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in June 2011.

The S6 addendum provides recommendations on nonclinical studies to support the safety of clinical trials and marketing applications for biotechnology-derived pharmaceuticals. Biotechnology-derived pharmaceuticals include protein therapeutic, diagnostic, and prophylactic products derived from cell-culture systems such as bacteria, yeast, and eukaryotic cells, including organisms produced by recombinant DNA technology. The S6 addendum incorporates new knowledge and experience gained since the implementation of the ICH S6 guidance in 1997 and provides clarification of and greater detail to the nonclinical recommendations in ICH S6 to enable the development of safe and effective biopharmaceuticals. The S6 addendum is intended to be used in conjunction with the original ICH S6 guidance. In general, the S6 addendum is complementary to ICH S6, and where the S6 addendum differs from ICH S6, the guidance in the S6 addendum prevails. In addition, the S6 addendum harmonizes approaches given in both ICH S6 and the ICH guidance ''M3(R2) Nonclinical Safety Studies for the Conduct of Human Clinical Trials and Marketing Authorization for Pharmaceuticals''

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov,*

http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, or

http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.

Dated: May 14, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–12039 Filed 5–17–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 12, 2012, from 12 p.m. to 4:30 p.m.

Location: National Institutes of Health (NIH), Bldg. 29, Conference Room 121, 9000 Rockville Pike, Bethesda, MD 20892. The public is welcome to attend the meeting at the specified location where a speakerphone will be provided. Public participation in the meeting is limited to the use of the speakerphone in the conference room. Important information about transportation and directions to the NIH campus, parking, and security procedures is available on the Internet at *http://www.nih.gov/about/visitor/index.htm.* Visitors must show two forms of identification, one of which must be a government-issued photo identification such as a Federal employee badge, driver's license, passport, green card, etc. Detailed information about security procedures is located at *http://www.nih.gov/about/visitorsecurity.htm.* Due to the limited available parking, visitors are encouraged to use public transportation.

Contact Person: LCDR Bryan Emery or Rosanna Harvey, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), to find out further information regarding FDA advisory committee information. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the advisory committee information line, or visit our Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* to learn about possible modifications before coming to the meeting.

Agenda: On June 12, 2012, the Committee will meet in open session to hear updates on the research programs of the Laboratory of Emerging Pathogens and the Laboratory of Bacterial and Transmissible Spongiform Encephalopathy Agents, Division of Emerging and Transfusion Transmitted Diseases, Office of Blood Research and Review, Center for Biologics Evaluation and Research, FDA.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: On June 12, 2012, from 12 p.m. to approximately 3:45 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 1, 2012. Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 24, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 25, 2012.

Closed Committee Deliberations: On June 12, 2012, from approximately 3:45 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss the site visit report of the intramural research programs and make recommendations regarding personnel staffing decision.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA 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 LCDR Bryan Emery or Rosanna Harvey at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 15, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–12164 Filed 5–17–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Population Assessment of Tobacco and Health (PATH) Study

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Population Assessment of Tobacco and Health (PATH) Study. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This is a large national longitudinal cohort study on tobacco use behavior and health in the United States. It is scheduled to begin in the fall of 2013 under the direction of the National Institutes of Health

(NIH) National Institute on Drug Abuse (NIDA), and in partnership with the Food and Drug Administration (FDA). Using annual interviews and the collection of bio-specimens from adults, the study is designed to establish a population-based framework for monitoring and evaluating the behavioral and health impacts of regulatory provisions by FDA as it meets its mandate under the Family Smoking Prevention and Tobacco Control Act (FSPTCA) to regulate tobacco-product advertising, labeling, marketing, constituents, ingredients, and additives. These regulatory changes are expected to influence tobacco-product risk perceptions, exposures, and use patterns in the short term, and to reduce tobacco-related morbidity and mortality in the long term. By measuring and accurately reporting tobacco product use behaviors and health effects associated with these regulatory changes, this study will provide an empirical evidence base to inform the development, implementation, and evaluation of tobacco-product regulations in the U.S.

Frequency of Response: Annually. *Affected Public:* Individuals or households. *Type of Respondents:* Youth (ages 12–17) and Adults (ages 18+). The annual reporting burden for the field test is presented in Table 1, and the annual reporting burden for the baseline data collection is presented in Table 2. The annualized cost to respondents for the field test is estimated at: $24,495; and the annualized cost to respondents for the baseline data collection is: $1,947,567. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—PATH STUDY FIELD TEST HOUR BURDEN ESTIMATES

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adults—Household Screener	1,295	1	22/60	479
Adults—Individual Screener	840	1	6/60	84
Adults—Extended Interview	590	1	1 26/60	844
Adults—Tobacco Use Form	590	1	2/60	18
Youth—Extended Interview	100	1	55/60	92
Adult—Parent Interview	100	1	24/60	40
Total	3,515	1		1,557

TABLE 2—PATH STUDY BASELINE HOUR BURDEN ESTIMATES

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adults—Household Screener	100,983	1	22/60	37,364
Adults—Individual Screener	63,000	1	6/60	6,300
Adults—Extended Interview	42,730	1	1 26/60	61,104
Adults—Tobacco Use Form	42,730	1	2/60	1,282
Youth—Extended Interview	16,857	1	55/60	15,508
Adult—Parent Interview	16,857	1	24/60	6,743
Total	283,157	1		128,301

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Kevin P. Conway, Ph.D., Deputy Director, Division of Epidemiology, Services, and Prevention Research, National Institute on Drug Abuse, 6001 Executive Blvd., Room 5185; 301–443–8755; email *PATHprojectofficer@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: May 11, 2012.

Helio Chaves,

Deputy Executive Officer (OM Director), NIDA.

[FR Doc. 2012–12017 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for

licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Java Applet for Modeling Human Metabolism and Energy Expenditure for Adaptive Dieting and Exercise Regimens

Description of Technology: Known methods for predicting weight loss fail to account for slowing of metabolism as weight is lost and therefore overestimate the degree of weight loss. While this limitation of the 3500 Calorie per pound rule has been known for some time, it was not clear how to dynamically account for the metabolic slowing. The invention provides a Java applet for modeling of human metabolism to improve the weight change predictions. The model has been validated using previously published human data and the model equations have been published. A web-based implementation of the published dynamic model has been created to allow users to perform simulations for planning weight loss interventions in adults and accounts for individual differences in metabolism and body composition.

Potential Commercial Applications

- Obesity.
- Weight Loss.

Competitive Advantages: Personalized predictions.

Development Stage: Prototype.

Inventors: Kevin Hall, Carson Chou, Dhruva Chandramohan (all of NIDDK).

Intellectual Property: HHS Reference No. E–160–2012/0—Research Tool.

Patent protection is not being pursued for this technology.

Licensing Contact: Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Antagonist of A_3 Adenosine Receptor Fluorescent Probes for the Study of Diseases Such as Cancer, Autoimmune Conditions, Dry Eye and Other Indications that Involve A_3 Signaling

Description of Technology: Small molecule drugs, A_3AR-selective agonists, are currently in advanced clinical trials for the treatment of hepatocellular carcinoma, autoimmune inflammatory diseases, such as rheumatoid arthritis, psoriasis, and dry eye disease, and other conditions. This molecular probe may serve as a companion tool to identify and stratify patient populations based on the prevalence of the target A_3 adenosine receptors.

Potential Commercial Applications: Useful tools to study prevalence of this receptor on neutrophils which is predictive of response to the agonist drugs.

Competitive Advantages: Drug screening at this receptor is often done currently using radiolabeled agonists or antagonists of the human A_3AR of nanomolar affinity. This method would avoid the use of radioisotopes in this part of the research and development process.

Development Stage

- Early-stage.
- In vitro data available.

Inventors: Kenneth A. Jacobson, *et al.* (NIDDK).

Publication: Novel Fluorescent Antagonist as a Molecular Probe in A3 Adenosine Receptor Binding Assays Using Flow Cytometry, manuscript submitted for publication.

Intellectual Property: HHS, Reference No. E–073–2012/0—U.S. Provisional Application 61/590,596 filed 25 Jan 2012 (Note: a separate license may be required for the fluorescent portion of the molecule.)

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov.*

Methods for Selection of Cancer Patients and Predicting Efficacy of Combination Therapy With Histone Deacetylase (HDAC) and mTOR Inhibitors

Description of Technology: Available for licensing is a novel gene signature of thirty-seven drug responsive genes that links changes in gene expression to the clinically desirable outcome of improved overall survival. Expression of these genes has been linked to prognosis in several cancers, including, but not limited to multiple myeloma, lung, breast, and melanoma. Patients identified by this signature would be predicted to benefit from combined HDAC inhibitor/mTOR inhibitor therapy. Additional information is available upon request.

Potential Commercial Applications

- Development of a clinical diagnostic test to identify cancer patients who would benefit most from mTOR and HDAC combination therapy.
- Use as a surrogate biomarker related to drug response.
- Development of therapeutics targeting several cancers, including multiple myeloma.

Competitive Advantages

- Implements a smaller gene set compared to current diagnostic gene signatures.
- Provides a basis for the development of a diagnostic for patient stratification or a response measurement related to the combined use of mTOR and HDAC inhibitors for cancer treatment.

Development Stage

- Early-stage.
- In vitro data available.
- In vivo data available (animal).

Inventors: Beverly Mock *et al.* (NCI).

Intellectual Property: HHS Reference No. E–013–2012/0—U.S. Provisional Application No. 61/558,402 filed 10 Nov 2011.

Licensing Contact: Patrick McCue, Ph.D.; 301–435–5560; *mccuepat@mail.nih.gov.*

Collaborative Research Opportunity: The NCI Center for Cancer Research, Laboratory of Cancer Biology and Genetics, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Methods for Selecting Cancer Patients for HDACi/mTORi Combination Therapy. For collaboration opportunities, please contact John Hewes, Ph.D. at *hewesj@mail.nih.gov.*

GLI-Similar 3(GLIS3) Knock Out (KO) Mice as Models to Screen Therapeutics for Diabetes, Polycystic Kidney Disease, and Hypothyroidism

Description of Technology: GLI-similar (Glis) 1–3 proteins constitute a subfamily of the Krüppel-like zinc finger transcription factors that are closely related to the Gli family. Mutations in human GLIS3 have been implicated in a syndrome characterized by neonatal diabetes and congenital hypothyroidism (NDH) and in some patients accompanied by polycystic kidney disease, glaucoma, and liver fibrosis. To further identify and study the physiological functions of GLIS3,

NIEHS investigators generated mice in which GLIS3 is ubiquitously knocked out (GLIS3–KO) or conditionally knocked out in a cell type-specific manner. GLIS3–KO mice develop polycystic kidney disease, hypothyroidism, and neonatal diabetes, as indicated by the development of hyperglycemia and hypoinsulinemia. The pancreatic endocrine cells, particularly insulin-producing pancreatic beta cells, are greatly diminished in these mice. The pancreas-selective knockout mice GLIS3(Pdx1-Cre) develop severe diabetes within 2–3 months, much later than the GLIS3–KO mice. The kidney-selective knockout of GLIS3 (GLIS3(Ksp-Cre) mice lack expression of GLIS3 in the collecting ducts and develop severe polycystic kidney disease within a period of 2–4 months. These mice can be used as models to screen therapeutics for diabetes, polycystic kidney disease, and hypothyroidism.

Potential Commercial Applications

- Therapeutic target in the management of diabetes, polycystic kidney disease, and hypothyroidism.
- Models to test therapeutic drugs for diabetes, polycystic kidney disease, and hypothyroidism.

Competitive Advantages

- Provides opportunity to discover upstream signals that regulate GLIS3 activity.
- Can be used in stem cell therapy in diabetes treatment.
- Excellent model to study the role of GLIS3 in neonatal diabetes.

Development Stage

- Early-stage.
- Pre-clinical.
- In vivo data available (animal).

Inventors: Anton M Jetten, Hong Soon Kang, Kristin Lichti-Kaiser (all of NIEHS).

Publications

1. Kang HS, *et al.* Transcription factor Glis3, a novel critical player in the regulation of pancreatic beta-cell development and insulin gene expression. Mol Cell Biol. 2009 Dec;29(24):6366–79. [PMID 19805515]

2. Kang HS, *et al.* Glis3 is associated with primary cilia and Wwtr1/TAZ and implicated in polycystic kidney disease. Mol Cell Biol. 2009 May;29(10): 2556–69. [PMID 19273592]

Intellectual Property: HHS Reference No. E–303–2011/0—Research Tool. Patent protection is not being pursued for this technology.

Related Technologies

- HHS Reference No. E–253–2010/0—An In-Vitro Cell System Useful for Identification of RORgamma Antagonists.
- HHS Reference No. E–222–2009/0—RORgamma (RORC) Deficient Mice Which Are Useful for the Study of Lymph Node Organogenesis and Immune Responses.

Licensing Contact: Suryanarayana Vepa, Ph.D., J.D.; 301–435–5020; *vepas@mail.nih.gov.*

Collaborative Research Opportunity: The NIEHS is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize GLIS3 Knock Out Mice. For collaboration opportunities, please contact Elizabeth M. Denholm, Ph.D. at *denholme@niehs.nih.gov.*

Microarray for Detection and Subtyping of Human Influenza Viruses

Description of Technology: Available for licensing and commercial development are a novel influenza virus microarray and methods for using the microarray for the identification of existing and new types and subtypes of human influenza viruses. There are three types of influenza viruses, type A, B and C. Influenza types A or B viruses cause epidemics of disease almost every winter, with type A causes major pandemic periodically. Influenza type A viruses are further divided into subtypes based on two proteins on the surface of the virus. These proteins are called hemagglutinin (H) and neuraminidase (N). There are 16 known HA subtypes and 9 known NA subtypes of influenza A viruses. Each subtype may have different combination of H and N proteins. Although there are only three known A subtypes of influenza viruses (H1N1, H1N2, and H3N2) currently circulating among humans, many other different strains are circulating among birds and other animals and these viruses do spread to humans occasionally. There is a requirement for sensitive and rapid diagnostic techniques in order to improve both the diagnosis of infections and the quality of surveillance systems. This microarray platform tiles the genomes of all types/subtypes of influenza viruses, and is capable of correctly identifying all 3 types/subtypes of influenza viruses from an influenza vaccine sample.

Potential Commercial Applications

- Detection and identification of human influenza viruses.
- Efficient discovery of new subtypes of influenza viruses.
- Diagnosis of influenza outbreaks.

Competitive Advantages: Technology can detect multiple types and subtypes of influenza virus.

Development Stage

- Pre-clinical.
- In vitro data available.

Inventors: Xiaolin Wu, David J. Munroe, Cassio S. Baptista, Elizabeth Shannon (all of NCI).

Intellectual Property: HHS Reference No. E–208–2006/0—U.S. Patent Application No. 11/936,530 filed 07 Nov 2007.

Licensing Contact: Kevin W. Chang, Ph.D.; 301–435–5018; *changke@mail.nih.gov.*

M3 Muscarinic Receptor Knockout Mice (Chrm3 tm1Jwe) for the Study of Obesity and Other Metabolic Disorders

Description of Mouse: The five Muscarinic Acetylcholine (ACh) receptors are G-protein coupled receptors (M1R–M5R). M3 muscarinic ACh receptors are present in the central nervous system and the periphery.

M3R knockout mice are viable and fertile, and have no major morphological abnormalities. They have a lean phenotype due to a combination of reduced caloric intake and increased energy expenditure. Because of their lean phenotype, M3R knockout mice have improved glucose tolerance and increased insulin sensitivity. Pharmacological blockade of central M3Rs may be a novel strategy for the treatment of obesity and associated metabolic disorders.

In the airway, vagally-mediated bronchoconstriction responses were abolished in M3R knockout mice in vivo, suggesting that M3R antagonists may be useful in the treatment of chronic obstructive pulmonary disease (COPD) and asthma. Studies with M3R knockout mice also have shown that the M3R is the major muscarinic receptor mediating ACh-induced glandular secretion from exocrine and endocrine glands, including the secretion of insulin from pancreatic beta cells.

Potential Commercial Applications: Animal model to study COPD and metabolism.

Competitive Advantages: M3R knockout mice are viable and fertile, and have no major morphological abnormalities.

Development Stage: Pre-clinical.

Developer of Mouse: Jürgen Wess, Ph.D. (NIDDK).

Publication: Yamada M, *et al.* Mice lacking the M3 muscarinic acetylcholine receptor are hypophagic and lean. Nature. 2001 Mar 8;410(6825):207–12. [PMID 11242080]

Intellectual Property: HHS Reference No. E–346–2004/2—Research Tool. Patent protection is not being pursued for this technology.

Related Technologies

- HHS Reference No. E–346–2004/0—M1 Muscarinic receptor KO (Chrm1tm1Jwe) Mice.
- HHS Reference No. E–346–2004/1—M2 Muscarinic receptor KO (Chrm2 tm1Jwe) Mice.

Licensing Contact: Jaime M. Greene, M.S.; 301–435–5559; *greenejaime@mail.nih.gov*

Use of E-Selectin Tolerization as Treatment for Immunological and Vascular-Related Disorders

Description of Technology: This technology relates to the mucosal delivery (e.g. intranasal) of an E-selectin fragment as a tolerization agent for the prevention and treatment of immunological and vascular-related disorders, including stroke and multiple sclerosis (MS) as well as rare or orphan diseases involving vascular modulated disorders.

E-selectin is an adhesion molecule that is expressed on endothelial cells lining blood vessels in response to certain localized cytokines, making the endothelial surface pro-coagulant, pro-inflammatory and/or immunoreactive. Such changes on the endothelial surface have been linked to the development of vascular-related disorders like stroke, as well as immune regulated diseases such as MS.

Intranasal administration of E-selectin, using a tolerizing dosing schedule, induces an immunological tolerance to E-selectin. T regulatory cells become targeted to activating blood vessel segments, where they release immunomodulatory cytokines such as IL–10. This release of cytokines suppresses local pro-coagulant, pro-inflammatory and immunoreactive effects. Thus, administration of E-selectin as a tolerizing agent will provide a targeted therapeutic approach, impacting only affected sites in the endothelium.

Potential Commercial Applications: Treatment of diseases biologically based on vascular initiated immune regulation. Such disorders include prevention of secondary stroke, MS, Alzheimer's, Parkinson's, rheumatoid arthritis, type 1 diabetes, and psoriasis.

Competitive Advantages

- Low doses utilized thus minimizing potential side effects.
- Animal data are available, with further studies currently on-going.
- Administration through the intranasal route represents a less invasive mode of delivery.
- FDA pre-IND meetings have been held and FDA communications are ongoing.

Development Stage

- Pre-clinical.
- In vitro data available.
- In vivo data available (animal).

Inventors: John M. Hallenbeck, Maria Spatz, Hidetaka Takeda, Hideaki Wakita (all of NINDS)

Publications

1. Li X, *et al.* Intranasal delivery of E-selectin reduces atherosclerosis in ApoE-/- mice. PLoS One. 2011;6(6):e20620. Epub 2011 Jun 20. [PMID 21701687]

2. Hallenbeck J. How inflammation modulates central nervous system vessel activation and provides targets for intervention—a personal perspective. Ann N Y Acad Sci. 2010 Oct;1207:1–7. doi: 10.1111/j.1749–6632.2010.05785.x. [PMID 20955418]

3. Ishibashi S, *et al.* Mucosal tolerance to E-selectin promotes the survival of newly generated neuroblasts via regulatory T-cell induction after stroke in spontaneously hypertensive rats. J Cereb Blood Flow Metab. 2009 Mar;29(3):606–20. [PMID 19107136]

4. Wakita H, *et al.* Mucosal tolerization to E-selectin protects against memory dysfunction and white matter damage in a vascular cognitive impairment model. J Cereb Blood Flow Metab. 2008 Feb;28(2):341–53. [PMID 17637705]

5. Nakayama T, *et al.* Intranasal administration of E-selectin to induce immunological tolerization can suppress subarachnoid hemorrhage-induced vasospasm implicating immune and inflammatory mechanisms in its genesis. Brain Res. 2007 Feb 9;1132(1):177–84. [PMID 17188657]

6. Illoh K, *et al.* Mucosal tolerance to E-selectin and response to systemic inflammation. J Cereb Blood Flow Metab. 2006 Dec;26(12):1538–50. [PMID 16596122]

7. Chen Y, *et al.* Mucosal tolerance to E-selectin provides cell-mediated protection against ischemic brain injury. Proc Natl Acad Sci U S A. 2003 Dec 9;100(25):15107–12. [PMID 14645708]

8. Takeda H, *et al.* Induction of mucosal tolerance to E-selectin prevents ischemic and hemorrhagic stroke in spontaneously hypertensive genetically stroke-prone rats. Stroke. 2002 Sep;33(9):2156–63. [PMID 12215580]

Intellectual Property

- HHS Reference No. E–237–1999/0—
  —U.S. Patent No. 7,261,896 issued 28 Aug 2007.
  —U.S. Patent Application No. 11/820,326 filed 19 Jun 2007.
- HHS Reference No. E–237–1999/1—
  —U.S. Patent No. 7,897,575 issued 01 Mar 2011.
  —U.S. Patent Application No. 12,859,048 filed 18 Aug 2010.
- and Foreign counterparts in Australia, Canada, Europe, and Japan

Licensing Contact: Tara Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov.*

Collaborative Research Opportunity: The Stroke Branch, NINDS/NIH, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize the applications of E-selectin tolerization in treatment of neurological based disease. For collaboration opportunities, please contact Laurie Arrants, NINDS at *arrantsl@ninds.nih.gov.*

Nucleic Acids and Methods for Expression of the Rat FcεRI beta Subunit, Which Plays a Critical Role in Allergy and the Immune Response

Description of Technology: FcεRI is the high-affinity receptor for the Fc region of immunoglobulin E (IgE), and plays an important role in the allergic response and inflammation. It controls the production of important immunomodulatory molecules, such as cytokines and histamine.

This technology describes nucleic acids encoding the beta subunit of rat FcεRI, as well as vectors and transgenic cells including such nucleic acids. Also described are methods of expressing functional rat FcεRI in a host cell. These may be useful in studies of allergy and the immune response.

Potential Commercial Applications: Research studies of allergy and the immune response.

Development Stage

- Early-stage.
- In vitro data available.

Inventors: Jean-Pierre Kinet and Henry Metzger (NIAMS).

Intell ectual Property: HHS Reference No. E–247–1988/4—U.S. Patent No. 6,165,744 issued 26 Dec 2000.

Licensing Contact: Tara L. Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov.*

Dated: May 14, 2012.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2012–12041 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Vascular and Hematology Integrated Review Group; Atherosclerosis and Inflammation of the Cardiovascular System Study Section.
Date: June 11–12, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.
Date: June 13–14, 2012.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marina del Rey Hotel, 13534 Bali Way, Marina del Rey, CA 90292.
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Charles Morrow, Ph.D., MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–451–4467, *morrowcs@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: DoubleTree by Hilton Chicago—Magnificent Mile 300 E. Ohio Street Chicago, IL 60611.
Contact Person: James P Harwood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *harwoodj@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Mandarin Oriental, 1330 Maryland Avenue SW, Washington, DC 20024.
Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Baljit S Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Injury, Repair, and Remodeling Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin Seattle, 1900 Fifth Avenue, Seattle, WA 98101.
Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.
Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Residence Inn National Harbor, 192 Waterfront Street, Oxon Hill, MD 20745.
Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.
Date: June 14, 2012.
Time: 8:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.
Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: June 14–15, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Kathy Salaita, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7770, Bethesda, MD 20892, 301–451–8504, *salaitak@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Boston Marriott Copley Place, 110 Huntington Avenue, Boston, MA 02116.
Contact Person: Everett E Sinnett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Biochemistry and Biophysics of Membranes Study Section.
Date: June 14, 2012.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.
Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.
Date: June 14–15, 2012.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12001 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Comparative Medicine Special Emphasis Panel
Date: June 7–8, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, NCATS, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management and Review, National Center for Advancing Translational, Sciences, National Institutes of Health, 6701 Democracy Blvd., Room 1082, Bethesda, MD 20892–4874, 301–435–0811, *hildsa@mail.nih.gov.*

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12005 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Commitee: NIDCR Special Grants Review Committee.
Date: June 14–15, 2012.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.
Contact Person: Rebecca Wagenaar Miller, Ph.D., Scientific Review Officer, 6701 Democracy Blvd., Rm 666, Bethesda, MD 20892, 301–594–0652, *rwagenaa@mail.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12009 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technology AREA Proposals.
Date: June 13–14, 2012.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Resource Center: Proteomics.

Date: June 13–15, 2012.

Time: 7:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Northeastern University, Chemistry Building, 360 Huntington Avenue, Boston, MA 02115.

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: June 14–15, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Morrison Clark Hotel, 1015 L Street NW., Washington, DC 20001.

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Diagnostics and Treatments (CDT).

Date: June 14–15, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: June 14–15, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Christine Melchior, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.

Date: June 14–15, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Leonid V Tsap, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA:12–006: Academic Research Enhancement Award (Parent R15).

Date: June 14, 2012.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Rebecca Henry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, 301–435–1717, *henryrr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIB Pediatric and Fetal Applications.

Date: June 14, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIB Pediatric and Fetal Applications.

Date: June 14, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR10–169: Academic Industrial Partnership.

Date: June 14, 2012.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Malgorzata Klosek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12127 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SBIR Topic 290: DNA Repair and Damage Signaling Networks.

Date: June 6, 2012.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8133, Bethesda, MD 20892–8328, 301–451–4757, *david.ransom@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to scheduling conflicts.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Prevention Research Small Grant Program (R03).

Date: June 28, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel Conference & Center, 5701 Marinelli Road, North Bethesda, MD.

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special

Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8050a, Bethesda, MD 20892–8329, 301–402–9415, *schweinfestcw@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 14, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12120 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Translational Research for the Development of Novel Interventions for Mental Disorders.

Date: June 14, 2012.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence (K99) Review.

Date: June 18, 2012.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Megan Libbey, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Neural Processes Underlying Sex Differences Related to Risk and Resilience for Mental Illness.

Date: June 29, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Megan Libbey, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12147 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development (NICHD); Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review and discussion of grant applications. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: June 7, 2012.

Open: June 7, 2012, 8:00 a.m. to 12:30 p.m.

Agenda: The agenda will include: (1) A report by the Director, NICHD; (2) a report of the NCMRR Blue Ribbon Panel (3) an NICHD Research Training Update (4) other business of the Council.

Closed: June 7, 2012, 12:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Center Drive, C-Wing, Conference Room 6, Bethesda, MD 20892.

Contact Person: Yvonne T. Maddox, Ph.D., Deputy Director, Eunice Kenney Shriver National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

Any interested person may file written comments with the committee by forwarding the statement to the contact person listed on this notice. The statement should include the name, address, telephone number, and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's home page: *http://www.nichd.nih.gov/about/overview/advisory/nachhd/,* where an agenda and any additional information for the meeting will be posted when available.

In order to facilitate public attendance at the open session of Council, additional seating will be available in the meeting overflow rooms, Conference Rooms 7, 8 and 10. Individuals will also be able to view the meeting via NIH Videocast. Please go to the following link for Videocast access instructions at: *http://nichd.nih.gov/about/overview/advisory/nachhd/virtual-meeting.cfm.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment program, National Institutes of Health, HHS).

Dated: May 11, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12016 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee.

Date: June 12, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michelle M. Timmerman, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–4573, *timmermanm@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12015 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.) notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for type 1 diabetes. The outcome of the evaluation will be a decision whether NIDDK should support the request and make available contract resources for development of the potential therapeutic to improve the treatment or prevent the development of type 1 diabetes and its complications. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Type 1 Diabetes—Rapid Access to Intervention Development Special Emphasis Panel; National Institute of Diabetes and Digestive and Kidney Diseases.

Date: June 21, 2012.

Time: 3:00 p.m.–5:00 p.m.

Agenda: To evaluate requests for preclinical development resources for potential new therapeutics for type 1 diabetes and its complications.

Place: 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dr. Aaron Pawlyk, Program Director for Pharmacogenomics and Drug Discovery, National Institute of Diabetes and Digestive and Kidney Diseases, Building 2DEM, Room 788B, 6707 Democracy Boulevard, Bethesda, MD 20892, Tel: 301–451–7299, Fax: 301–480–0475, Email: *pawlykac@mail.nih.gov.*

Name of Committee: Type 1 Diabetes—Rapid Access to Intervention Development Special Emphasis Panel; National Institute of Diabetes and Digestive and Kidney Diseases.

Date: June 22, 2012.

Time: 10:00 p.m.–12:00 p.m.

Agenda: To evaluate requests for preclinical development resources for potential new therapeutics for type 1 diabetes and its complications.

Place: 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dr. Aaron Pawlyk, Program Director for Pharmacogenomics and Drug Discovery, National Institute of Diabetes and Digestive and Kidney Diseases, Building 2DEM, Room 788B, 6707 Democracy Boulevard, Bethesda, MD 20892, Tel: 301–451–7299, Fax: 301–480–0475, Email: *pawlykac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 98.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12012 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, RFA–DK12–005 NIDDK High School STEP–UP (R25).

Date: June 5, 2012.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Program Project on ALPHA–1 Deficiency.

Date: June 22, 2012.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12011 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Gastrointestinal Pathophysiology.

Date: June 4, 2012.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 11, 2012.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12010 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Musculoskeletal Health in Aging Men.

Date: June 12, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Cell Dependent and Independent Mechanism Longevity.

Date: June 27, 2012.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer's Disease Study.

Date: July 3, 2012.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging Heart.

Date: July 9, 2012.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Healthcare Efficiency.

Date: July 11, 2012.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, Ph.D., Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Post-Menopausal Symptoms and Causes.

Date: July 13, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Neural Mechanisms of Drosophila Aging.

Date: July 19, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12008 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended, for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: June 4–5, 2012.

Time: June 4, 2012, 6:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: June 5, 2012, 8:00 a.m. to 12:10 p.m.

Agenda: To review and evaluate an Intramural Laboratory and Sections with presentations from individual investigators from the Section on Molecular Neurobiology, Section on Directed Gene Transfer, Section on Functional Neuroanatomy, and the Laboratory of Molecular Biology.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: June 5, 2012, 12:30 p.m. to 1:10 p.m.

Agenda: To review and evaluate an Intramural Laboratory and Sections by meeting with Training Fellows, Grad Students, and Staff Scientists.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: June 5, 2012, 1:10 p.m. to 4:45 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rebecca C. Steiner, Ph.D., Executive Secretary, National Institute of Mental Health, NIH, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12141 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Integrated Preclinical/Clinical Program for HIV Topical Microbicides''.

Date: June 13–15, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, Room 3129, Bethesda, MD 20892, 301–435–3564, *ec17w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 11, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–12007 Filed 5–17–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0003: Internal Agency Docket No. FEMA–B–1251]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 16, 2012.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1251, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *www.fema.gov/pdf/media/factsheets/2010/srp_fs.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Sumter County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.bakeraecom.com/index.php/florida/sumter-2/*	
City of Bushnell	Code Compliance Division, 117 East Joe P. Strickland Avenue, Bushnell, FL 33513.
City of Center Hill	Sumter County Planning Department, 7375 Powell Road, Wildwood, FL 34785.
City of Coleman	Office of Public Services, 3502 East Warm Springs Avenue, Coleman, FL 33521.
City of Webster	City Hall, 49 Southeast 1st Street, Webster, FL 33597.
City of Wildwood	Office of Development Services, 100 North Main Street, Wildwood, FL 34785.
Unincorporated Areas of Sumter County	Sumter County Planning Department, 7375 Powell Road, Wildwood, FL 34785.
Allen County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/7293.htm*	
City of Woodburn	Allen County Planning Service Department, 1 East Main Street, Room 630, City-County Building, Fort Wayne, IN 46802.
Town of Monroeville	Allen County Planning Service Department, 1 East Main Street, Room 630, City-County Building, Fort Wayne, IN 46802.
Unincorporated Areas of Allen County	Allen County Planning Service Department, 1 East Main Street, Room 630, City-County Building, Fort Wayne, IN 46802.
Clarendon County, South Carolina, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.dnr.sc.gov/water/flood/comaps.html*	
City of Manning	29 West Boyce Street, Manning, SC 29102.
Town of Summerton	10 West Main Street, Summerton, SC 29148.
Town of Turbeville	1400 Main Street, Turbeville, SC 29162.
Unincorporated Areas of Clarendon County	412 North Brooks Street, Manning, SC 29102.

Community	Community map repository address
McCook County, South Dakota, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.bakeraecom.com/index.php/south-dakota/mccook/*	
City of Salem	City Hall, 400 North Main Street, Salem, SD 57058.
Unincorporated Areas of McCook County	McCook County Offices, 130 West Essex Avenue, Salem, SD 57058.

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

Dated: May 3, 2012.

Sandra K. Knight,

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

[FR Doc. 2012–12136 Filed 5–17–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–39]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, an exception was granted to the Hammond Housing Authority of Hammond, Indiana for the purchase and installation of tankless water heaters for the American Heartland Homes One project.

FOR FURTHER INFORMATION CONTACT: Donald J. LaVoy, Deputy Assistant Secretary for Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4112, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number); or Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on April 24, 2012, upon request of the Hammond Housing Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with the American Heartland Homes One project. The exception was granted by HUD on the basis that the relevant manufactured goods (tankless water heaters) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: May 11, 2012.

Deborah Hernandez,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2012–12139 Filed 5–17–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–19]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 10, 2012.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2012–11736 Filed 5–17–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 5500–FA–05]

Announcement of Funding Awards, Capital Fund Education and Training Community Facilities (CFCF) Program, Fiscal Year 2011

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year 2011 (FY 2011) Notice of Funding Availability (NOFA) for the Capital Fund Education and Training Community Facilities (CFCF) Program. This announcement contains the consolidated names and addresses of this year's award recipients under the CFCF program.

FOR FURTHER INFORMATION CONTACT: For questions concerning the CFCF Program awards, contact Jeffrey Riddel, Director, Office of Capital Improvements, Office of Public Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20410, telephone (202) 402–7378. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The CFCF program provides grants to Public Housing Agencies (PHAs) to develop facilities to provide early childhood education, adult education, and/or job training programs for public housing residents. More specifically, in accordance with Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (1937 Act), and the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (FY 2011 appropriations), the CFCF program provides grants to PHAs to: (1) Construct new community facilities; (2) purchase or acquire facilities; or (3) rehabilitate existing facilities to be used as education and training community facilities by PHA residents. The facilities are for the predominant use of PHA residents; however, non-public housing residents may participate.

The FY 2011 awards announced in this Notice were selected for funding in a competition posted on HUD's Web site on May 24, 2011. Applications were scored and selected for funding based on the selection criteria in that NOFA.

These awards are funded from the set-aside in the FY 2011 appropriations and are in addition to the awards announced by HUD on October 24, 2011 (76 FR 65743).

In accordance with Section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 4 awards made under the competition in Appendix A to this document.

Dated: May 2, 2012.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix A

CAPITAL FUND EDUCATION AND TRAINING COMMUNITY FACILITIES (CFCF) PROGRAM

Name/address of applicant	Amount funded	Activity funded	Project description
Housing Authority of the City of Jersey City, 400 U.S. Highway One, Jersey City, NJ 07102–3112.	$998,640	Construction of a New Facility.	Development of a facility at which the PHA will provide adult education and job training.
Housing Authority of the City of Milwaukee, P.O. Box 324, Milwaukee, WI 53201–0324.	1,237,900	Construction of a New Facility.	Development of a facility at which the PHA will provide early education, adult education and job training.
Housing Authority of the City of New Britain, 16 Armistice Street, New Britain, CT 06053–3927.	4,000,000	Construction of a New Facility.	Development of a facility at which the PHA will provide early education, adult education and job training.
Housing Authority of the County of San Joaquin, 448 S. Center Street, San Joaquin, CA 95203–3426.	278,656	Construction of a New Facility.	Development of a facility at which the PHA will provide adult education, early childhood education, and job training.

[FR Doc. 2012–12138 Filed 5–17–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–0512–10255; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 28, 2012. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 4, 2012. 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.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARKANSAS

Pulaski County

Central High School Neighborhood Historic District (Boundary Increase), Roughly bounded by W. 17th St., Dr. Martin Luther King Jr. Dr., Wright Ave., & S. Summit & S. Battery Sts., Little Rock, 12000320

FLORIDA

Orange County

Orlando Utilities Commission Administration Building, 500 S. Orange St., Orlando, 12000321

ILLINOIS

Boone County

Belvidere North State Street Historic District, State St. between Hurlbut St. & Kishwaukee R., Belvidere, 12000324

Belvidere South State Street Historic District, State St. between Logan Ave. & Madison St., Belvidere, 12000325

Jackson County

Liberty Theater, 1333 Walnut, Murphysboro, 12000322

Riverside Park Bandshell, 22nd & Commercial Sts., Murphysboro, 12000323

IOWA

Des Moines County

Manufacturing and Wholesale Historic District, Roughly 209 N. 3rd to 231 S. 3rd & 219 to 425 Valley Sts., Burlington, 12000326

Harrison County

Siebels' Department Store—Boyer Valley Bank, 501–505 Walker St., Woodbine, 12000327

NEW YORK

Monroe County

Michelsen, George J. Furniture Factory, 182 Ave. D, Rochester, 12000328

New York County

Hotel Albert, 23 E. 10th St., Manhattan, 12000329

OHIO

Franklin County

United States Post Office and Courthouse, 85 Marconi Blvd., Columbus, 12000330

PUERTO RICO

Ponce Municipality

Ponce YMCA Building, (Rafael Rios Rey MPS) 7843 Calle Nazaret Urbanizacion Santa Maria, Ponce, 12000331

RHODE ISLAND

Providence County

Heaton and Cowing Mill, 1115 Douglas Ave., Providence, 12000332

WISCONSIN

Bayfield County

Lake Owen Archeological District, Address Restricted, Drummond, 12000333

[FR Doc. 2012–12023 Filed 5–17–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Gulf of Mexico, Outer Continental Shelf, Central Planning Area, Oil and Gas Lease Sale 216/222

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability (NOA) of a Record of Decision (ROD) on a Final Supplemental Environmental Impact Statement (SEIS) for Gulf of Mexico (GOM), Outer Continental Shelf (OCS) Oil and Gas Lease Sale: 2012 Central Planning Area (CPA) Lease Sale 216/222

Authority: This NOA is published pursuant to the regulations (40 CFR 1506) implementing the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.* [1988]) (NEPA).

SUMMARY: BOEM has prepared a ROD following the completion of the Final SEIS for CPA Consolidated Lease Sale 216/222, the final lease sale in the 2007–2012 OCS Oil and Gas Leasing Program (Five-Year Program), which is scheduled for June 20, 2012. In preparing the ROD, BOEM considered alternatives to the proposed action and the impacts as presented in the Final SEIS and all comments received throughout the NEPA process. The Final SEIS updates two previous environmental and socioeconomic analyses for CPA Lease Sale 216/222. The GOM *OCS Oil and Gas Lease Sales: 2007–2012; Western Planning Area Lease Sales 204, 207, 210, 215, and 218; Central Planning Area Lease Sales 205, 206, 208, 213, 216, and 222, Final Environmental Impact Statement (OCS EIS/EA MMS 2007–018) (Multisale EIS),* completed in April 2007, originally analyzed CPA Lease Sale 216/222. The *Gulf of Mexico OCS Oil and Gas Lease Sales: 2009–2012; Central Planning Area Lease Sales 208, 213, 216, and 222; Western Planning Area Lease Sales 210, 215, and 218; Final Supplemental Environmental Impact Statement* (OCS EIS/EA MMS 2008–041) (2009–2012 Supplemental EIS), completed in September 2008, updated the socioeconomic and environmental analyses for CPA Lease Sale 216/222. BOEM developed the Final SEIS for CPA Lease Sale 216/222 in order to consider new circumstances and information arising from, among other things, the *Deepwater Horizon* explosion and oil spill. After careful consideration, BOEM has determined that in light of significant safety and environmental reforms since the *Deepwater Horizon* oil spill and the economic and energy security benefits of exploring and developing the domestic energy resources available in the CPA, including job creation, it is appropriate to hold a sale in this area at this time. BOEM resource assessments for the CPA indicate that the area contains over 30 billion barrels of oil (BBO) and over 133 trillion cubic feet (Tcf) of natural gas which are undiscovered and technically recoverable.

SUPPLEMENTARY INFORMATION: In this Final SEIS, BOEM evaluated four alternatives, which are summarized below.

Alternative A—The Proposed Action: Alternative A is BOEM's preferred alternative. This alternative would offer for lease all unleased blocks within the CPA for oil and gas operations, except:

(1) Blocks that were previously included within the GOM's Eastern Planning Area (EPA) and are within 100 miles (mi) (161 kilometers [km]) of the Florida coast;

(2) Blocks east of the Military Mission line (86 degrees, 41 minutes West longitude) under an existing moratorium until 2022, as a result of the Gulf of Mexico Energy Security Act of 2006 (Pub. Law 109–432);

(3) Blocks that are beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; and

(4) Whole and partial blocks that lie within the former Western Gap and are within 1.4 nautical miles north of the continental shelf boundary between the United States and Mexico.

The CPA lease sale area encompasses about 63 million acres. Approximately 38.6 million acres (61%) of the CPA lease sale area is currently unleased. The estimated amount of resources projected to be developed as a result of the proposed CPA lease sale is 0.801–1.624 BBO and 3.332–6.560 Tcf of gas.

Alternative B—The Proposed Action Excluding the Unleased Blocks Near Biologically Sensitive Topographic Features: This alternative would offer for lease all unleased blocks in the CPA, as described for the proposed action (Alternative A), with the exception of any unleased blocks subject to the Topographic Features Stipulation, as presented in the Final SEIS, which is designed to offer additional environmental protections in these areas, if they are leased.

Alternative C— The Proposed Action Excluding the Unleased Blocks within 15 Miles of the Baldwin County, Alabama, Coast: This alternative would offer for lease all unleased blocks in the CPA, as described for the proposed action (Alternative A), with the

exception of any unleased blocks within 15 mi (24 km) of the Baldwin County, Alabama coast.

Alternative D—No Action: This alternative would cancel the proposed CPA lease sale and is the environmentally preferred alternative.

BOEM has determined that the economic and energy security benefits of exploring and developing the domestic energy resources available in the GOM, including job creation, merit holding a sale in this area at this time. Lost production from cancellation of the sale would likely result in substitution of resources that would also have negative environmental impacts. Moreover, given the long history of exploration and development in this area, as well as significant current activity, the GOM has significant onshore and offshore infrastructure to support continuing oil and gas activity. This infrastructure includes advanced oil spill response infrastructure that has been enhanced since the *Deepwater Horizon* oil spill due to strengthened safety and environmental standards and efforts on the part of industry to comply with new regulatory requirements and provide additional resources, including for example, the readiness of equipment necessary to contain a subsea spill. After careful consideration, BOEM has selected Alternative A, the Proposed Action.

Record of Decision Availability: To obtain a single printed or CD–ROM copy of the Record of Decision for CPA Lease Sale 216/222, you may contact BOEM, GOM OCS Region, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). An electronic copy of the Record of Decision is available on BOEM's Internet Web site at *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx*.

FOR FURTHER INFORMATION CONTACT: For more information on the Record of Decision, you may contact Mr. Gary D. Goeke, Chief, Regional Assessment Section, Office of Environment, BOEM, GOM OCS Region, 1201 Elmwood Park Boulevard (MS 5410), New Orleans, Louisiana 70123–2394, You may also contact Mr. Goeke by telephone at (504) 736–3233.

Dated: May 10, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–11999 Filed 5–17–12; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Outer Continental Shelf (OCS) Consolidated Central Gulf of Mexico Planning Area Sale; 216/222

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Final Notice of Sale.

SUMMARY: On Wednesday, June 20, 2012, BOEM will open and publicly announce bids received for the blocks offered in Central Gulf of Mexico Planning Area (CPA) Sale 216/222, in accordance with provisions of the OCS Lands Act (OCSLA) (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR part 556). The CPA Sale 216/222 Package contains information essential to potential bidders, and bidders are charged with the knowledge of the documents contained in that package.

DATES: Public bid reading for CPA Sale 216/222 will begin at 9 a.m., Wednesday, June 20, 2012, at the Mercedes-Benz Superdome, 1500 Sugarbowl Drive, New Orleans, Louisiana 70112. The lease sale will be held in the St. Charles Club Room on the second floor (Loge Level). Entry to the Superdome will be on the Poydras Street side of the building through Gate A on the Ground Level, and parking will be available at Garage 6. All times referred to in this document are local New Orleans time, unless otherwise specified.

ADDRESSES: Interested parties may obtain a CPA Sale 216/222 Package by writing, calling or visiting the Web site:

Gulf of Mexico Region Public Information Office, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF.

BOEM Gulf of Mexico Region Internet Web site at: *http://www.boem.gov/About-BOEM/BOEM-Regions/Gulf-of-Mexico-Region/Index.aspx.*

Filing of Bids: Bidders must submit sealed bids to the address below, between 8 a.m. and 4 p.m. on normal working days, and from 8 a.m. to the Bid Submission Deadline of 10:00 a.m. on Tuesday, June 19, 2012, the day before the lease sale. If bids are mailed, please address the envelope containing all of the sealed bids as follows:

Attention: Leasing and Financial Responsibility Section, BOEM Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Contains Sealed Bids for CPA Oil and Gas Lease Sale 216/222. Please Deliver to Ms. Nancy Kornrumpf, Ms. Cindy Thibodeaux, or Ms. Kasey Couture, 6th Floor, Immediately.

Please note: 1. Bidders mailing bid(s) are advised to call Ms. Nancy Kornrumpf at (504) 736–2726, Ms. Cindy Thibodeaux at (504) 736–2809, or Ms. Kasey Couture at (504) 736–2909 immediately after putting their bid(s) in the mail. If BOEM receives bids later than the Bid Submission Deadline, the BOEM -Regional Director (RD) will return those bids unopened to bidders. Should an unexpected event such as flooding or travel restrictions be significantly disruptive to bid submission, BOEM may extend the Bid Submission Deadline. Bidders may call (504) 736–0557 or access the BOEM Gulf of Mexico Internet Web site at: *http://www.boem.gov/About-BOEM/BOEM-Regions/Gulf-of-Mexico-Region/Index.aspx* for information about the possible extension of the Bid Submission Deadline due to such an event.

2. Blocks or portions of blocks beyond the United States (U.S.) Exclusive Economic Zone are offered based upon provisions of the 1982 Law of the Sea Convention.

3. Blocks near the U.S.-Mexico maritime and continental shelf boundaries could become subject to the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico (Agreement). Bidders are advised to refer to the *Bids on Blocks Near U.S.-Mexico Maritime and Continental Shelf Boundary* portion of this document for detailed information pertaining to the opening of bids affecting blocks in this area.

Area Offered for Leasing: In CPA Sale 216/222, BOEM is offering to lease all blocks and partial blocks listed in the document ''List of Blocks Available for Leasing'' included in the CPA Sale 216/222 Package. All of these blocks are shown on the following leasing maps and Official Protraction Diagrams (OPD's):

Outer Continental Shelf Leasing Maps—Louisiana Map Numbers 1 Through 12 (These 30 maps sell for $2.00 each.)

LA1 West Cameron Area (Revised July 1, 2011)
LA1A West Cameron Area, West Addition (Revised February 28, 2007)
LA1B West Cameron Area, South Addition (Revised February 28, 2007)
LA2 East Cameron Area (Revised November 1, 2000)
LA2A East Cameron Area, South Addition (Revised November 1, 2000)
LA3 Vermilion Area (Revised November 1, 2000)
LA3A South Marsh Island Area (Revised November 1, 2000)
LA3B Vermilion Area, South Addition (Revised November 1, 2000)
LA3C South Marsh Island Area, South Addition (Revised November 1, 2000)
LA3D South Marsh Island Area, North Addition (Revised November 1, 2000)

LA4 Eugene Island Area (Revised November 1, 2000)
LA4A Eugene Island Area, South Addition (Revised November 1, 2000)
LA5 Ship Shoal Area (Revised November 1, 2000)
LA5A Ship Shoal Area, South Addition (Revised November 1, 2000)
LA6 South Timbalier Area (Revised November 1, 2000)
LA6A South Timbalier Area, South Addition (Revised November 1, 2000)
LA6B South Pelto Area (Revised November 1, 2000)
LA6C Bay Marchand Area (Revised November 1, 2000)
LA7 Grand Isle Area (Revised November 1, 2000)
LA7A Grand Isle Area, South Addition (Revised February 17, 2004)
LA8 West Delta Area (Revised November 1, 2000)
LA8A West Delta Area, South Addition (Revised November 1, 2000)
LA9 South Pass Area (Revised November 1, 2000)
LA9A South Pass Area, South and East Additions (Revised November 1, 2000)
LA10 Main Pass Area (Revised November 1, 2000)
LA10A Main Pass Area, South and East Additions (Revised November 1, 2000)
LA10B Breton Sound Area (Revised November 1, 2000)
LA11 Chandeleur Area (Revised November 1, 2000)
LA11A Chandeleur Area, East Addition (Revised November 1, 2000)
LA12 Sabine Pass Area (Revised July 1, 2011)

Outer Continental Shelf Official Protraction Diagrams (These 19 diagrams sell for $2.00 each.)

NG15–02 Garden Banks (Revised February 28, 2007)
NG15–03 Green Canyon (Revised November 1, 2000)
NG15–05 Keathley Canyon (Revised February 28, 2007)
NG15–06 Walker Ridge (Revised November 1, 2000)
NG15–08 Sigsbee Escarpment (Revised February 28, 2007)
NG15–09 Amery Terrace (Revised October 25, 2000)
NG16–01 Atwater Valley (Revised November 1, 2000)
NG16–02 Lloyd Ridge (Revised August 1, 2008)
NG16–04 Lund (Revised November 1, 2000)
NG16–05 Henderson (Revised August 1, 2008)
NG16–07 Lund South (Revised November 1, 2000)
NG16–08 Florida Plain (Revised February 28, 2007)
NH15–12 Ewing Bank (Revised November 1, 2000)
NH16–04 Mobile (Revised July 1, 2011)
NH16–05 Pensacola (Revised February 28, 2007)
NH16–07 Viosca Knoll (Revised November 1, 2000)
NH16–08 Destin Dome (Revised February 28, 2007)
NH16–10 Mississippi Canyon (Revised November 1, 2000)
NH16–11 De Soto Canyon (Revised August 1, 2008)

Please note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) format) containing all of the Gulf of Mexico (GOM) leasing maps and OPD's, except those not yet converted to digital format, is available from the GOM Region Public Information Office for a price of $15.00. In addition, Supplemental Official OCS Block Diagrams (SOBD's) are available for blocks that contain the U.S.-Mexico Maritime Boundary, the U.S.-Mexico Continental Shelf Boundary, the U.S. 200 Nautical Mile Limit, and the U.S.-Mexico Continental Shelf Article IV ''Area'' Limit lines (i.e., the 1.4 nautical mile buffer). These SOBD's are also available from the GOM Region Public Information Office.

These GOM leasing maps, SOBD's, and OPD's are also available for free online at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Maps-And-Spatial-Data.aspx.*

For the current status of all CPA leasing maps and OPD's, please refer to 66 FR 28002 (published May 21, 2001), 69 FR 23211 (published April 28, 2004), 72 FR 27590 (published May 16, 2007), 72 FR 35720 (published June 29, 2007), 73 FR 63505 (published October 24, 2008), and 76 FR 54787 (published September 2, 2011).

All blocks are shown on these leasing maps and OPD's. The available Federal acreage of all whole and partial blocks in this lease sale is shown in the document ''List of Blocks Available for Leasing'' included in the CPA Sale 216/222 Package. Some of these blocks may be partially leased or deferred, or transected by administrative lines such as the Federal/state jurisdictional line. A bid on a block must include all of the available Federal acreage of that block. Also, information on the unleased portions of such blocks is found in the document ''Central Planning Area, Consolidated Lease Sale 216/222, June 20, 2012—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred'' included in the CPA Sale 216/222 Package.

For additional information, please call Mr. Lenny Coats, Chief of the Mapping and Automation Section, at (504) 736–1457.

Areas Not Available for Leasing: The following whole and partial blocks are not offered for lease in this sale:

Whole and partial blocks that lie within the former Western Gap and are within 1.4 nautical miles north of the continental shelf boundary between the United States and Mexico:

Amery Terrace (OPD NG 15–09)

Whole Blocks: 280, 281, 318 through 320, and 355 through 359
Portions of Blocks: 235 through 238, 273 through 279, and 309 through 317

Sigsbee Escarpment (OPD NG 15–08)

Whole Blocks: 239, 284, and 331 through 341
Portions of Blocks: 151, 195, 196, 240, 241, 285 through 298, and 342 through 349

Whole blocks and portions of blocks that lie adjacent to or beyond the U.S. Exclusive Economic Zone, in or adjoining the area known as the northern portion of the Eastern Gap:

Lund South (OPD NG 16–07)

Whole Blocks: 128, 129, 169 through 173, 208, through 217, 248 through 261, 293 through 305, and 349

Henderson (OPD NG 16–05)

Whole Blocks: 466, 508 through 510, 551 through 554, 594 through 599, 637 through 643, 679 through 687, 722 through 731, 764 through 775, 807 through 819, 849 through 862, 891 through 905, 933 through 949, and 975 through 992
Portions of Blocks: 467, 511, 555, 556, 600, 644, 688, 732, 776, 777, 820, 821, 863, 864, 906, 907, 950, 993, and 994

Florida Plain (OPD NG 16–08)

Whole Blocks: 5 through 24, 46 through 67, 89 through 110, 133 through 154, 177 through 197, 221 through 240, 265 through 283, 309 through 327, and 363 through 370

Whole blocks and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006:

Pensacola (OPD NH 16–05)

Blocks: 751 through 754, 793 through 798, 837 through 842, 881 through 886, 925 through 930, and 969 through 975

Destin Dome (OPD NH 16–08)

Whole Blocks: 1 through 7, 45 through 51, 89 through 96, 133 through 140, 177 through 184, 221 through 228, 265 through 273, 309 through 317, 353 through 361, 397 through 405, 441 through 450, 485 through 494, 529 through 538, 573 through 582, 617 through 627, 661 through 671, 705 through 715, 749 through 759, 793 through 804, 837 through 848, 881 through 892, 925 through 936, and 969 through 981

DeSoto Canyon (OPD NH 16–11)

Whole Blocks: 1 through 15, 45 through 59, and 92 through 102

Portions of Blocks: 16, 60, 61, 89 through 91, 103 through 105, and 135 through 147

Henderson (OPD NG 16–05)

Portions of Blocks: 114, 158, 202, 246, 290, 334, 335, 378, 379, 422, and 423

The following block is deferred until measures to ensure the safety of decommissioning operations are completed:

Green Canyon (OPD NG15–03)

Block 20

The following blocks are under appeal and bids will not be accepted:

OCS G 22966 Green Canyon 478
OCS G 22975 Green Canyon 536
OCS G 22983 Green Canyon 581
OCS G 22921 Mississippi Canyon 999
OCS G 22922 Mississippi Canyon 1000

Note: *Bids on Blocks Near the U.S.-Mexico Maritime and Continental Shelf Boundary.* The following definitions apply to this section: ''Agreement'' refers to the agreement between the United Mexican States and the United States of America that addresses identification and unitization of transboundary hydrocarbon reservoirs, allocation of production, inspections, safety, and environmental protection. ''Boundary Area,'' means an area comprised of any and all blocks in the CPA, that are located or partially located within three statute miles of the maritime and continental shelf boundary with Mexico, as that maritime boundary is delimited in the November 24, 1970 Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, the May 4, 1978 Treaty on Maritime Boundaries between the United Mexican States and the United States of America, and the June 9, 2000 Treaty on the Continental Shelf between the Government of the United Mexican States and the Government of the United States of America. A copy of the Agreement can be found at the Department of the Interior Web site at: *http://www.boem.gov/BOEM-Newsroom/Library/Boundaries-Mexico.aspx*.

The Agreement was signed on February 20, 2012, but has not yet been bilaterally approved. Bids submitted on any block in the ''Boundary Area'' (as defined above) may be segregated from bids submitted on blocks outside the Boundary Area. Bids submitted on blocks outside the Boundary Area will be opened on the date scheduled for sale. Bids submitted on blocks in the Boundary Area may not be opened on the date scheduled for the sale, but may be opened at a later date. Within 30 days after the approval of the Agreement or December 31, 2012, whichever occurs first, the Secretary of the Interior will determine whether it is in the best interest of the United States either to open bids for Boundary Area blocks or to return the bids unopened.

In the event the Secretary decides to open bids on blocks in the Boundary Area, BOEM will notify such bidders at least 30 days prior to opening such bids, and will describe the terms of the Agreement under which leases in the Boundary Area will be issued. Bidders on these blocks may withdraw their bids at any time after such notice up until 10 a.m. (New Orleans local time) of the day before bid opening. If BOEM does not give notice within 30 days of bilateral approval of the Agreement or by December 31, 2012, whichever comes first, BOEM will return the bids unopened. This timing will allow companies to make decisions regarding the next annual CPA lease sale anticipated in 2013, which may also offer blocks in this area. BOEM reserves the right to return these bids at any time. BOEM will not disclose which blocks received bids or the names of bidders in this area unless and until the bids are opened. BOEM currently anticipates that blocks in the Boundary Area that are not awarded as a result of Lease Sale 216/222 would be reoffered in the next lease sale for the CPA in 2013.

The following blocks comprise the Boundary Area:

Sigsbee Escarpment—151, 152, 195, 196, 197, 239, 240, 241, 242, 243, 284, 285, 286, 287, 288*, 289*, 290*, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349

Amery Terrace—118, 119, 120*, 121*, 122*, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164*, 165*, 166*, 167, 168, 169, 170, 171, 172, 173, 174, 175, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 265, 266, 267, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 355, 356, 357, 358, 359

Lund South—133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 293, 294, 295, 296

*—Leased.

Statutes and Regulations: Each lease is issued pursuant to OCSLA, regulations promulgated pursuant thereto, other applicable statutes and regulations in existence upon the Effective Date of the lease, and those applicable statutes enacted (including amendments to OCSLA or other statutes) and regulations promulgated thereafter, except to the extent they explicitly conflict with an express provision of the lease. It is expressly understood that amendments to existing statutes and regulations, including but not limited to OCSLA, as well as the enactment of new statutes and promulgation of new regulations, which do not explicitly conflict with an express provision of the lease will apply to the leases issued as a result of this sale. Moreover, the lessee expressly bears the risk that such new statutes and regulations (i.e., that do not explicitly conflict with an express provision of the lease) may increase or decrease the lessee's obligation under the lease.

BOEM will use Form BOEM–2005 (October 2011) to convey leases resulting from this sale. This lease form may be viewed on the BOEM Web site at: *http://www.boem.gov/About- BOEM/Procurement-Business-Opportunities/BOEM-OCS-Operation-Forms/BOEM-OCS-Operation-Forms.aspx.* The lease form will be amended to conform with the specific terms, conditions, and stipulations applicable to the individual lease. The terms, conditions, and stipulations applicable to this sale are set forth below.

Lease Terms and Conditions: Initial periods, extensions of initial periods, minimum bonus bid amounts, rental rates, escalating rental rates for leases with an approved extension of the initial 5-year period, royalty rate, minimum royalty, and royalty suspension provisions, if any, applicable to this sale are noted below. Additionally, these terms and conditions are depicted on the map ''Final, Consolidated Central Gulf of Mexico Planning Area Sale 216/222, June 20, 2012, Lease Terms and Economic Conditions,'' for leases resulting from this lease sale.

Initial Periods: Initial periods are summarized in the following table:

Water depth in meters	Initial periods
0 to <400	5 years extended to 8 years if a well is spudded during the initial 5-year period targeting hydrocarbons below 25,000 feet True Vertical Depth Subsea (TVD SS).
400 to <800	5 years extended to 8 years if a well is spudded during the initial 5-year period.
800 to <1,600	7 years extended to 10 years if a well is spudded during the initial 7-year period.
1,600+	10 years.

Extensions of Initial Periods

A. The 5-year initial period for a lease in water depths of less than 400 meters may be extended to 8 years if the operator, targeting hydrocarbons below 25,000 feet TVD SS, spuds a well within the 5- year initial period. The lessee will receive the 3-year extension in cases where the well is drilled to a target below 25,000 feet TVD SS and may also receive an extension in cases where the well targets, but does not reach a depth below 25,000 feet TVD SS due to mechanical or safety reasons. Operators who do not target hydrocarbons with a depth of at least 25,000 feet within the initial 5-year period may not receive an extension of the lease.

In order for the 5-year initial period to be extended to 8 years, the lessee is required to submit to the Bureau of Safety and Environmental Enforcement (BSEE), GOM Regional Supervisor for Production and Development, 1201 Elmwood Park Boulevard, Mail Stop 5300, New Orleans, Louisiana, 70123–2394, within 30 days after completion of the drilling operation, a letter providing the well number, spud date, information demonstrating whether the target below 25,000 feet TVD SS was reached, and if applicable, any safety or mechanical problems encountered that prevented the well from reaching a depth below 25,000 feet TVD SS. The BSEE Regional Supervisor for Production and Development must concur in writing that the conditions have been met to extend the initial period by 3 years. The BSEE Regional Supervisor for Production and Development will provide written confirmation of any lease extension within 30 days of receipt of the letter provided.

A lease that has earned a 3-year extension by spudding a well during the 5-year initial period with a hydrocarbon target below 25,000 feet TVD SS, confirmed by BSEE, will not be eligible for a suspension for that same period under the regulations at 30 CFR 250.175 because the lease is not at risk of expiring.

B. The 5-year initial period for a lease in water depths of 400 meters to less than 800 meters issued from this sale will be extended to 8 years if the operator spuds a well within the initial 5-year period.

In order for the 5-year initial period to be extended to 8 years, the lessee is required to submit to the appropriate BSEE District Manager, within 30 days after spudding a well, a letter providing the well number and spud date, and requesting confirmation of a 3-year extension of the initial period. The BSEE District Manager will review the request and make a determination. A written response will be sent to the lessee documenting the BSEE District Manager's decision within 30 days of receipt of the request. For an extension to be granted, the BSEE District Manager must concur in writing that the conditions have been met to extend the initial period by 3 years.

C. The 7-year initial period for a lease in water depths of 800 meters to less than 1,600 meters issued from this sale will be extended to 10 years if the operator spuds a well within the initial 7-year period.

In order for the 7-year initial period to be extended to 10 years, the lessee is required to submit to the appropriate BSEE District Manager, within 30 days after spudding a well, a letter providing the well number and spud date, and requesting confirmation of a 3-year extension of the initial period. The BSEE District Manager will review the request and make a determination. A written response will be sent to the lessee documenting the BSEE District Manager's decision within 30 days of receipt of the request. For an extension to be granted, the BSEE District Manager must concur in writing that the conditions have been met to extend the initial period by 3 years.

Minimum Bonus Bid Amounts: $25 per acre or fraction thereof for blocks in water depths of less than 400 meters and $100 per acre or fraction thereof for blocks in water depths of 400 meters or deeper.

A bonus bid will not be considered for acceptance unless it provides for a cash bonus in the amount equal to, or exceeding, the minimum bid of $25 per acre or fraction thereof for blocks in water depths of less than 400 meters, and $100 per acre or fraction thereof for blocks in water depths of 400 meters or deeper. To confirm the exact calculation of the minimum bonus bid amount for each block, see ''List of Blocks Available for Leasing,'' contained in the CPA Sale 216/222 Package, which will become available approximately 30 days before the scheduled sale date. Please note that bonus bids must be in whole dollar amounts. BOEM will disregard partial dollar amounts.

Rental Rates: Annual rental rates are summarized in the following table:

RENTAL RATES PER ACRE OR FRACTION THEREOF

Water depth in meters	Years 1–5	Years 6, 7, & 8+
0 to <200	$7.00	$14.00, $21.00 & $28.00
200 to <400	$11.00	$22.00, $33.00 & $44.00
400 to <800	$11.00	$16.00
800+	$11.00	$16.00

Escalating Rental Rates for leases with an approved extension: Any lease in water depths less than 400 meters and granted a 3-year extension beyond the 5-year initial period will pay an escalating rental rate as shown above. The escalating rental rates after the 5th year for blocks in less than 400 meters will become fixed and no longer escalate if another well is spudded during the 3-year extended term of the lease that targets hydrocarbons below 25,000 feet TVD SS, and BSEE concurs that such a well has been spudded. In this case, the rental rate will become fixed at the

rental rate in effect during the lease year in which the additional well was spudded.

Royalty Rate: 18.75 percent.

Minimum Royalty: $7.00 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $11.00 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper.

Royalty Suspension Provisions: Leases with royalty suspension volumes (RSVs) are authorized under existing BSEE regulations at 30 CFR Part 203 and BOEM regulations at 30 CFR Part 560.

Deep and Ultra-Deep Gas Royalty Suspensions: A lease issued as a result of this sale may be eligible for RSV incentives for deep and ultra-deep wells pursuant to 30 CFR Part 203. These RSV incentives are conditioned upon applicable price thresholds.

- Certain wells on leases in 0 to less than 200 meters of water depth completed to a drilling depth of 20,000 feet TVD SS or deeper may receive an RSV of 35 billion cubic feet of natural gas.
- Certain wells on leases in 200 to less than 400 meters of water depth completed to a drilling depth of 20,000 feet TVD SS or deeper may receive an RSV of 35 billion cubic feet of natural gas. Wells completed from 15,000 to 20,000 feet TVD SS that begin production before May 3, 2013, may receive smaller RSV incentives.

Deepwater Royalty Suspensions: No deepwater royalty suspension provisions will be offered for leases issued from this sale.

Lease Stipulations: The map ''Final, Consolidated Central Gulf of Mexico Planning Area Sale 216/222, June 20, 2012, Stipulations and Deferred Blocks'' depicts the blocks on which one or more of ten lease stipulations apply: (1) Topographic Features; (2) Live Bottoms; (3) Military Areas; (4) Evacuation; (5) Coordination; (6) Blocks South of Baldwin County, Alabama; (7) Law of the Sea Convention Royalty Payment; (8) Protected Species; (9) Below Seabed Operations; and (10) Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico.

The texts of the stipulations are contained in the document ''Lease Stipulations, Consolidated Central Gulf of Mexico Planning Area Sale 216/222, Final Notice of Sale'' included in the CPA Sale 216/222 Package. In addition, the ''List of Blocks Available for Leasing'' contained in the CPA Sale 216/222 Package identifies for each block listed the lease stipulations applicable to that block.

Information to Lessees: The CPA Sale 216/222 Package contains an ''Information To Lessees'' document that provides information on certain issues pertaining to this oil and gas lease sale.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope. The outside of the envelope should be labeled ''Sealed Bid for Oil and Gas Lease Sale 216/222, not to be opened until 9 a.m., Wednesday, June 20, 2012.'' The submitting company's name, its GOM company number, the map name, map number, and block number should be clearly identified on the outside of the envelope.

The sealed bid should list the total amount of the bid in a whole dollar amount, as well as, the sale number, the sale date, the submitting company's name, its GOM company number, the map name, map number, and the block number clearly identified. The information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the CPA Sale 216/222 Package. A blank bid form has been provided therein for convenience and may be copied and filled in. The CPA Sale 216/222 Package includes a sample bid envelope for reference.

The CPA Sale 216/222 Package also includes a form for the telephone numbers and addresses of bidders. BOEM requests that bidders provide this information in the suggested format prior to or at the time of bid submission. The Telephone Numbers/Addresses of Bidders Form should not be enclosed inside the sealed bid envelope.

BOEM published a list of restricted joint bidders for this lease sale in the **Federal Register** at 77 FR 24980 on April 26, 2012. Please also refer to joint bidding provisions at 30 CFR 556.41 for additional information. All bidders must execute all documents in conformance with signatory authorizations on file in BOEM's Gulf of Mexico (GOM) Region Adjudication Section. Designated signatories must be authorized to bind their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with the GOM Region Adjudication Section. Bidders submitting joint bids must include on the bid form the proportionate interest of each participating bidder, stated as a percentage, using a maximum of five decimal places (e.g., 33.33333 percent) with total interest equaling 100 percent. BOEM may require bidders to submit other documents in accordance with 30 CFR 556.46. BOEM warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that BOEM considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including payment of one-fifth of the bonus bid on all high bids. A statement to this effect must be included on each bid form (see the document ''Bid Form and Envelope'' contained in the CPA 216/222 Package).

Withdrawal of Bids: Once submitted, bid(s) may not be withdrawn unless the BOEM Regional Director (RD) receives a written request for withdrawal from the company who submitted the bid(s), prior to 10 a.m. on Tuesday, June 19, 2012. This request must be typed on company letterhead and must contain the submitting company's name, its company number, the map name/number and block number of the bid(s) to be withdrawn. The request must be in conformance with signatory authorizations on file in BOEM's GOM Region Adjudication Section. Signatories must be authorized to bind their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have: (i) An incumbency certificate and/or specific power of attorney setting forth express authority to act on the business entity's behalf for purposes of bidding and lease execution under OCSLA and (ii) the authorized signatories on file with BOEM's GOM Region Adjudication Section. The name and title of said signatory must be typed under the signature block on the withdrawal letter. Should the BOEM RD or the BOEM RD's designee approve such a request, he or she will indicate approval by affixing his or her signature and the date to the submitting company's request for withdrawal.

Rounding: The following procedure must be used to calculate the minimum bonus bid, annual rental, and minimum royalty: Round up to the next whole acre if the block acreage contains a decimal figure prior to calculating the minimum bonus bid, annual rental, and minimum royalty amounts. The appropriate rate per acre is applied to the whole (rounded up) acreage.

The bonus bid must be in whole dollar amounts and greater than or equal to the minimum bonus bid. The appropriate minimum bid per-acre rate is applied to the whole (rounded up) acreage and the resultant calculation is rounded up to the next whole dollar amount if the calculation results in any cents. The minimum bonus bid calculation, including all rounding, is

shown in the document ''List of Blocks Available for Leasing'' included in the CPA Sale 216/222 Package.

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to the U.S. Department of the Interior's Office of Natural Resources Revenue (ONRR) equal to one-fifth of the bonus bid amount for each such bid. A copy of the notification of the high bidder's one-fifth bonus liability may be obtained at the Electronic Funds Transfer (EFT) Area outside the Bid Reading Room on the day of the bid opening or it may be obtained on the BOEM Web site at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Lease-Sales/216-222/Central-Planning-Area-Lease-Sale-216-222-Information.aspx* under the heading ''Notification of EFT ⅕ Bonus Liability.'' All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury by 11 a.m. Eastern Standard Time the day following bid reading (no exceptions). Account information is provided in the ''Instructions for Making Electronic Funds Transfer Bonus Payments'' found on the BOEM Web site identified above.

Under the authority granted by 30 CFR 556.46(b), BOEM requires bidders to use EFT procedures for payment of one-fifth bonus bid deposits for CPA Sale 216/222, following the detailed instructions contained on the Payment Information Web page that may be found on the ONRR Web site at: *http://www.onrr.gov/FM/PayInfo.htm.* Acceptance of a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, ONRR requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Note: Certain bid submitters (i.e., those that are not currently an OCS mineral lease record title holder or designated operator or those that have ever defaulted on a one-fifth bonus bid payment (EFT or otherwise)) are required to guarantee (secure) their one-fifth bonus bid payment prior to the submission of bids. For those who must secure the EFT one-fifth bonus bid payment, the EFT instructions specify the requirements for each of the following four options:

(a) Provide a third-party guarantee;
(b) amend bond coverage;
(c) provide a letter of credit; or
(d) provide a lump sum payment in advance via EFT.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless (1) the bidder has complied with all requirements of this Notice of Sale (NOS), including those set forth in the documents contained in the associated CPA Sale 216/222 Package and applicable regulations; (2) the bid is the highest valid bid; and (3) the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted that does not conform to the requirements of this NOS, OCSLA, and other applicable regulations may be returned to the bidder submitting that bid by the RD and not be considered for acceptance. The U.S. Attorney General and the Federal Trade Commission will review the results of the lease sale for antitrust issues prior to the issuance of leases.

To ensure that the Federal Government receives a fair return for the conveyance of lease rights for this lease sale, BOEM will evaluate high bids in accordance with its bid adequacy procedures. A copy of current procedures, ''Modifications to the Bid Adequacy Procedures'' at 64 FR 37560 (July 12, 1999), can be obtained from the BOEM Gulf of Mexico Region Public Information Office or via the BOEM Gulf of Mexico Region Internet Web site at: *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bid-Adequacy-Procedures.aspx.* In the existing bid adequacy procedures, water depth categories in the Gulf of Mexico are specified as (1) less than 800 meters and (2) 800 meters or more. Per 64 FR 37560, if different water depth categories are used for a Gulf of Mexico sale, they are specified in the final NOS. For CPA Sale 216/222, the water depth categories are specified as (1) less than 400 meters and (2) 400 meters or more.

Successful Bidders: BOEM requires each company that has been awarded a lease to (1) execute all copies of the lease (Form BOEM–2005 (October 2011), as amended), (2) pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155 and 556.47(f); and (3) satisfy the bonding requirements of 30 CFR Part 556, subpart I, as amended.

Affirmative Action: BOEM requests that, prior to bidding, the bidder file Equal Opportunity Affirmative Action Representation Form BOEM-2032 (October 2011) and Equal Opportunity Compliance Report Certification Form BOEM-2033 (October 2011) in the BOEM GOM Region Adjudication Section. This certification is required by 41 CFR Part 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file for the bidder in the GOM Region Adjudication Section.

Geophysical Data and Information Statement: Pursuant to 30 CFR 551.12, BOEM has a right to access geophysical data and information collected under a permit in the OCS.

Every bidder submitting a bid on a block in CPA Sale 216/222, or participating as a joint bidder in such a bid, must submit at the time of bid submission a Geophysical Data and Information Statement (GDIS) in a separate and sealed envelope, identifying any proprietary and/or reprocessed geophysical data and information generated or used as part of the decision to bid or participate in a bid on the block (including, but not limited to, seismic, controlled source electromagnetic, and gravity data). The data identified in the GDIS should clearly state whether the data or information are speculative data sets available directly from geophysical contractors or proprietary data sets specially processed/reprocessed for or by bidders. In addition, the GDIS should clearly identify the data type (e.g., 2–D, 3–D or 4–D, pre-stack or post-stack and time or depth); areal extent (i.e., number of line miles for 2–D or number of blocks for 3–D) and migration algorithm (e.g., Kirchoff Migration, Wave Equation Migration, Reverse Migration, Reverse Time Migration) of the data, velocity models used and information. The statement must also include the name, the phone number, and full address of a contact person, and an alternate, who are both knowledgeable about the information and data listed and *available* for 30 days post-sale, the processing company, date processing was completed, owner of the original data set (who initially acquired the data), original data survey name, and permit number. BOEM reserves the right to query about alternate data sets and to quality check and compare the listed and alternative data sets to determine which data set most closely meets the needs of the fair market value determination process.

The statement must also identify each block upon which the bidder submitted a bid or participated as a partner in a bid, but for which it did *not* use enhanced or reprocessed pre- or post-stack geophysical data and information

as part of the decision to bid or to participate in the bid. The GDIS must be submitted even if no proprietary/reprocessed geophysical data and information were used in bid preparation for the block.

In the event a company supplies any type of data to BOEM, that company must meet the following requirements to qualify for reimbursement:

1. The company must be registered with the Central Contractor Registration (CCR). The initial registration is valid for one year and must be updated annually thereafter. The Web site for registering is: *http://www.ccr.gov.* This requirement was implemented on October 1, 2003, and requires all entities doing business with the Federal Government to complete a business profile in the CCR. Payments are made electronically based on the banking information contained in the CCR. Therefore, if the company is not actively registered in the CCR, BOEM *will not* be able to reimburse or pay that company for any data supplied.

2. Effective May 1, 2011, the Department of the Interior is requiring all of its agencies and bureaus to use the Department of Treasury's Internet Payment Platform (IPP) for electronic invoicing. The Web site for registering is: *https://www.ipp.gov.* The company must enroll at the IPP Web site if it has not already done so. Access will then be granted to use IPP for submitting requests for payment. When a request for payment is submitted, it must include the assigned Purchase Order Number on the request.

3. In addition, the company must complete an on-line Representations and Certifications application at: *www.bpn.gov.* Even though the company may have never provided this information previously, it must now do so in order to do business with the Federal Government or receive reimbursement.

Note: The GDIS Information Table can be submitted digitally on a CD or DVD as an Excel Spreadsheet. If you have any questions, please contact Dee Smith at (504) 736–2706 or John Johnson at (504) 736–2455.

Force Majeure: The BOEM RD has the discretion to change any date, time, and/or location specified in the CPA Sale 216/222 Package in case of a force majeure event that the RD deems may interfere with the carrying out of a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, and floods), wars, riots, acts of terrorism, fire, strikes, civil disorder, or other events of a similar nature. In case of such events, bidders should call (504) 736–0557 or access the BOEM Web site at: *http://www.boem.gov* for information about any changes.

Dated: May 10, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–12004 Filed 5–17–12; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2877]

Receipt of Amended 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 an amended complaint entitled *Certain Radio Frequency Integrated Circuits and Devices Containing Same,* DN 2877; the Commission is soliciting comments on any public interest issues raised by the amended 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: Office of the 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 an amended complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Peregrine Semiconductor Corporation on May 11, 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 radio frequency integrated circuits and devices containing same. The complaint names as respondents RF Micro Devices, Inc. of NC; Motorola Mobility, Inc. of IL; HTC America, Inc. of WA; and HTC 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. 2877'') 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 Office of 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 Office of 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: May 14, 2012.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–12030 Filed 5–17–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Agency Information Collection Activities

[OMB Number 1103–0093]

Extension of a Currently Approved Collection; Comments Requested; COPS Extension Request Form

ACTION: 30-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a currently approved information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 49, page 14829 on March 13, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for 30 days for public comment until June 18, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Extension Request Form.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Under the Violent Crime and Control Act of 1994, the U.S. Department of Justice COPS Office would require the completion of the Extension Request Form from law enforcement agencies in order to ensure that those agencies whose COPS grant is set to expire in the near future has the opportunity to request a no-cost extension prior to the grant expiration date if additional time is needed to complete their program requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that approximately 2,500 respondents annually will complete the form within 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,250 total annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–12090 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Agency Information Collection Activities; Proposed Collection, Comments Requested; Status of COPS Grant Implementation Facsimile

ACTION: 30-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 77, Number 49, page 14829 on March 13, 2012, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 18, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Danielle Ouellette, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* Status of COPS Grant Implementation Facsimile.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Under the Violent Crime and Control Act of 1994, the U.S. Department of Justice COPS Office would require the completion of the Status of COPS Grant Implementation Facsimile from law enforcement agencies if they have yet to send in their current Federal Financial Report (SF–425). This is to ensure that these agencies are planning on implementing their COPS grant program and/or project that they had previously been awarded.

(5) *An estimate of the total number of respondents and the amount of time estimate for an average respondent to respond/reply:* It is estimated that 200 respondents annually will complete the form within .1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 20 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–12091 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Matthew J. Kachinas, M.D.; Decision and Order

On September 27, 2011, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Matthew J. Kachinas, M.D. (hereinafter, Registrant), of Ft. Myers and Venice, Florida. The Show Cause Order proposed the revocation of Respondent's DEA Certificates of Registration, #s FK1795624 and FK1794305, and the denial of any applications to renew or modify the registrations, on two grounds. Show Cause Order at 1 (citing 21 U.S.C. 823(f), 824(a)(3) & (4)).

First, the Order alleged that as a result of an action taken by the Florida Board of Medicine, Registrant no longer holds authority to dispense controlled substances in Florida, the State in which he holds his registrations. Show Cause Order at 2. Second, the Order alleged that ''DEA's investigation revealed that [Registrant] stored and later abandoned controlled substances at an unregistered location, in violation of 21 CFR 1301.12(a).'' *Id.* The Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for doing either, and the consequences for failing to do either. *See id.* (citing 21 CFR 1301.43(a), (c), (d), & (e)).

As evidenced by the signed return receipt card, on December 5, 2011, service was accomplished on Registrant by certified mail addressed to him at his residence. GX 7. Since the date of service, more than thirty days have now passed and neither Registrant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. Accordingly, I find that Registrant has waived both his right to a hearing and his right to submit a written statement in lieu of a hearing. 21 CFR 1301.43(e). Accordingly, I issue this Decision and Order based on relevant evidence contained in the Investigative Record submitted by the Government. I make the following findings.

Findings

Registrant is the holder of two DEA Certificates of Registration, which authorize him to dispense controlled substances in schedules II through V as a practitioner: (1) #FK1795624, with the registered address of 13100 Westlinks Terrace, Suite 12, Ft. Myers, Florida; and (2) #FK1794305, with the registered address of 401 Commercial Ct., Suite D, Venice, Florida. Both of these registrations do not expire until December 31, 2012.[1]

Registrant formerly held a license to practice medicine which was issued by the Florida Board of Medicine. However, on April 16, 2010, the Board of Medicine issued a Final Order which adopted the recommended order of a state Administrative Law Judge and revoked Registrant's medical license. GX 5, at 10–11. Accordingly, I find that Registrant is without authority under the laws of Florida to practice medicine and dispense controlled substances.

The Government also submitted various Incident Reports it obtained from the Longboat Key, Florida Police Department. According to these reports, on July 6, 2011, a police officer was summoned to a home located at 1590 Harbor Cay Lane based on ''a complaint of some type of hazardous materials located in a repossessed home.'' GX 6, at 1. According to the report, the responding officer spoke with one Ms. O. of Field Asset Services, an Austin, Texas based firm, who stated that the home had been recently repossessed from a former physician and that she was hired to clean up the property. *Id.* at 3. Ms. O. showed the officer items that she believed to be narcotics, a large amount of needles, and a lab specimen medium. *Id.* The officer took possession of the items suspected of being

[1] Registrant also held a third registration, which expired on December 31, 2011. However, the Government states that Registrant did not file a renewal application for this registration. Request for Final Agency Action at 7.

controlled substances and advised Ms. O. that the needles and other medical supplies should be declared bio-hazards and removed by a professional disposal firm. *Id.* Another portion of the report lists the confiscated items and includes five vials of injectable Diazepam 5mg/ml (a schedule IV controlled substance), 11 vials of injectable midazolam 50mg/10ml (also a schedule IV controlled substance), 1 vial of ketamine 500gm/10ml (a schedule III controlled substance), as well as one partially used vial of each of these drugs, and one vial of brevital sodium (a schedule IV controlled substance). *Id.* at 2. The police report, however, contains no further information explaining how the determination was made that the vials contained the above listed drugs. *See generally id.* Nor does any other evidence in the record establish how this determination was made.

In addition, the record includes a document which provides Master Information for Registrant's expired registration and lists the same 1590 Harbor Cay Lane address as his mailing address. GX 3. While this document creates a reasonable suspicion that Registrant brought the above items to this address, the record contains no further evidence sufficient to move beyond suspicion and into the realm of substantial evidence necessary to establish this as a fact. *See NLRB* v. *Columbian E. & S. Co.,* 306 U.S. 292, 300 (1939) (''Substantial evidence is more than a scintilla, and must do more than create a suspicion of the existence of the fact to be established.''). More specifically, while the police report notes that the home had ''recently been repossessed from'' Registrant, no other evidence establishes the declarant's basis of knowledge, let alone such facts as the respective dates on which Registrant vacated the premises and the home was repossessed, whether the home was secured after Registrant vacated the premises and was in that state when Ms. O. entered it and found the items, and whether Registrant was the only person who stayed in the home and who had access to controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 ''upon a finding that the registrant * * * has had his State license * * * suspended [or] revoked * * * by competent State authority and is no longer authorized by State law to engage in the * * * dispensing of controlled substances.'' Moreover, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration.

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[] a * * * physician * * * or other person licensed, registered or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).

As found above, on April 16, 2010, the Florida Board of Medicine revoked Registrant's medical license and accordingly, he is no longer authorized under Florida law to dispense controlled substances. Because Registrant no longer satisfies the CSA's requirement for maintaining his registrations, I will order that his registrations be revoked and that any pending applications be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3), as well as 28 CFR 0.100(b), I order that DEA Certificates of Registration FK1795624 and FK1794305, issued to Matthew J. Kachinas, M.D., be, and they hereby are, revoked. I further order that any pending application of Matthew J. Kachinas, M.D., to renew or modify either registration, be, and it hereby is, denied. This Order is effective June 18, 2012.

Dated: May 4, 2012.

Michele M. Leonhart,

Administrator.

[FR Doc. 2012–12096 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–28]

Segun M. Rasaki, M.D.; Decision and Order

On January 27, 2012, Administrative Law Judge (ALJ) Timothy D. Wing issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended Order.

To make clear, DEA's longstanding rule that a practitioner may not hold a registration if he lacks authority under state law to dispense controlled substances and that the loss of such authority subjects a practitioner's registration to revocation is not based solely on 21 U.S.C. 824(a)(3), which is a grant of authority to either suspend or revoke a registration ''upon a finding'' that a registrant ''has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the * * * dispensing of controlled substances.'' As explained in numerous cases, DEA's rule derives primarily from two other provisions of the CSA, 21 U.S.C. 802(21), which defines the term ''practitioner,'' and 21 U.S.C. 823(f), which sets forth the requirements for obtaining a registration as a practitioner.

More specifically, the CSA defines ''the term 'practitioner' [to] mean[ ] a * * * physician * * * or other person licensed, registered or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Consistent with this definition, Congress, in setting the requirements for obtaining a practitioner's registration, provided that ''[t]he Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Accordingly, because one cannot obtain a practitioner's registration unless one holds authority under state law to dispense controlled substances, and because where a registered practitioner's state authority has been revoked or suspended, the practitioner no longer meets the statutory definition of a practitioner, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of

the State in which a practitioner engages in professional practice is a fundamental condition for both obtaining and maintaining a practitioner's registration. *See* ALJ at 4 (citing cases).[1] So too, ''revocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action at which he may ultimately prevail.'' *Kamal Tiwari, M.D.,* 76 FR 71604, 71606 (2011); *see also Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007); *Anne Lazar Thorn,* 62 FR 12847 (1997). Accordingly, I adopt the ALJ's recommended order.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration BR9738595, issued to Segun M. Rasaki, M.D., be, and it hereby is, revoked. I further order that any pending application of Segun M. Rasaki, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[2]

Dated: May 4, 2012.

Michele M. Leonhart,

Administrator.

Paul E. Soeffing, Esq., for the Government

Brian J. Lutz, Esq., for Respondent

Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge

Timothy D. Wing, Administrative Law Judge. This proceeding is an adjudication governed by the Administrative Procedure Act, 5 U.S.C. § 551 et seq., to determine whether a practitioner's Certificate of Registration (COR) with the Drug Enforcement Administration (DEA, Government or Agency) should be revoked. Without this registration, Segun M. Rasaki, M.D. (Respondent) would be unable to lawfully possess, prescribe, dispense or otherwise handle controlled substances.

I. Procedural Posture

The Administrator, DEA, issued an Order to Show Cause and Immediate Suspension of Registration (OSC/IS) relating to Certificate of Registration (COR) BR9738595, served on Respondent on December 21, 2011. On January 19, 2012, Respondent, through counsel, filed a request for hearing with the DEA Office of Administrative Law Judges (OALJ) in the above-captioned matter.

On January 20, 2012, I issued an Order for Prehearing Statements, ordering that the parties file their respective prehearing statements no later than January 27, 2012.

On January 24, 2012, the Government filed a Motion for Summary Disposition on the grounds that Respondent is not duly authorized to handle controlled substances in the State of Indiana, the jurisdiction in which he is registered with the Drug Enforcement Administration. (Mot. Summ. Disp. at 1.) The Government attached a letter issued by the Director of the Medical Licensing Board of Indiana stating that Respondent's state controlled substance registration has been placed on suspended status pursuant to Ind. Code § 35–48–3–5(e). That section provides as follows:

(e) If the Drug Enforcement Administration terminates, denies, suspends or revokes a federal registration for the manufacture, distribution, or dispensing of controlled substances, a registration issued by the board under this chapter is automatically suspended.

Because the State of Indiana automatically suspended Respondent's state controlled substance registration based solely on the OSC/IS issued by DEA, I ordered that ''counsel for each party shall file a written statement addressing the due process implications of granting summary disposition in this matter, specifically indicating whether the Medical Licensing Board of Indiana has provided or will provide Respondent with a hearing.'' (Memo & Order at 2 (citing *Barry M. Schultz, M.D.,* 76 Fed. Reg. 78,695, 78,696–97 (DEA 2011) (discussing a respondent's right to hearing and due process))).

On January 26, 2012, the Government filed a written statement addressing Respondent's right to due process before the Board. On January 27, 2012, Respondent filed a response to the Government's motion for summary disposition, in which he also addressed his due process rights.

II. The Parties' Contentions

A. The Government

In support of its Motion for Summary Disposition, the Government asserts that on January 3, 2012, the Medical Licensing Board of Indiana (the Board) issued a letter to Respondent notifying him that his state controlled substance registration was suspended as of December 22, 2011. (Gov't Mot. Summ. Disp. at 1.) The Government contends that such state authority is a necessary condition for maintaining a DEA COR and, therefore, asks that I grant its motion and forward the matter to the Administrator. (*Id.* at 2–3.) In support of its motion, the Government cites Agency precedent and attaches the January 3, 2012 letter issued by the Board.

The Government asserts that Respondent's due process rights are not violated, noting that Respondent ''can avail himself of a hearing at the state level . . . pursuant to Ind. Code § 35–48–3–5(f).'' (Gov't Written Stmt. Ordered by ALJ at 2.) In support of this assertion, the Government cites Agency precedent and state law, and attaches Respondent's request for hearing before the Board.

B. Respondent

Respondent does not dispute that his state controlled substance registration is currently suspended, but rather concedes that it was suspended ''as a result of the DEA's immediate suspension'' of his DEA registration. (Resp't Resp. to Gov't Mot. Summ. Disp. at 1.) Respondent concedes that ''[a]fter speaking with the Indiana Professional Licensing Agency and the Indiana Board of Pharmacy[, Respondent] will be afforded a hearing on the reinstatement of his state Controlled Substances Registration.'' (*Id.*) Nonetheless, Respondent contends that if the Government's motion for summary disposition is granted, he will not be afforded any due process in the present case. Thus, Respondent requests that his DEA hearing be postponed ''to allow for the state administrative process to be completed as this is the only way that the respondent will be afforded due process to address the merits of his suspension.'' (*Id.*)

III. Discussion

At issue is whether Respondent may maintain his DEA COR given that Indiana, the State in which Respondent maintains his DEA COR, has suspended Respondent's state controlled substance registration, and whether Respondent has been or will be afforded adequate due process.

A. Respondent's State Authority

Under 21 U.S.C. § 824(a)(3), a practitioner's loss of state authority to engage in the practice of medicine and to handle controlled substances is grounds to revoke a practitioner's registration. Accordingly, this Agency has consistently held that a person may not hold a DEA registration if he is without appropriate authority under the

[1] This citation is to the slip opinion as issued by the ALJ.

[2] For the same reasons which led me to order the Immediate Suspension of Respondent's registration, I conclude that the public interest necessitates that this Order be effective immediately. *See* 21 CFR 1316.67.

laws of the state in which he does business. *See Scott Sandarg, D.M.D.,* 74 Fed. Reg. 17,528 (DEA 2009); *David W. Wang, M.D.,* 72 Fed. Reg. 54,297 (DEA 2007); *Sheran Arden Yeates, M.D.,* 71 Fed. Reg. 39,130 (DEA 2006); *Dominick A. Ricci, M.D.,* 58 Fed. Reg. 51,104 (DEA 1993); *Bobby Watts M.D.,* 53 Fed. Reg. 11,919 (DEA 1988).

Summary disposition in a DEA revocation case is warranted even if the period of suspension of a respondent's state medical license is temporary, or even if there is the potential for reinstatement of state authority because ''revocation is also appropriate when a state license had been suspended, but with the possibility of future reinstatement.'' *Stuart A. Bergman, M.D.,* 70 Fed. Reg. 33,193 (DEA 2005); *Roger A. Rodriguez, M.D.,* 70 Fed. Reg. 33,206 (DEA 2005).

It is well-settled that when no question of fact is involved, or when the material facts are agreed upon, a plenary, adversarial administrative proceeding is not required, under the rationale that Congress does not intend administrative agencies to perform meaningless tasks. *See Layfe Robert Anthony, M.D.,* 67 FR 35,582 (DEA 2002); *Michael G. Dolin, M.D.,* 65 Fed. Reg. 5661 (DEA 2000); *see also Philip E. Kirk, M.D.,* 48 Fed. Reg. 32,887 (DEA 1983), *aff'd sub nom. Kirk v. Mullen,* 749 F.2d 297 (6th Cir. 1984). *Accord Puerto Rico Aqueduct & Sewer Auth. v. EPA,* 35 F.3d 600, 605 (1st Cir. 1994).

In the instant case, the Government asserts, and Respondent concedes, that Respondent's Indiana controlled substance registration is suspended. This allegation is confirmed by the January 3, 2012 letter from the Board to Respondent. I therefore find there is no genuine dispute as to any material fact, and that substantial evidence shows that Respondent is presently without state authority to handle controlled substances in Illinois.

B. Respondent's Right to Due Process

''[W]here the state has revoked a registrant's license to handle controlled substances, summary revocation of the registrant's DEA registration is only appropriate if the registrant will be afforded a state hearing on the merits of the state revocation or suspension.'' *Schultz,* 76 Fed. Reg. at 78,697; *cf. Odette Louise Campbell, M.D.,* No. 09–62 (DEA May 11, 2010) (order remanding for further proceedings where it did not appear that state law provided registrant with opportunity to challenge merits of state suspension based solely upon DEA immediate suspension).

In the present case, the Board suspended Respondent's state controlled substance registration based upon Ind. Code § 35–48–3–5(e), which states:

(e) If the Drug Enforcement Administration terminates, denies, suspends or revokes a federal registration for the manufacture, distribution, or dispensing of controlled substances, a registration issued by the board under this chapter is automatically suspended.

Section 35–48–3–5(f) further provides, however, that ''[t]he board may reinstate a registration that has been suspended under subsection (e), after a hearing, if the board is satisfied that the applicant is able to manufacture, distribute, or dispense controlled substances with reasonable skill and safety to the public * * *.'' Thus, Respondent is entitled to a hearing to challenge the Board's automatic suspension of his state controlled substance registration. Furthermore, not only has Respondent requested such a hearing, but he concedes that the Board has confirmed that he will be afforded such a hearing.

Because Respondent is afforded adequate due process under state law, and because ''DEA does not have statutory authority under the Controlled Substances Act to maintain a registration if the registrant is without state authority to handle controlled substances in the state in which he practices,'' *Sheran Arden Yeates, M.D.,* 71 Fed. Reg. 39,130, 39,131 (DEA 2006), I conclude that summary disposition is appropriate. *See Kamal Tiwari, M.D.,* 76 Fed. Reg. 71,604 (DEA 2011) (summarily revoking the respondents' DEA registrations for lack of state authority where the state summarily suspended the registrants' state controlled substance registrations based upon DEA's immediate suspension, noting that the registrants ''are entitled to a hearing to challenge the underlying allegations before the State board''). It is therefore

ORDERED that the hearing in this case, scheduled to commence on February 21, 2012, is hereby **CANCELLED;** and it is further

ORDERED that all proceedings before the undersigned are **STAYED** pending the Agency's issuance of a final order.

Recommended Decision

I grant the Government's Motion for Summary Disposition and recommend that Respondent's DEA COR BR9738595 be revoked and any pending applications for renewal or modification be denied.

Dated: January 27, 2012

Timothy D. Wing,

Administrative Law Judge.

[FR Doc. 2012–12119 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–19]

Richard H. NG, D.O.; Decision and Order

On December 23, 2011, Administrative Law Judge (ALJ) Timothy D. Wing issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended Order.

To make clear, DEA's longstanding rule that a practitioner may not hold a registration if he lacks authority under state law to dispense controlled substances and that the loss of such authority subjects a practitioner's registration to revocation is not based solely on 21 U.S.C. 824(a)(3), which is a grant of authority to either suspend or revoke a registration ''upon a finding'' that a registrant ''has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the * * * dispensing of controlled substances.'' As explained in numerous cases, DEA's rule derives primarily from two other provisions of the CSA, 21 U.S.C. 802(21), which defines the term ''practitioner,'' and 21 U.S.C. 823(f), which sets forth the requirements for obtaining a registration as a practitioner.

More specifically, the CSA defines ''the term 'practitioner' [to] mean [] a * * * physician * * * or other person licensed, registered or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Consistent with this definition, Congress, in setting the requirements for obtaining a practitioner's registration, provided that ''[t]he Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Accordingly, because one cannot obtain a practitioner's registration unless one holds authority under state law to dispense controlled substances, and because where a

registered practitioner's state authority has been revoked or suspended, the practitioner no longer meets the statutory definition of a practitioner, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for both obtaining and maintaining a practitioner's registration. *See* ALJ at 4 (citing cases).[1] So too, ''revocation is warranted even where a practitioner's state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State's action at which he may ultimately prevail.'' *Kamal Tiwari, M.D.,* 76 FR 71604, 71606 (2011); *see also Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007); *Anne Lazar Thorn,* 62 FR 12847 (1997). Accordingly, I adopt the ALJ's recommended order.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AN1255733, issued to Richard H. Ng, D.O., be, and it hereby is, revoked. I further order that any pending application of Richard H. Ng, D.O., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[2]

Dated: May 4, 2012.

Michele M. Leonhart,

Administrator.

Jonathan P. Novak, Esq., for the Government

Glen D. Crick, Esq., Lillian Walanka, Esq.,

Michael D. Monico, Esq., Jacqueline Jacobson, Esq., for the Respondent

Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge

Timothy D. Wing, Administrative Law Judge. This proceeding is an adjudication governed by the Administrative Procedure Act, 5 U.S.C. 551 et seq., to determine whether a practitioner's Certificate of Registration (COR) with the Drug Enforcement Administration (DEA, Government or Agency) should be revoked. Without this registration, Richard H. Ng, D.O. (Respondent) would be unable to lawfully possess, prescribe, dispense or otherwise handle controlled substances.

I. Procedural Posture

On November 18, 2011, the Deputy Assistant Administrator, DEA, issued an Order to Show Cause (OSC) to Respondent. The OCS provided notice to Respondent of an opportunity to show cause as to why the DEA should not revoke Respondent's DEA COR AN1255733, pursuant to 21 U.S.C. 824(a)(3)-(4) and 823(f), alleging that Respondent's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f), and that Respondent's medical license in the State of Illinois has been suspended.

On December 20, 2011, I issued an Order for Statements Addressing Respondent's State Authority and Order for Prehearing Statements (Order).

On December 20, 2011, the Government filed a Motion for Summary Disposition. On December 21, 2011, I stayed the proceedings pending resolution of the Government's motion. On December 22, 2011, Respondent filed a Motion in Opposition to DEA's Motion for Summary Disposition.

II. The Parties' Contentions

A. The Government

In support of its Motion for Summary Disposition, the Government asserts that on October 25, 2011, the Illinois Department of Financial and Professional Regulation (IDFPR) executed an order summarily suspending Respondent's medical license, effective immediately. (Gov't Mot. Summ. Disp. at 1.) The Government contends that such state authority is a necessary condition for maintaining a DEA COR and, therefore, asks that I grant its motion and forward the matter to the Administrator.[1] (*Id.* at 1–2.) In support of its motion, the Government cites Agency precedent and attaches the Notice of Temporary Suspension and Order entered by the IDFPR as Exhibit A.

B. Respondent

Although Respondent concedes that his ''Illinois Controlled Substances Registration is presently in suspended status,'' he argues that the suspension is temporary in nature pending an evidentiary hearing before the IDFPR. (Resp't Mot. in Opp'n at 1.) Respondent notes that an evidentiary hearing will be scheduled ''in the very near future,'' and he believes that his license will be restored to active status. (*Id.* at 1–2.) In support of his motion, Respondent cites *Stuart A. Bergman, M.D.,* 70 Fed. Reg. 33,193 (DEA 2005), and argues that the facts of this case similarly warrant a delay in ruling on the Government's motion until after the conclusion of the evidentiary hearing before the IDFPR. (*Id.* at 2.)

III. Discussion

At issue is whether Respondent may maintain his DEA COR given that Illinois, the State in which Respondent maintains his DEA COR, has suspended Respondent's Physician and Surgeon License and Controlled Substance License.

Under 21 U.S.C. 824(a)(3), a practitioner's loss of state authority to engage in the practice of medicine and to handle controlled substances is grounds to revoke a practitioner's registration. Accordingly, this Agency has consistently held that a person may not hold a DEA registration if he is without appropriate authority under the laws of the state in which he does business. *See Scott Sandarg, D.M.D.,* 74 FR 17,528 (DEA 2009); *David W. Wang, M.D.,* 72 FR 54,297 (DEA 2007); *Sheran Arden Yeates, M.D.,* 71 FR 39,130 (DEA 2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104 (DEA 1993); *Bobby Watts M.D.,* 53 FR 11,919 (DEA 1988).

Summary disposition in a DEA revocation case is warranted even if the period of suspension of a respondent's state medical license is temporary, or even if there is the potential for reinstatement of state authority because ''revocation is also appropriate when a state license had been suspended, but with the possibility of future reinstatement.'' *Bergman,* 70 FR at 33,193; *Roger A. Rodriguez, M.D.,* 70 FR 33,206 (DEA 2005).

It is well-settled that when no question of fact is involved, or when the material facts are agreed upon, a plenary, adversarial administrative proceeding is not required, under the rationale that Congress does not intend administrative agencies to perform meaningless tasks. *See Layfe Robert*

[1] This citation is to the slip opinion as issued by the ALJ.

[2] The suspension order of the Illinois Department of Financial and Professional Regulation found that ''the public interest, safety and welfare imperatively require emergency action'' and that ''Respondent's actions constitute an imminent danger to the public.'' *Department of Fin. & Prof. Reg. v. Richard H. Ng, D.O.,* No. 2011–08881 (Ill. Dep't of Fin. & Prof. Reg. Oct. 25, 2011) (order imposing temporary suspension). Accordingly, I likewise conclude that the public interest necessitates that this order be effective immediately. *See* 21 CFR 1316.67.

[1] The OSC provides Respondent with an opportunity to show cause ''as to why DEA should not revoke'' Respondent's DEA COR. (OSC at 1.) The OSC then factually alleges that Respondent's DEA COR ''expired by its terms on October 31, 2011,'' and that Respondent filed a timely request to renew his registration. (*Id.*) The Government requests that I ''forward the matter to the Administrator for a Final Order with a recommendation that Respondent's DEA application for registration be denied.'' (Gov't Mot. Summ. Disp. at 2.) For purposes of this Recommended Decision, I will treat the Government's request as one to revoke Respondent's DEA COR and deny any pending applications for renewal or modification.

Anthony, M.D., 67 FR 35,582 (DEA 2002); *Michael G. Dolin, M.D.,* 65 FR 5661 (DEA 2000); *see also Philip E. Kirk, M.D.,* 48 FR 32,887 (DEA 1983), *aff'd sub nom. Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984). *Accord Puerto Rico Aqueduct & Sewer Auth.* v. *EPA,* 35 F.3d 600, 605 (1st Cir. 1994).

In the instant case, the Government asserts, and Respondent concedes, that Respondent's Illinois license to practice medicine and handle controlled substances is suspended. This allegation is confirmed by Government Exhibit A. I therefore find there is no genuine dispute as to any material fact, and that substantial evidence shows that Respondent is presently without state authority to handle controlled substances in Illinois. I decline to delay ruling on the Government's motion, particularly in light of the fact that Respondent does not appear to have a scheduled hearing date before the IDFPR. *Compare Bergman,* 70 FR at 33,193 (noting that the ALJ delayed ruling on the Government's motion where the respondent had an evidentiary hearing scheduled before the state board). Because ''DEA does not have statutory authority under the Controlled Substances Act to maintain a registration if the registrant is without state authority to handle controlled substances in the state in which he practices,'' *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (DEA 2006), I conclude that summary disposition is appropriate. It is therefore

Ordered that the hearing in this case, scheduled to commence on March 6, 2012, is hereby *cancelled;* and it is further

Ordered that all proceedings before the undersigned are *stayed* pending the Agency's issuance of a final order.

Recommended Decision

I grant the Government's Motion for Summary Disposition and recommend that Respondent's DEA COR AN1255733 be revoked and any pending applications for renewal or modification be denied.[2]

Dated: December 23, 2011.

Timothy D. Wing,

Administrative Law Judge.

[FR Doc. 2012–12121 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–09–P

[2] Notably, Respondent requests that I recommend the immediate suspension of his registration, rather than revocation, citing 21 U.S.C. 824(a)(4). (Resp't Mot. in Opp'n at 3.)

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–30]

James Edgar Lundeen, Sr., M.D.; Dismissal of Proceeding

On December 19, 2011, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to James Edgar Lundeen, Sr., M.D. (Respondent), of Uniontown, Ohio. The Order proposed the revocation of Respondent's DEA Certificate of Registration as a practitioner, and the denial of any pending application to renew or modify the registration, on the ground that Respondent does not have authority under Ohio law to practice medicine or dispense controlled substances. Show Cause Order at 1.

Following service of the Show Cause Order, Respondent requested a hearing. Thereafter, the Government moved for summary disposition; Respondent opposed the motion. On February 22, 2012, the ALJ granted the Government's motion, finding that there was no dispute as to the material fact that Respondent does not possess authority under Ohio law to dispense controlled substances and that he was therefore not entitled to hold his DEA registration. ALJ Dec. at 4–7. The ALJ thus recommended that Respondent's registration be revoked and that any pending application to renew or modify his registration be denied. *Id.* at 8. Neither party filed exceptions to the ALJ's decision and on March 20, 2012, the ALJ forwarded the record to me for Final Agency Action.

Upon review of the record, it was noted that the Government had alleged in the Show Cause Order that Respondent's registration was due to expire on March 31, 2012. Show Cause Order at 1. The record, however, contained no evidence as to whether Respondent had filed a renewal application.[1] Because in the absence of a timely renewal application, Respondent's registration would expire, *see* 5 U.S.C. 558(c), pursuant to 5 U.S.C. 556(e) and 21 CFR 1316.59, I have taken official notice of Respondent's registration record with the Agency.[2] According to this record, Respondent has not filed a renewal application. Accordingly, I find that Respondent's registration has expired.

Under DEA precedent, ''if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.'' *Ronald J. Riegel,* 63 FR 67132, 67133 (1998); *see also Thomas E. Mitchell,* 76 FR 20032, 20033 (2011). Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon. Accordingly, because Respondent has allowed his registration to expire and has not filed any application, this case is now moot and will be dismissed.[3]

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I hereby order that the Order to Show Cause issued to James Edgar Lundeen, Sr., M.D., be, and it hereby is, dismissed. This order is effective immediately.

Dated: May 4, 2012.

Michele M. Leonhart,

Administrator.

[FR Doc. 2012–12118 Filed 5–17–12; 8:45 am]

BILLING CODE 4410–09–P

[1] Nor does the record contain a copy of Respondent's Registration or any other evidence establishing the Agency's jurisdiction. Henceforth, the ALJs should ensure that such evidence is submitted for the record prior to acting upon any dispositive motion.

[2] In accordance with the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding-even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Respondent is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Respondent the opportunity to refute the facts of which I take official notice, Respondent may file a motion for reconsideration within fifteen calendar days of service of this order which shall commence on the date this order is mailed.

[3] While the Show Cause Order will be dismissed, under 21 U.S.C. 823(f), Respondent is not entitled to be registered until he is again ''authorized to dispense * * * controlled substances under the laws of the State in which he practices.''

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Materials Research Science and Engineering Center (MRSEC) at the University of Chicago by the Division of Materials Research (DMR) #1203.

Dates & Times: June 6, 2012; 6:00 p.m.–8:30 p.m.

June 7, 2012; 7:15 a.m.–8:30 p.m.

June 8, 2012; 7:15 a.m.–3:00 p.m.

Place: University of Chicago, Chicago, IL.

Type of Meeting: Part open.

Contact Person: Dr. Mary E. Galvin, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–8562.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at the University of Chicago.

Agenda

Wednesday, June 6, 2012

6:00 p.m.–7:00 p.m. Closed—Briefing of panel
7:00 p.m.–8:30 p.m. Open—Poster Session

Thursday, June 7, 2012

7:15 a.m.–4:30 p.m. Open—Review of the MRSEC
5:00 p.m.–6:45 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

Friday, June 8, 2012

7:15 a.m.–9:50 a.m. Closed—Executive Session
9:50 a.m.–3:00 p.m. Closed—Executive Session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the MRSEC. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–12115 Filed 5–17–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0066]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending U.S. Nuclear Regulatory Commission action to submit an information collection request to the Office of Management and Budget and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the Office of Management and Budget's (OMB's) approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Title 10 of the Code of Federal Regulations (10 CFR) Part 51—Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.

2. *Current OMB approval number:* 3150–0021.

3. *How often the collection is required:* Upon submittal of an application for a construction permit, operating license, operating license renewal, early site review, design certification review, decommissioning or termination review, or manufacturing license, or upon submittal of a petition for rulemaking.

4. *Who is required or asked to report:* Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR Parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70, and 72.

5. *The number of annual respondents:* 97.31.

6. *The number of hours needed annually to complete the requirement or request:* 178,140.

7. *Abstract:* The NRC's regulations at 10 CFR Part 51 specifies information to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are to be interpreted and administered in accordance with the policies set forth in the National Environmental Policy Act of 1969, as amended.

Submit, by (insert date 60 days after publication in the **Federal Register**), comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied, for a fee, publicly available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The OMB clearance requests are available at the NRC's public Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC's public Web site for 60 days after the signature date of this document. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2012–0066. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2012–0066. Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 11th day of May 2012.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2012–12042 Filed 5–17–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–3392; NRC–2012–0111]

Honeywell Metropolis Works; Grant of Exemption for Honeywell Metropolis Works License

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mary T. Adams, Senior Environmental Engineer, Conversion, Deconversion and Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–3113; email: *Mary.Adams@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission's (NRC's) staff received a

request from Honeywell Metropolis Works (Honeywell) dated October 5, 2011 (Ref. 1); revised March 6, 2012 (Ref. 2), and April 12, 2012 (Ref. 10), for an amendment to its license, Materials License SUB–526, to exempt Honeywell from the values of the Inhalation Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) that appear in Title 10 of the Code of Federal Regulations (10 CFR) Part 20, Appendix B, Table 1. Implementation of the adjusted DAC and ALI values would exempt Honeywell from sections of 10 CFR Parts 20 and 40 that refer to DAC and ALI quantities in Appendix B to Part 20, including values used in considering notifications of incidents made according to 10 CFR 20.2202(a)(2), and 10 CFR 20.2202(b)(2) and reporting requirements in 10 CFR 40.60(b)(1)(ii)—as well as other affected actions. Honeywell also requests exemption to the Organ Dose Weighting Factors listed in 10 CFR 20.1003. The exemptions would authorize Honeywell to use the International Commission on Radiation Protection (ICRP) Publication 68, ''Dose Coefficients for Intakes of Radionuclides by Workers,'' (ICRP 68) for DAC and ALI determinations (Ref. 4). Consistent with the ICRP 68 methodology, Honeywell also requested authorization to utilize the tissue weighting factors in ICRP Publication 60, ''Recommendations of the International Commission on Radiation Protection, Publication 60'' (Ref. 5). As documented in a letter dated March 6, 2012 (Ref. 2), the October 5, 2011, exemption request replaced and withdrew an earlier request dated July 26, 2011. As documented in an email dated April 12, 2012 (Ref. 3), Honeywell changed the exemption request to delete the phrase ''as well as other affected actions.'' An Environmental Assessment (EA) was performed by the NRC staff as part of its review of Honeywell's exemption request, in accordance with the requirements of 10 CFR Part 51, Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

II. Environmental Assessment

Background

Honeywell Metropolis Works is authorized under Materials License SUB–526 (Ref. 6), issued pursuant to 10 CFR part 40, Domestic Licensing of Source Material, to possess natural uranium materials for the conversion of refined uranium ore into uranium hexafluoride suitable for enrichment. No uranium enrichment is performed at the Honeywell plant.

Principal activities include receipt and storage of uranium oxide (U_3O_8) and chemical conversion of the U_3O_8 into uranium hexafluoride.

Inhalation of dust in radiologically controlled areas at the Honeywell plant poses an internal radiation hazard, and the NRC regulations in Part 20, Subpart C, and Honeywell's current license requires Honeywell to implement certain protective measures to minimize that hazard. These measures include taking a variety of air samples, using respirators in certain work areas, posting airborne radioactivity warning signs outside the work areas, and putting the potentially exposed workers on a routine bioassay program to assess their intakes and verify the effectiveness of the protection program. Many of these protective measures are triggered when the air concentrations in the workplace reach specified levels of the air concentrations identified in 10 CFR part 20, Appendix B.

Honeywell seeks to amend SUB–526 to reflect exemptions to permit Honeywell to use values other than those tabulated in 10 CFR part 20, as the basis for triggering Honeywell's exemption request is the recommendations in ICRP 68. In the supplemental license amendment application (Ref. 1), Honeywell stated that the assessment of the radiological hazard based on 10 CFR part 20, Appendix B, requires it to implement monitoring and protection programs at levels that are out of proportion with the true level of hazard, and that do not significantly add to worker protection. Honeywell stated that granting the exemption would enable it to reduce the size of its internal exposure program while, at the same time, provide a level of protection proportional to the actual hazard. Honeywell referenced the NRC's Staff Requirements Memoranda (SRM–SECY–99–077 and SRM–SECY–01–0148, Refs. 7 and 8), which directs the NRC staff to grant exemptions to Part 20 on this modeling issue on a case-by-case basis.

Review Scope

In accordance with 10 CFR part 51, this EA serves to: (1) Present information and analysis of the license amendment request, (2) explain the basis for issuing a FONSI and the decision not to prepare an Environmental Impact Statement (EIS), and (3) fulfill the NRC's compliance with the National Environmental Policy Act when no EIS is necessary.

This document is limited to evaluating and documenting the impacts of the proposed exemption from specified sections of Parts 20 and 40 and the license amendment. Other activities on the site have previously been evaluated and documented in the June 30, 2006, EA for the Renewal of the NRC license for Honeywell (2006 EA) (Ref. 9). The 2006 EA is referenced when it has been determined that no significant changes have occurred. Except as otherwise provided herein in response to the exemption request, approved operations will continue to remain limited to those authorized by Honeywell's Source Material License SUB–526.

Proposed Action

The proposed action would grant Honeywell an exemption from a portion of the requirements in 10 CFR part 20, Appendix B; and 10 CFR 20.1003, which requires that Honeywell use specific DAC and ALI values as tabulated in Appendix B—and the Organ Dose Weighting Factors listed in 10 CFR 20.1003 for dose assessments—and the reporting requirements in 10 CFR 40.60(b)(1)(ii). The amendment for exemption would allow Honeywell to use the DAC and ALI values listed in the ICRP, ''Dose Coefficients for Intakes of Radionuclides by Workers,'' Publication 68, Annals of the ICRP, Volume 24, No. 4, 1994 (ICRP 68, Ref. 4) and the Tissue Weighting Factors listed in ICRP Publication 60, ''1990 Recommendations of the International Commission on Radiation Protection, Publication 60'' (Ref. 5).

The proposed exemptions change the methodology by which the licensee assesses the internal dose received by its workers and staff in order to use an improved method that is recommended by the international scientific community (Refs. 4 and 5). These exemptions do not change the NRC dose limits to which the licensee must maintain and report for its workers and/or members of the public.

Need for the Proposed Action

The use of ICRP Publication 68-based methodologies will facilitate Honeywell's as low as is reasonably achievable (ALARA) practices and Bioassay Program's progress. The Commission has determined that using newer models to calculate internal doses for those individuals occupationally monitored by the licensee will provide a more accurate and precise assessment of the dose of the internal organs of the workers. Since protective measures are based on hazard, which is proportional to dose, the NRC staff has determined that Honeywell would be able to refocus

ALARA practices, particularly internal exposure control and protection, to concentrate on protection based on the actual hazard.

The proposed action does not exempt Honeywell from the requirement to control occupational doses to the limits specified in 10 CFR part 20, Subpart C and public doses to the limits specified in 10 CFR Part 20, Subpart D. It only changes the methods by which the occupational and public doses are calculated.

Affected Environment

The affected environment for the proposed activity is the Honeywell Metropolis Works site. A full description of the site and its characteristics is given in the 2006 EA. There have been no significant changes to the environment since the 2006 EA.

Effluent Releases and Monitoring

A full description of the effluent monitoring program at the site is provided in the application for renewal of SUB–526 and in the 2006 EA. Monitoring programs at the Honeywell facility comprise effluent monitoring of air and water and environmental monitoring of various media (air, soil, vegetation, and groundwater). This program provides a basis for evaluation of public health and safety impacts, for establishing compliance with environmental regulations, and for development of mitigation measures if necessary. Based on its review of the 2006 application for renewal, the NRC staff concluded that the environmental monitoring program was acceptable. The basis for concluding that the environmental monitoring program was acceptable is documented in the 2006 EA. There have been no changes to the environmental monitoring program since the license renewal, and the proposed action will not change the monitoring program.

Environmental Impacts of Proposed Action

Radiological Impacts

The basic limits on radiation exposures, as well as the minimum radiation protection practices required of any NRC licensee, are specified in 10 CFR Part 20. Part 20 underwent a major revision in the 1980s, and the final rule was published in the **Federal Register** on May 21, 1991, (56 FR 23391) and became mandatory for all licensees in January 1994.

One of the major changes incorporated in the revised Part 20 was the manner in which internal exposure to radioactive materials is regulated. Before the revision, NRC regulated internal exposures by limiting the amounts of radioactive materials that may be taken into the body over specified time periods. The revised Part 20 eliminated regulation based on intakes and, instead, now regulates on the basis of the dose that resulted from those intakes. The internal dose from intake of radioactive material is referred to in Part 20 as the ''committed effective dose equivalent (CEDE).'' The change to regulation of dose instead of intake was prompted, in part, by similar changes in the recommendations provided by national and international bodies, and also by the desire to end the traditional treatment of internal and external doses as two distinct and separate entities. One consequence of the dose-based rule is that compliance would not necessarily be constrained by use of a specific set of parameters to calculate the dose.

Part 20 allows certain adjustments to be made to the model parameters if specific information is available, such as adjustments when the particle size of airborne radioactive material is known, rather than using a default particle size. However, Part 20 also specifies certain protection requirements in terms of the quantities tabulated in Appendix B, the ALI, and the DAC; rather than in terms of dose. Thus, requirements such as posting of airborne radioactivity areas, monitoring for intakes of radioactive materials, establishment of bioassay programs, and use of respirators remain explicitly tied to the measurable quantities rather than to a dose. This approach was taken to assure that these criteria would be easy to implement, and not impose an undue calculation burden on a licensee.

The models used in Part 20 to regulate internal dose are those described in ICRP Publications 26 and 30; adopted by ICRP in 1977 and 1978, respectively (Refs. 10 and 11). Much of the basic structure of these models was developed in 1966, although some of its components and parameters were altered somewhat between 1966 and their formal adoption by ICRP in 1978. In the same year that the Commission approved the final Part 20 rule, ICRP published a major revision of its radiation protection recommendations (ICRP 60, Ref. 5). In the several years following this revision, ICRP published a series of reports in which it described the components of an extensively updated and revised internal dosimetry model.

These reports include ICRP Publications 60 (1990), 66 (1993), 67 (1993), 68 (1994), 71 (1995), 72 (1995), and 78 (1997). The NRC licensees are not permitted to use the revised and updated internal dosimetry models unless an exemption to 10 CFR Part 20 is granted.

Although the dose per unit intake, calculated using the new models, does not differ by more than a factor of about two from the values in Part 20 for most radionuclides, the differences are substantial for some; particularly for the isotopes of thorium, uranium, and some of the transuranic radionuclides. For example, for inhalation of insoluble thorium-232 (^{232}Th), the CEDE per unit intake calculated using the revised ICRP lung model is a factor of about 15 times lower than that in Part 20. Because protective measures are based on hazard, and since hazard is proportional to dose, Part 20 requires significantly more protective measures when using ^{232}Th than would be warranted based on the revised models. Honeywell requested that it be allowed to use DAC and ALI values based on the dose coefficients listed in ICRP 68 and the tissue weighting factors listed in ICRP 60.

The exemption, if approved and documented in a license amendment, will authorize the use of methodologies based on ICRP Publication 68. ICRP Publication 68-based dose coefficients would be used to assign the effective dose to workers. The use of these advanced methodologies requires adoption of adjusted DAC and ALI values in place of those specified in 10 CFR Part 20, Appendix B. Accordingly, implementation of adjusted DAC and ALI values will exempt Honeywell from the requirement to use the organ and tissue weighting factors in the definition of weighting factor in 10 CFR 20.1003, and from the requirements to use ALI and DAC values in Table 1 of Appendix B.

Acceptance of the newer models and methods of the effective dose assessments involves the use of the values of the ICRP 60 Tissue Weighting Factors in place of the 10 CFR 20.1003 Organ Dose Weighting Factors. Therefore, Honeywell also requested an exemption that would authorize it to use the values for the Tissue Weighting Factors stated in Table S–2 of ICRP 60 in place of using the Organ Dose Weighting Factors listed in 10 CFR 20.1003. If the request is approved, the exemptions to 10 CFR Part 20, Appendix B, the Organ Dose Weighting Factors values listed in 10 CFR 20.1003, and the reporting requirements in 10 CFR 40.60(b)(1)(ii) will be documented in SUB–526 as new license conditions.

Honeywell stated that it will further advance its ALARA practices and Bioassay Program by using the newer

models and methods. As the Commission stated in SECY–99–077, ''* * * the newer models provide more accurate dose estimates than the models used in Part 20,'' and ''the differences are substantial for * * * thorium, uranium, and some transuranic radionuclides.'' Honeywell stated that use of ICRP 68-based methodologies would facilitate its ALARA practices and bioassay programs. The NRC staff finds that use of the newer models and methods would enable Honeywell to perform more accurate and realistic internal dose assessments. The NRC staff concludes that because protective measures are based on the hazard which is proportional to dose, Honeywell would be able to refocus ALARA practices—particularly internal exposure control and protection—to concentrate on protection based on the actual hazard.

In the 2006 EA, (Ref. 9) the NRC staff evaluated the environmental impacts of the methods used at the Honeywell plant to control emissions, including liquid effluent treatment and air effluent dust collectors and scrubbers. This report found that these methods resulted in insignificant radiological impacts of normal operations and potential accidents, and were consistent with NRC's regulations. The methods that were evaluated and found to be consistent with NRC's regulations in the 2006 EA are the same methods that are now in use by Honeywell to control emissions.

The NRC staff has determined that granting the exemption will not affect the radiological impacts of plant operation evaluated in the previous EA because changes in the dose calculation methodology will not affect the methods Honeywell uses to control emissions, and which the NRC staff previously determined in the 2006 EA were consistent with NRC's regulations.

In so much as granting the exemptions will not affect the methods Honeywell uses to control emissions, and those methods have been found to be consistent with NRC's regulations, granting the exemption will have no additional impact on the licensee's compliance with NRC's regulations and guidance.

Non-radiological Impacts

The NRC staff has determined that there are no non-radiological impacts associated with the proposed action because there are no changes in facility operations associated with the proposed action that would change the non-radiological impacts evaluated and found acceptable in the 2006 EA.

Cumulative Impacts

The NRC staff has determined that there are no cumulative impacts associated with the proposed action because no changes in facility operations will result from granting the exemption. Therefore, granting the exemption will not increase the cumulative impacts evaluated and found acceptable in the 2006 EA.

Alternatives to the Proposed Action

The NRC considered an alternative to the proposed action, which was to deny the amendment request. The NRC staff rejected this alternative because the health and safety of the workers, the public, and the environment would not be adversely affected by the requested action. In addition, the licensee will be able to save time and resources on implementing protective measures upon approval of the proposed action. The new models will maintain doses within the regulated limits, while allowing the licensee to remove unwarranted protective measures required by the old models.

Agencies and Persons Contacted

The NRC contacted Gary McCandless, Chief, Bureau of Environmental Safety, Division of Nuclear Safety, Illinois Emergency Management Agency (IEMA), concerning this request. IEMA had no comments or objections to the EA/FONSI and proposed license amendment.

Because the proposed action is entirely within existing facilities, and does not involve new or increased effluents or accident scenarios, the NRC has concluded that there is no potential to affect endangered species or historic resources. Therefore, consultation with the State Historic Preservation Society and the U.S. Fish and Wildlife Service was not performed.

III. Finding of No Significant Impact

Based upon the EA, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the staff has determined that preparation of an EIS is not required.

IV. References

The following documents are related to the proposed action:

1. Larry A. Smith, Honeywell Metropolis Works, Letter to the NRC, ''Supplemental Documentation for Request to Use ICRP 68 for DAC, ALI, and Soluble Uranium Limit,'' October 5, 2011 (Agencywide Documents Access and Management System [ADAMS] Accession Number ML11286A228).

2. Larry A. Smith, Honeywell Metropolis Works, Letter to the NRC, ''Withdrawal of Honeywell International, Inc., Request to Use ICRP 68 for DAC, ALI, and Soluble Uranium, dated July 26, 2011,'' March 6, 2012 (ADAMS Accession No. ML12073A180).

3. Email from R. Stokes, Honeywell, to J. Sulima, NRC April 12, 2012, ADAMS Accession No. ML12117A355.

4. ICRP, ''Dose Coefficients for Intakes of Radionuclides by Workers,'' Publication 68, Annals of the ICRP, Volume 24, No. 4, 1994.

5. ICRP, ''1990 Recommendations of the International Commission on Radiation Protection,'' Publication 60, Annals of the ICRP, Volume 21, No. 1–3, 1991.

6. Material License SUB–0526, for Honeywell, International, Inc., February 28, 2011, ADAMS Accession Nos. ML110530154 and ML110530158.

7. SRM–SECY–99–077, Staff Requirements Memoranda, SECY–99–077, to Request Commission Approval to Grant Exemptions from Portions of 10 CFR Part 20, April 1999.

8. SRM–SECY–01–0148, Staff Requirements Memoranda, SECY–01–0148, Processes for Revision of 10 CFR Part 20 Regarding Adoption of ICRP Recommendations on Occupational Dose Limits and Dosimetric Models and Parameters, April 2002.

9. Environmental Assessment for Renewal of NRC License SUB–526 for the Honeywell Specialty Materials Metropolis Work Facility, June 30, 2006, ADAMS Accession Number ML061780260. **Federal Register** Notice of Availability of EA and FONSI—71 FR 45862, August 10, 2006.

10. ICRP, ''Recommendations of the International Commission on Radiological Protection,'' Publication 26, 1977.

11. ICRP, ''Limits for the Intake of Radionuclides by Workers,'' Publication 30, 1978.

These references may be examined and/or copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The references with ADAMS accession numbers may also be viewed in the NRC's Library at *http://www.nrc.gov/reading-rm/adams.html.*

Questions with respect to this action should be referred to Ms. Mary Adams, Conversion, Deconversion and Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop E–2–C40M, Washington, DC 20555–0001, Telephone: 301–492–3113.

Dated at Rockville, Maryland, this 10th day of May 2012.

For the U.S. Nuclear Regulatory Commission.

Patricia Silva,

Chief, Conversion, Deconversion and Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2012–12129 Filed 5–17–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0112]

Impact of Construction (Under a Combined License) of New Nuclear Power Plant Units on Operating Units at Multi-Unit Sites

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff is issuing its Final Interim Staff Guidance (ISG) COL–ISG–022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML112630044). The purpose of this ISG is to provide staff guidance for assessing combined license (COL) applicant compliance with the requirements of Title 10 of the *Code of Federal Regulations,* (10 CFR) 52.79(a)(31). This regulation requires applicants for a COL intending to construct and operate new nuclear power plants (NPPs) on multi-unit sites to provide an evaluation of the potential hazards to structures, systems, and components (SSCs) important to safety for the operating units resulting from construction activities.

DATES: The effective date of this COL–ISG is June 18, 2012.

ADDRESSES: Please refer to Docket ID NRC–2012–0112 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0112. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

ADAMS accession number	Document title
ML112630037	Interim Staff Guidance-022 on Impacts of Construction (under a Combined License) of New Nuclear Power Plants on Operating Units at Multi-Unit Sites (Package).
ML112630039	Federal Register Notice; Office of New Reactors: Interim Staff Guidance-022 on Impacts of Construction (under a Combined License) of New Nuclear Power Plants on Operating Units at Multi-Unit Sites.
ML112630044	Interim Staff Guidance-022 on Impacts of Construction (under a Combined License) of New Nuclear Power Plants on Operating Units at Multi-Unit Sites.
ML112630040	Comment Response Document—Interim Staff Guidance-022 on Impacts of Construction (under a Combined License) of New Nuclear Power Plants on Operating Units at Multi-Unit Sites.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ms. Amy E. Cubbage, Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2875 or by email at *amy.cubbage@nrc.gov.*

SUPPLEMENTARY INFORMATION: The staff issues COL–ISGs to facilitate timely implementation of current staff guidance and to facilitate activities associated with review of applications for COL–ISGs by the staff. This ISG supplements the guidance contained in Regulatory Guide (RG) 1.206, Revision 0, ''Combined License Applications for Nuclear Power Plants (LWR Edition).'' In addition, this ISG supplements the guidance provided for staff review of COL applications contained in NUREG–0800, Standard Review Plan (SRP) Chapter 1.0, Revision 2, dated December 2011. The staff intends to incorporate this final COL–ISG–022 into the next revision of RG 1.206 and NUREG–0800, SRP Chapter 1.0. On February 14, 2011, the staff issued the proposed COL–ISG–022 ''Impacts of Construction of New Nuclear Power Plants on Operating Units at Multi-Unit Sites,'' ADAMS Accession No. ML093440252 (76 FR 8383). The staff received questions and editorial comments from four commenters which were considered in the development of the final ISG–022. The questions, comments, and staff resolutions of those comments are contained in ''ISG–022 Comment Resolution'' which can be found in ADAMS as Accession No. ML112630040. The NRC posts its issued staff guidance on the NRC's public Web page: (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

Backfitting

This ISG does not constitute backfitting as defined in 10 CFR 50.109, nor is it inconsistent with any of the issue finality provisions in 10 CFR part 52. This ISG does not contain any new requirements for COL applicants or holders under Part 52, or for licensees of existing operating units licensed under Part 50. Rather, it contains additional guidance and clarification on compliance with 10 CFR 52.79(a)(31), which may be used by COL applicants in the preparation of their applications.

Congressional Review Act

This interim staff guidance is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as designated in the Congressional Review Act.

SUPPLEMENTARY INFORMATION: The agency posts its issued staff guidance in the agency external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 11th day of May 2012.

Amy E. Cubbage,

Chief, Policy Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2012–12130 Filed 5–17–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–19 and CP2012–25; Order No. 1342]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 3 to the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Supplemental Information is due (from Postal Service):* May 18, 2012.

Comments are due: May 22, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 3 to the Competitive Product List.[1] The Postal Service asserts that First-Class Package Service Contract 3 is ''a competitive product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3).'' *Id.* at 1. The Request has been assigned Docket No. MC2012–19.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.,* Attachment B. The instant contract has been assigned Docket No. CP2012–25.

Request. To support its Request, the Postal Service filed the following six attachments:

- Attachment A—a redacted version of the Governors' Decision and accompanying analysis. An explanation and justification is provided in the Governors' Decision and analysis filed in the unredacted version under seal;
- Attachment B—a redacted version of the instant contract;
- Attachment C—the proposed changes in the Mail Classification Schedule with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a)(1), (2), and (3); and
- Attachment F—an application for non-public treatment of the materials filed under seal. The materials filed under seal are the unredacted version of the instant contract and the required cost and revenue data.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the instant contract will cover its attributable costs, make a positive contribution to cover institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's institutional costs. *Id.,* Attachment D at 1. Mr. Nicoski contends that there will be no issue of subsidization of market dominant products by competitive products as a result of the instant contract. *Id.*

Instant contract. The Postal Service included a redacted version of the instant contract with the Request. *Id.,* Attachment B. It is scheduled to become effective on the day the Commission issues all necessary regulatory approval (Effective Date). *Id.* at 2. It will expire 3 years from the Effective Date unless, among other things, either party terminates the agreement with 30 days written notice to the other party. *Id.* The Postal Service represents that the related contract is consistent with 39 U.S.C. 3633. *Id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the unredacted version of the instant contract, under seal. *Id.,* Attachment F. It maintains that the unredacted Governors' Decision, the unredacted version of the instant contract, and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 should remain confidential. *Id.* at 1. The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.*

Supplemental information. The Commission notes that the Postal Service contemporaneously filed five other First-Class Package Service contracts in separate dockets. The financial workpapers that support each contract use the same volume distribution percentages. Please provide the basis for the volume distribution for each contract. Please file this information by May 18, 2012.

II. Notice of Filings

The Commission establishes Docket Nos. MC2012–19 and CP2012–25 to consider the Request and the instant contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in these dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 22, 2012. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–19 and CP2012–25 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than May 22, 2012.
4. The supplemental information discussed in the body of this order is due no later than May 18, 2012.
5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2012–12002 Filed 5–17–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 3 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 9, 2012 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–21 and CP2012–27; Order No. 1344]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 5 the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Supplemental Information is due (from Postal Service):* May 18, 2012.

Comments are due: May 22, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://*

www.prc.gov. Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 5 to the competitive product list.[1] The Postal Service asserts that First-Class Package Service Contract 5 is ''a competitive product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3).'' *Id.* at 1. The Request has been assigned Docket No. MC2012–21.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.,* Attachment B. The instant contract has been assigned Docket No. CP2012–27.

Request. To support its Request, the Postal Service filed the following six attachments:

- Attachment A—a redacted version of the Governors' Decision and accompanying analysis. An explanation and justification is provided in the Governors' Decision and analysis filed in the unredacted version under seal;
- Attachment B—a redacted version of the instant contract;
- Attachment C—the proposed changes in the Mail Classification Schedule with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a)(1), (2), and (3); and
- Attachment F—an application for non-public treatment of the materials filed under seal. The materials filed under seal are the unredacted version of the instant contract and the required cost and revenue data.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the instant contract will cover its attributable costs, make a positive contribution to cover institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's institutional costs. *Id.,* Attachment D at 1. Mr. Nicoski contends that there will be no issue of subsidization of market dominant products by competitive products as a result of the instant contract. *Id.*

Instant contract. The Postal Service included a redacted version of the instant contract with the Request. *Id.,* Attachment B. It is scheduled to become effective on the day the Commission issues all necessary regulatory approvals (Effective Date). *Id.* at 2. It will expire 3 years from the Effective Date unless, among other things, either party terminates the agreement with 30 days written notice to the other party. *Id.* The Postal Service represents that the related contract is consistent with 39 U.S.C. 3633. *Id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the unredacted version of the instant contract, under seal. *Id.,* Attachment F. It maintains that the unredacted Governors' Decision, the unredacted version of the instant contract, and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 should remain confidential. *Id.* at 1. The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.*

Supplemental information. The Commission notes that the Postal Service contemporaneously filed five other First-Class Package Service contracts in separate dockets. The financial workpapers that support each contract use the same volume distribution percentages. Please provide the basis for the volume distribution for each contract. Please file this information by May 18, 2012.

II. Notice of Filings

The Commission establishes Docket Nos. MC2012–21 and CP2012–27 to consider the Request and the instant contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in these dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 22, 2012. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–21 and CP2012–27 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than May 22, 2012.
4. The supplemental information discussed in the body of this order is due no later than May 18, 2012.
5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–12169 Filed 5–17–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 5 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 9, 2012 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–20 and CP2012–26; Order No. 1343]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 4 the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Supplemental Information is due (from Postal Service):* May 18, 2012.

Comments are due: May 22, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 4 to the Competitive Product List.[1] The Postal Service asserts that First-Class Package Service Contract 4 is ''a competitive product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3).'' *Id.* at 1. The Request has been assigned Docket No. MC2012–20.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.,* Attachment B. The instant contract has been assigned Docket No. CP2012–26.

Request. To support its Request, the Postal Service filed the following six attachments:

- Attachment A—a redacted version of the Governors' Decision and accompanying analysis. An explanation and justification is provided in the Governors' Decision and analysis filed in the unredacted version under seal;
- Attachment B—a redacted version of the instant contract;
- Attachment C—the proposed changes in the Mail Classification Schedule with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
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Instant contract. The Postal Service included a redacted version of the instant contract with the Request. *Id.,* Attachment B. It is scheduled to become effective on the day the Commission issues all necessary regulatory approval (Effective Date). *Id.* at 2. It will expire 3 years from the Effective Date unless, among other things, either party terminates the agreement with 30 days written notice to the other party. *Id.* The Postal Service represents that the related contract is consistent with 39 U.S.C. 3633. *Id.,* Attachment D.

The Postal Service filed much of the supporting materials, including the unredacted version of the instant contract, under seal. *Id.,* Attachment F. It maintains that the unredacted Governors' Decision, the unredacted version of the instant contract, and supporting documents establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5 should remain confidential. *Id.* at 1. The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.*

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II. Notice of Filings

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The Commission appoints Katalin K. Clendenin to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2012–20 and CP2012–26 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than May 22, 2012.

4. The supplemental information discussed in the body of this order is due no later than May 18, 2012.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–12061 Filed 5–17–12; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 4 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 9, 2012 (Request).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form 12b–25, OMB Control No. 3235–0058, SEC File No. 270–71.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The purpose of Form 12b–25 (17 CFR 240.12b–25) is to provide notice to the Commission and the marketplace that a registrant will be unable to timely file a required periodic or transition report pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*). If all the filing conditions of the form are satisfied, the registrant is granted an automatic filing extension. The information required is filed on occasion and is mandatory. All information is available to the public for review. Approximately 7,799 registrants file Form 12b–25 and it takes approximately 2.5 hours per response for a total of 19,498 burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Background documentation for this information collection may be viewed at the following Web site, *http://www.reginfo.gov.* Written comments

regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and an email to *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/CIO, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 14, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12037 Filed 5–17–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9322; 34–66986, File No. 265–28]

Dodd-Frank Investor Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of First Meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting on Tuesday, June 12, 2012, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will begin at 10:00 a.m. (EDT) and end at 4:00 p.m. and will be open to the public, except for a one-hour administrative session between noon and 1:00 p.m. The meeting will be Web cast on the Commission's Web site at *www.sec.gov.* Persons needing special accommodations to take part because of a disability should notify the contact person listed below. The public is invited to submit written statements to the Committee.

The agenda for the meeting includes initial remarks by Commissioners, introduction of the Committee members, consideration of the Committee's charter and bylaws, discussion of administrative issues, selection of Committee officers, and discussion of issues for potential consideration by the Committee and division of responsibilities.

DATES: Written statements should be received on or before June 1, 2012.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include ''File No. 265–28'' on the subject line; or

Paper Statements

- Send paper statements in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements 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: M. Owen Donley, Chief Counsel, at (202) 551–6322, Office of Investor Education and Advocacy, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

Dated: May 14, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–12031 Filed 5–17–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66974; File No. S7–966]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among the BATS Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., the New York Stock Exchange LLC, NYSE Amex LLC, NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., and NASDAQ OMX PHLX, Inc. Concerning Options-Related Sales Practice Matters

May 11, 2012.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility filed on May 2, 2012, pursuant to Rule 17d–2 of the Act,[2] by the BATS Exchange, Inc. (''BATS''), BOX Options Exchange, LLC (''BOX'') the Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), the International Securities Exchange, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), the New York Stock Exchange LLC (''NYSE''), NYSE Amex LLC (''Amex''), NYSE Arca, Inc. (''Arca''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc. (''BX''), and NASDAQ OMX PHLX, Inc. (''Phlx'') (collectively, ''SRO participants'').

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On May 23, 2000, the Commission approved an amendment to the plan that added the ISE as a participant.[12] On November 8, 2002, the Commission approved another amendment that replaced the original plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner.[13] On February 5, 2004, the parties submitted an amendment to the plan, primarily to include the BSE, which was establishing a new options trading facility to be known as the Boston Options Exchange (''BOX''), as an SRO participant.[14] On December 5, 2007, the parties submitted an amendment to the plan to, among other things, provide that the National Association of Securities Dealers (''NASD'') (n/k/a the Financial Industry Regulatory Authority, Inc. or ''FINRA'') and NYSE are Designated Options Examining Authorities under the plan.[15] On June 5, 2008, the parties submitted an amendment to the plan primarily to remove the NYSE as a Designated Options Examining Authority, leaving FINRA as the sole Designated Options Examining Authority for all common members that are members of FINRA.[16] On February 9, 2010, the parties submitted a proposed amendment to the plan to add BATS and C2 as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, the Boston Stock Exchange, Inc., to the NASDAQ OMX BX, Inc. and the Philadelphia Stock Exchange, Inc. to the NASDAQ OMX PHLX, Inc.[17]

The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants. Generally, under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period in which the firm is assigned to another SRO acting as that firm's DOEA.

III. Proposed Amendment to the Plan

On May 2, 2012, the parties submitted a proposed amendment to the plan. The primary purpose of the amendment is to add BOX as an SRO participant. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

Agreement by and Among BATS Exchange, Inc., *BOX Options Exchange, LLC,* the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., the New York Stock Exchange LLC, the NYSE Amex LLC, the NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc. and the NASDAQ OMX PHLX[, Inc.] *LLC* Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934.

This agreement (''Agreement''), by and among BATS Exchange, Inc., *BOX Options Exchange, LLC,* the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc. (''FINRA''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc., the New York Stock Exchange LLC (''NYSE''), the NYSE Amex LLC, the NYSE Arca, Inc., and the NASDAQ

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

[12] *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 34759 (May 31, 2000).

[13] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[14] *See* Securities Exchange Act Release No. 49197 (February 5, 2004), 69 FR 7046 (February 12, 2004).

[15] *See* Securities Exchange Act Release No. 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007).

[16] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008).

[17] *See* Securities Exchange Act Release No. 61589 (February 25, 2010), 75 FR 9976 (March 4, 2010).

OMX PHLX[, Inc.] *LLC,* hereinafter collectively referred to as the Participants, is made this [5th] *25th* day of [February, 2010] *April,2012,* pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').

This Agreement amends and restates the agreement entered into among the Participants on [June] February 5, [2008] *2010,* entitled ''Agreement by and among [the American Stock Exchange, LLC, the Boston Stock] *BATS* Exchange, Inc., the Chicago Board *Options Exchange, Incorporated, C2* Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., the New York Stock Exchange LLC, *NYSE Amex LLC,* the NYSE Arca, Inc., the NASDAQ Stock Market LLC, *NASDAQ OMX BX, Inc.* and the [Philadelphia Stock Exchange] *NASDAQ OMX PHLX,* Inc., Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.''

WHEREAS, the Participants are desirous of allocating regulatory responsibilities with respect to broker-dealers, and persons associated therewith, that are members [1] of more than one Participant (the ''Common Members'') and conduct a public business for compliance with Common Rules (as hereinafter defined) relating to the conduct by broker-dealers of accounts for listed options, index warrants, currency index warrants and currency warrants (collectively, ''Covered Securities''); and

Whereas, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

Now, therefore, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. As used herein the term Designated Options Examining Authority (''DOEA'') shall mean: (1) FINRA insofar as it shall perform Regulatory Responsibility (as hereinafter defined) for its broker-dealer members that also are members of another Participant or (2) the Designated Examination Authority (''DEA'') pursuant to SEC Rule 17d–1 under the Securities Exchange Act (''Rule 17d–1'') for a broker-dealer that is a member of a more than one Participant (but not a member of FINRA).

II. As used herein, the term ''Regulatory Responsibility'' shall mean the examination and enforcement responsibilities relating to compliance by Common Members with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules''), insofar as they apply to the conduct of accounts for Covered Securities. A list of the current Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, each Participant shall submit in writing to FINRA and each DEA performing as a DOEA for any members of such Participant any revisions to Exhibit A reflecting changes in the rules of the Participant, and confirm that all other rules of the Participant listed in Exhibit A continue to meet the definition of Common Rules as defined in this Agreement. Within 30 days from the date that FINRA and each DEA performing as a DOEA has received revisions and/or confirmation that no change has been made to Exhibit A from all Participants, FINRA and each DEA performing as a DOEA shall confirm in writing to each Participant whether the rules listed in any updated Exhibit A are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for, each of the following:

(a) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) Registration pursuant to its applicable rules of associated persons;

(c) Discharge of its duties and obligations as a DEA; and

(d) Evaluation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval.

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participants agree, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. The representative from FINRA shall serve as Chair of the Council. All notices and other communications for the Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten-business days prior thereto. Notwithstanding anything herein to the contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. FINRA shall have Regulatory Responsibility for all Common Members that are members of FINRA. For the purpose of fulfilling the Participants' Regulatory Responsibilities for Common Members that are not members of FINRA, the Participant that is the DEA shall serve as the DOEA. All Participants shall promptly notify the DOEAs no later than the next scheduled meeting of any change in membership of Common Members. A DOEA may request that a Common Member that is allocated to it be reallocated to another DOEA by giving thirty days written notice thereof. The DOEAs in their discretion may approve such request and reallocate such Common Member to another DOEA.

VII. Each DOEA shall conduct an examination of each Common Member. The Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOEA. At each meeting of the Council, each DOEA shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council.

VIII. Each DOEA will promptly furnish a copy of the Examination report, relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. Each DOEA's Regulatory Responsibility shall for each Common Member allocated to it include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common

[1] In the case of *BOX Options Exchange, LLC (''BOX''),* NASDAQ OMX BX, Inc. *(''BX'')* and NASDAQ members are those persons who are options participants (as defined in the BOX, *BX* and NASDAQ Options Market Rules).

Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U5 under the label ''Permitted to Resign,'' ''Discharge'' or ''Other.''

X. Each DOEA shall discharge the Regulatory Responsibility for each Common Member allocated to it relative to a Covered Securities-related customer complaint [2] unless such complaint is uniquely related to another Participant's market. In the latter instance, the DOEA shall forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, or by a comparable means of electronic communication to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by email at such address as the representative shall have filed in writing with the Chair.

XII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

[XIII. This Agreement may be amended in writing duly approved by each Participant.]

XIII. This Agreement may be amended to add a new Participant provided that such Participant does not assume Regulatory Responsibility, solely by an amendment by FINRA and such new Participant. All other Participants expressly consent to allow FINRA to add new Participants to this Agreement as provided above. FINRA will promptly notify all Participants of any such amendments to add new Participants. All other amendments to this Agreement must be approved in writing by each Participant. All amendments, including adding a new Participant, must be filed with and approved by the SEC before they become effective.

XIV. Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time by giving the Council written notice thereof at least 90 days prior to the effective date of such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, any Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above; the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XV. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

XVI. No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

XVII. Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

EXHIBIT A

RULES ENFORCED UNDER 17d–2 AGREEMENT

Pursuant to Section II of the Agreement by and among BATS Exchange, Inc. (''BATS''), *BOX Options Exchange, LLC (''BOX'')*, the Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), the International Securities Exchange, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc. (''BX''), the New York Stock Exchange LLC (''NYSE''), the NYSE Amex LLC (''NYSE Amex''), the NYSE Arca, Inc. (''NYSE ARCA''), and the NASDAQ OMX PHLX[, Inc.] LLC (''PHLX'') pursuant to Rule 17d-2 under the Securities Exchange Act of 1934 dated [February 5, 2010] *April 25, 2012* (the ''Agreement''), a revised list of the current Common Rules of each Participant, as compared to those of FINRA, applicable to the conduct of accounts for Covered Securities is set forth in this Exhibit A.

Opening of Accounts

NYSE Amex	Rules 411, 921 and 1101
BATS	Rule 26.2
BOX	*Rule 4020* [1]
CBOE	Rule 9.7
C2 **	CBOE Rule 9.7
ISE	Rule 608
FINRA	Rules 2360(b)(16) and 2352
NYSE	Rule 721 [2]
PHLX	Rule 1024(b) and (c) [3]
NYSE ARCA	Options Rules 9.2(a) and 9.18(b) and Equities Rule 8.4
BX[/BOX]	Chapter XI, Section 9
NASDAQ	Chapter XI, Section 7

Supervision

NYSE Amex	Rules 411, 922 and 1104
BATS	Rule 26.3
BOX	*Rule 4030*

[2] For purposes of complaints, they can be reported pursuant to Form U4, Form U5 or RE–3 and any amendments thereto.

CBOE	Rule 9.8
C2	CBOE Rule 9.8
ISE	Rule 609
FINRA	Rules 2360(b)(20), 2360(b)(17)(B), *2360(b)(16)(E),* 2355 and 2358
NYSE	N/A
PHLX	Rule 1025
NYSE ARCA	Options Rules 9.2(b) and 9.18(d)(2)(G) and Equities Rule 8.7
BX[/BOX]	Chapter XI, Section 10
NASDAQ	Chapter XI, Section 8
Suitability	
AMEX	Rules 923 and 1102
BATS	Rule 26.4
BOX	*Rule 4040*
CBOE	Rule 9.9
C2	CBOE Rule 9.9
ISE	Rule 610
FINRA	Rule 2360(b)(19) and 2353
NYSE	Rule 723
PHLX	Rule 1026
NYSE ARCA	Options Rule 9.18(c) and Equities Rule 8.5
BX[/BOX]	Chapter XI, Section 11
NASDAQ	Chapter XI, Section 9
Discretionary Accounts	
NYSE Amex	Rules 421, 924 and 1103
BATS	Rule 26.5 [4]
BOX	*Rule 4050* [4]
CBOE	Rule 9.10
C2	CBOE Rule 9.10
ISE	Rule 611
FINRA	Rules 2360(b)(18) and 2354
NYSE	N/A
PHLX	Rule 1027
NYSE ARCA	Options Rule 9.18(e) and Equities Rule 8.6
BX[/BOX]	Chapter XI, Section 12
NASDAQ	Chapter XI, Section 10
Customer Communications (Advertising)	
NYSE Amex	Rules 991 and 1106
BATS	Rule 26.16
BOX	*Rule 4170*
CBOE	Rule 9.21 [5]
C2	CBOE Rule 9.[21 [4]] [5]
ISE	Rule 623 [6]
FINRA	Rules 2220 and 2357
NYSE	N/A
PHLX	N/A
NYSE ARCA	Options Rules 9.21(a) and 9.21(b)
BX[/BOX]	Chapter XI, Section 24
NASDAQ	Chapter XI, Section 22
Customer Complaints	
NYSE Amex	Rules 932 and 1105
BATS	Rule 26.17
BOX	*Rule 4190*
CBOE	Rule 9.23
C2	CBOE Rule 9.23
ISE	Rule 625
FINRA	FINRA Rules 2360(b)(17)(A) and 2356 [and NASD Rule 3070(a) and (c)]
NYSE	Rules 732 & 351(a) and (d)
PHLX	Rule 1070
NYSE ARCA	Options Rule 9.18(l) and Equities Rule 8.8
BX[/BOX]	Chapter XI, Section 26
NASDAQ	Chapter XI, Section 24
Customer Statements	
NYSE Amex	Rules 419 and 930
BATS	Rule 26.7
BOX	*Rule 4070*
CBOE	Rule 9.12
C2	CBOE Rule 9.12

ISE	Rules 613
FINRA	Rule 2360(b)(15)
NYSE	Rules 730
PHLX	Rule 1032
NYSE ARCA	Options Rule 9.18(j)
BX[/BOX]	Chapter XI, Sections 14
NASDAQ	Chapter XI, [Sections] Section 12
Confirmations	
NYSE Amex	Rule 925
BATS	Rule 26.6
BOX	*Rule 4060*[7]
CBOE	Rule 9.11
C2	CBOE Rule 9.11
ISE	Rule 612
FINRA	Rule 2360(b)(12)
NYSE	Rules 725[8]
PHLX	Rule 1028
NYSE ARCA	Options Rule 9.18(f)
BX[/BOX]	Chapter XI, Section 13
NASDAQ	Chapter XI, Section 11
Allocation of Exercise Assignment Notices	
NYSE Amex	Rule 981
BATS	Rule 23.2
BOX	*Rule 9010*
CBOE	Rule 11.2
C2	CBOE Rule 11.2
ISE	Rule1101
FINRA	Rule 2360(b)(23)(C)
NYSE	Rule 781
PHLX	Rule 1043
NYSE ARCA	Options Rule 6.25(a)
BX[/BOX]	Chapter VII, Section 2
NASDAQ	Chapter VIII, Section 2
Disclosure Documents	
NYSE Amex	Rules 921 and 926
BATS	Rule 26.10
BOX	*Rule 4100*
CBOE	Rule 9.15
C2	CBOE Rule 9.15
ISE	Rule 616
FINRA	Rule 2360(b)(11)
NYSE	Rule 726(a) and (c)
PHLX	Rule 1024(b)(v), 1029
NYSE ARCA	Options Rule 9.18(g)
BX[/BOX]	Chapter XI, Section 17
NASDAQ	Chapter XI, Section 15
Branch Offices of Member Organizations	
NYSE Amex	Rule 922(d)[9]
BOX	*Rule 4010(b)*
CBOE	Rule 9.6
C2	CBOE Rule 9.6
ISE	Rule 607
FINRA	Rules 2360(b)(20)(B) and 2355
NYSE	N/A
PHLX	N/A
NYSE ARCA	Options Rule 9.18(m)
BX[/BOX]	Chapter XI, Section 8
NASDAQ	Chapter XI, Section 6
Prohibition Against Guarantees	
NYSE Amex	Rule 390
BATS	Rule 26.13
BOX	*Rule 4130*
CBOE	Rule 9.18
C2	CBOE Rule 9.18
ISE	Rules 619
FINRA	Rule 2150(b)
NYSE	Rule 2150(b)

PHLX	Rule 777
NYSE ARCA	Options Rule 9.1(e)
BX[/BOX]	Chapter XI, Sections 20 and 21
NASDAQ	Chapter XI, Sections 18 and 19
Sharing in Accounts	
NYSE Amex	Rule 390
BATS	Rule 26.14
BOX	*Rule 4140*
CBOE	Rule 9.18(b)
C2	CBOE Rule 9.18(b)
ISE	Rule 620 [10]
FINRA	Rule 2150(c)
NYSE	Rules 2150(c)
PHLX	N/A
NYSE ARCA	Options Rule 9.1(f)
BX[/BOX]	Chapter XI, Section 21
NASDAQ	Chapter XI, Section 19 [11]
Registration of Rop	
NYSE Amex	Rule 920
BATS	17.2(g)(1), (2), (6) and (7)
BOX	*Rule 2020(c)(1), (e)(1) and IM–2040–4 and IM–2040–5(b)*
CBOE	Rule 9.2
C2	CBOE Rule 9.2
ISE	Rule 601
FINRA	NASD Rules 1022(f) & IM–1022–1
NYSE	N/A
PHLX	Rule 1024(a)(i)
NYSE ARCA	Options Rule 9.26
BX[/BOX]	Chapter XI, Section 2
NASDAQ	Chapter XI, Section 2
Certification of Registered Personnel	
NYSE Amex	Rule 920
BATS	Rule 2.5 Interpretation .01(c) and 11.4(e)
BOX	*IM–2040–3*
CBOE	Rule 9.3
C2	CBOE Rule 9.3
ISE	Rule 602
FINRA	NASD Rule 1032(d)
NYSE	N/A
PHLX	Rule 1024
NYSE ARCA	Options Rule 9.27(a)
BX[/BOX]	Chapter XI, Section 3
NASDAQ	Chapter XI, Section 3

[1] *FINRA shall not have any Regulatory Responsibility regarding the requirement for designation of Senior Options Principal and Compliance Options Principal.*

* Pursuant to C2 Chapters 9 and 11, the rules contained in CBOE Chapters IX and XI and referenced herein shall apply to C2.

[2] FINRA shall not have any Regulatory Responsibility regarding opening short uncovered option accounts requirements.

[3] FINRA shall not have any Regulatory Responsibility regarding foreign currency option requirements specified in any of the PHLX rules in this Exhibit A.

[4] FINRA shall not have any Regulatory Responsibility to enforce this rule as to time and price discretion in institutional accounts. *In addition FINRA shall not have any Regulatory Responsibility regarding BOX Rule 4050(a)(2).*

[5] FINRA shall not have any Regulatory Responsibility regarding CBOE's and C2's requirements to the extent that a customer would meet FINRA's definition of Institutional Investor and Institutional Sales Material but would not meet the requirements for such definitions in under CBOE's and C2's rule.

[6] FINRA shall not have any Regulatory Responsibility regarding ISE's requirements to the extent that a customer would meet FINRA's definition of Institutional Investor and Institutional Sales Material but would not meet the requirements for such definitions in under such rule. In addition, FINRA shall not have any Regulatory Responsibility regarding ISE's requirements regarding approval of all market letters.

[7] *FINRA shall not have any Regulatory Responsibility regarding the requirement in confirmations to distinguish between BOX option transactions and other transactions in option contracts.*

[8] FINRA shall not have any Regulatory Responsibility regarding the requirement in confirmations to distinguish between NYSE option transactions and other transactions in option contracts.

[9] FINRA shall only have Regulatory Responsibility for the first paragraph and shall not have any Regulatory Responsibility regarding the requirements for debt options.

[10] FINRA shall not have any Regulatory Responsibility regarding ISE's requirements to the extent its rule does not contain an exception to permit sharing in the profits and losses of an account.

[11] FINRA shall not have any Regulatory Responsibility regarding NASDAQ's requirements to the extent such rules do not contain an exception addressing immediate family.

* * * * *

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 S7–966 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–966. 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/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of BATS, BOX, CBOE, C2, ISE, FINRA, NYSE, Amex, Arca, NASDAQ, BX and the Phlx. 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 S7–966 and should be submitted on or before June 8, 2012.

V. Discussion

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add BOX as an SRO participant. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay.[18] The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[19] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended plan submitted to the Commission that is contained in File No. S7–966.

It is therefore ordered, pursuant to Section 17(d) of the Act,[20] that the amended plan dated April 25, 2012, by and between the BATS, BOX, CBOE, C2, ISE, FINRA, NYSE, Amex, Arca, NASDAQ, BX and the Phlx filed pursuant to Rule 17d–2 on May 2, 2012 is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOEA as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOEA under the amended plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12018 Filed 5–17–12; 8:45 am]

BILLING CODE 8011–01–P

[18] On April 27, 2012, the Commission granted BOX's application for registration as a national securities exchange. *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012).

[19] *See supra* note 17 (citing to Securities Exchange Act Release No. 61589).

[20] 15 U.S.C. 78q(d).

[21] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66975; File No. 4–551]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among NYSE Amex LLC, BATS Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, the Chicago Board Options Exchange, Incorporated, the International Securities Exchange LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, the BOX Options Exchange LLC, NASDAQ OMX BX, Inc. and the NASDAQ OMX PHLX, Inc. Concerning Options-Related Market Surveillance

May 11, 2012.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on May 2, 2012, pursuant to Rule 17d–2 of the Act,[2] by NYSE Amex LLC (''Amex''), BATS Exchange, Inc., (''BATS''), the BOX Options Exchange LLC (''BOX''), C2 Options Exchange, Incorporated (''C2''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), NYSE Arca, Inc. (''Arca''), The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ OMX BX, Inc. (''BX'') and the NASDAQ OMX PHLX, Inc. (''PHLX'') (collectively, ''Participating Organizations'' or ''parties'').

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On December 11, 2007, the Commission declared effective the Participating Organizations' Plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On April 11, 2008, the Commission approved an amendment to the Plan to include NASDAQ as a participant.[12] On October 9, 2008, the Commission approved an amendment to the Plan to clarify that the term Regulatory Responsibility for options position limits includes the examination responsibilities for the delta hedging exemption.[13] On February 25, 2010, the Commission approved an amendment to the Plan to add BATS Exchange, Inc. and C2 Options Exchange, Incorporated as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, and the Boston Stock Exchange, Inc. to the NASDAQ OMX BX, Inc.[14]

The Plan is designed to reduce regulatory duplication for common members by allocating regulatory responsibility for certain options-related market surveillance matters among the Participating Organizations.[14] Generally, under the Plan, a Participating Organization will serve as the Designated Options Surveillance Regulator (''DOSR'') for each common member assigned to it and will assume regulatory responsibility with respect to that common member's compliance with applicable common rules for certain accounts. When an SRO has been named as a common member's DOSR, all other SROs to which the common member belongs will be relieved of regulatory responsibility for that common member, pursuant to the terms of the Plan, with respect to the applicable common rules specified in Exhibit A to the Plan.

III. Proposed Amendment to the Plan

On May 2, 2012, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add BOX as a Participant to the Plan. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

AGREEMENT BY AND AMONG

NYSE AMEX LLC, BATS EXCHANGE, INC., *BOX OPTIONS EXCHANGE LLC,* NASDAQ OMX BX, INC., C2 OPTIONS EXCHANGE, INCORPORATED, THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED, THE INTERNATIONAL SECURITIES EXCHANGE LLC, FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., NYSE ARCA, INC., THE NASDAQ STOCK MARKET LLC, AND NASDAQ OMX PHLX, INC., PURSUANT TO RULE 17d–2 UNDER THE SECURITIES EXCHANGE ACT OF 1934

This agreement (this ''Agreement''), by and among the NYSE Amex LLC (''Amex''), BATS Exchange, Inc., (''BATS''), the [,] C2 Options Exchange, Incorporated (''C2''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), NYSE Arca, Inc. (''Arca''), The NASDAQ Stock Market LLC (''Nasdaq''), *the BOX Options Exchange LLC (''BOX''),* NASDAQ OMX BX, Inc. (''BX'') and the NASDAQ OMX PHLX, Inc. (''PHLX''), is made this 10th day of October 2007, and as amended the 31st day of March 2008, the 1st day of October 2008, [and this] *the* 3rd day of February 2010*, and the 25th day of April 2012,* pursuant to Section 17(d) of the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), and Rule 17d–2 thereunder (''Rule 17d–2''), which allows for a joint plan among self-regulatory organizations (''SROs'') to allocate regulatory obligations with respect to brokers or dealers that are members of two or more of the parties to this Agreement (''Common Members''). The Amex, BATS, C2, CBOE,

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 56941 (December 11, 2007), 72 FR 71723 (December 18, 2007) (File No. 4–551).

[12] *See* Securities Exchange Act Release No. 57649 (April 11, 2008), 73 FR 20976 (April 17, 2008) (File No. 4–551).

[13] *See* Securities Exchange Act Release No. 58765 (October 9, 2008), 73 FR 62344 (October 20, 2008) (File No. 4–551).

[14] *See* Securities Exchange Act Release No. 61588 (February 25, 2010), 75 FR 9970 (March 4, 2010) (File No. 4–551).

ISE, FINRA, Arca, Nasdaq, *BOX,* BX, and PHLX are collectively referred to herein as the ''Participants'' and individually, each a ''Participant.'' This Agreement shall be administered by a committee known as the Options Surveillance Group (the ''OSG'' or ''Group''), as described in Section V hereof. Unless defined in this Agreement or the context otherwise requires, the terms used herein shall have the meanings assigned thereto by the Exchange Act and the rules and regulations thereunder.

Whereas, the Participants desire to eliminate regulatory duplication with respect to SRO market surveillance of Common Member [1] activities with regard to certain common rules relating to listed options (''Options''); and

Whereas, for this purpose, the Participants desire to execute and file this Agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') pursuant to Rule 17d–2.

Now, therefore, in consideration of the mutual covenants contained in this Agreement, the Participants agree as follows:

I. Except as otherwise provided in this Agreement, each Participant shall assume Regulatory Responsibility (as defined below) for the Common Members that are allocated or assigned to such Participant in accordance with the terms of this Agreement and shall be relieved of its Regulatory Responsibility as to the remaining Common Members. For purposes of this Agreement, a Participant shall be considered to be the Designated Options Surveillance Regulator (''DOSR'') for each Common Member that is allocated to it in accordance with Section VII.

II. As used in this Agreement, the term ''Regulatory Responsibility'' shall mean surveillance, investigation and enforcement responsibilities relating to compliance by the Common Members with such Options rules of the Participants as the Participants shall determine are substantially similar and shall approve from time to time, insofar as such rules relate to market surveillance (collectively, the ''Common Rules''). For the purposes of this Agreement the list of Common Rules is attached as Exhibit A hereto, which may only be amended upon unanimous written agreement by the Participants. The DOSR assigned to each Common Member shall assume Regulatory Responsibility with regard to that Common Member's compliance with the applicable Common Rules for certain accounts.[2] A DOSR may perform its Regulatory Responsibility or enter an agreement to transfer or assign such responsibilities to a national securities exchange registered with the SEC under Section 6(a) of the Exchange Act or a national securities association registered with the SEC under Section 15A of the Exchange Act. A DOSR may not transfer or assign its Regulatory Responsibility to an association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products.

The term ''Regulatory Responsibility'' does not include, and each Participant shall retain full responsibility with respect to:

(a) Surveillance, investigative and enforcement responsibilities other than those included in the definition of Regulatory Responsibility;

(b) Any aspects of the rules of a Participant that are not substantially similar to the Common Rules or that are allocated for a separate surveillance purpose under any other agreement made pursuant to Rule 17d–2. Any such aspects of a Common Rule will be noted as excluded on Exhibit A.

With respect to options position limits, the term Regulatory Responsibility shall include examination responsibilities for the delta hedging exemption. Specifically, the Participants intend that FINRA will conduct examinations for delta hedging for all Common Members that are members of FINRA notwithstanding the fact that FINRA's position limit rule is, in some cases, limited to only firms that are not members of an options exchange (i.e., access members). In such cases, FINRA's examinations for delta hedging options position limit violations will be for the identical or substantively similar position limit rule(s) of the other Participant(s). Examinations for delta hedging for Common Members that are non-FINRA members will be conducted by the same Participant conducting position limit surveillance. The allocation of Common Members to DOSRs for surveillance of compliance with options position limits and other agreed to Common Rules is provided in Exhibit B. The allocation of Common Members to DOSRs for examinations of the delta hedging exemption under the options position limits rules is provided in Exhibit C.

III. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, or more frequently if required by changes in the rules of a Participant, each Participant shall submit to the other Participants, through the Chair of the OSG, an updated list of Common Rules for review. This updated list may add Common Rules to Exhibit A, shall delete from Exhibit A rules of that Participant that are no longer identical or substantially similar to the Common Rules, and shall confirm that the remaining rules of the Participant included on Exhibit A continue to be identically or substantially similar to the Common Rules. Within 30 days from the date that each Participant has received revisions to Exhibit A from the Chair of the OSG, each Participant shall confirm in writing to the Chair of the OSG whether that Participant's rules listed in Exhibit A are Common Rules.

IV. Apparent violation of another Participant's rules discovered by a DOSR, but which rules are not within the scope of the discovering DOSR's Regulatory Responsibility, shall be referred to the relevant Participant for such action as is deemed appropriate by that Participant. Notwithstanding the foregoing, nothing contained herein shall preclude a DOSR in its discretion from requesting that another Participant conduct an investigative or enforcement proceeding (''Proceeding'') on a matter for which the requesting DOSR has Regulatory Responsibility. If such other Participant agrees, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Additionally, nothing in this Agreement shall prevent another Participant on whose market potential violative activity took place from conducting its own Proceeding on a matter. The Participant conducting the Proceeding shall advise the assigned DOSR. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in a Proceeding.

V. The OSG shall be composed of one representative designated by each of the Participants (a ''Representative''). Each Participant shall also designate one or more persons as its alternate representative(s) (an ''Alternate Representative''). In the absence of the Representative, the Alternate Representative shall assume the powers, duties and responsibilities of the Representative. Each Participant may at any time replace its Representative and/or its Alternate Representative to the Group.[3] A majority of the OSG shall constitute a quorum and, unless otherwise required, the affirmative vote of a majority of the Representatives present (in person, by telephone or by written consent) shall be necessary to constitute action by the Group.

The Group will have a Chair, Vice Chair and Secretary. A different Participant will assume each position on a rotating basis for a one-year term. In the event that a Participant replaces a Representative who is acting as Chair, Vice Chair or Secretary, the newly appointed Representative shall assume the position of Chair, Vice Chair, or Secretary (as applicable) vacated by the Participant's former Representative. In the event a Participant cannot fulfill its duties as Chair, the Participant serving as Vice Chair shall substitute for the Chair and complete the subject unfulfilled term. All notices and other communications for the OSG are to be sent in care of the Chair and, as appropriate, to each Representative.

VI. The OSG shall determine the times and locations of Group meetings, provided that the Chair, acting alone, may also call a meeting of the Group in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten business days prior to the meeting date. Representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VII. No less frequently than every two years, in such manner as the Group deems appropriate, the OSG shall allocate Common Members that conduct an Options business

[1] In the case of the *BX and* BOX, members are those persons who are Options Participants (as defined in the [Boston Options Exchange LLC Rules] *BOX Options Exchange LLC Rules and* NASDAQ OMX BX, Inc. Rules).

[2] Certain accounts shall include customer (''C'' as classified by the Options Clearing Corporation (''OCC'')) and firm (''F'' as classified by OCC) accounts, as well as other accounts, such as market maker accounts as the Participants shall, from time to time, identify as appropriate to review.

[3] A Participant must give notice to the Chair of the Group of such a change.

among the Participants (''Allocation''), and the Participant to which a Common Member is allocated will serve as the DOSR for that Common Member. Any Allocation shall be based on the following principles, except to the extent all affected Participants consent to one or more different principles:

(a) The OSG may not allocate a Common Member to a Participant unless the Common Member is a member of that Participant.

(b) To the extent practicable, Common Members that conduct an Options business shall be allocated among the Participants of which they are members in such manner as to equalize as nearly as possible the allocation among such Participants, provided that no Common Members shall be allocated to FINRA. For example, if sixteen Common Members that conduct an Options business are members only of three Participants, none of which is FINRA, those Common Members shall be allocated among the three Participants such that no Participant is allocated more than six such members and no Participant is allocated less than five such members. If, in the previous example, one of the three Participants is FINRA, the sixteen Common Members would be allocated evenly between the remaining Participants, so that the two non-FINRA Participants would be allocated eight Common Members each.

(c) To the extent practicable, Allocation shall take into account the amount of Options activity conducted by each Common Member in order to most evenly divide the Common Members with the largest amount of activity among the Participants of which they are members. Allocation will also take into account similar allocations pursuant to other plans or agreements to which the Common Members are party to maintain consistency in oversight of the Common Members.[4]

(d) To the extent practicable, Allocation of Common Members to Participants will be rotated among the applicable Participants such that a Common Member shall not be allocated to a Participant to which that Common Member was allocated within the previous two years. The assignment of DOSRs pursuant to the Allocation is attached as Exhibit B hereto, and will be updated from time to time to reflect Common Member Allocation changes.

(e) The Group may reallocate Common Members from time-to-time, as it deems appropriate.

(f) Whenever a Common Member ceases to be a member of its DOSR, the DOSR shall promptly inform the Group, which shall review the matter and allocate the Common Member to another Participant.

(g) A DOSR may request that a Common Member to which it is assigned be reallocated to another Participant by giving 30 days written notice to the Chair of the OSG. The Group, in its discretion, may approve such request and reallocate the Common Member to another Participant.

(h) All determinations by the Group with respect to Allocation shall be made by the affirmative vote of a majority of the Participants that, at the time of such determination, share the applicable Common Member being allocated; a Participant shall not be entitled to vote on any Allocation relating to a Common Member unless the Common Member is a member of such Participant.

VIII. Each DOSR shall conduct routine surveillance reviews to detect violations of the applicable Common Rules by each Common Member allocated to it with a frequency (daily, weekly, monthly, quarterly, semi-annually or annually as noted on Exhibit A) not less than that determined by the Group. The other Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOSR. In addition, each Participant shall provide, to the extent not otherwise already provided, information pertaining to its surveillance program that would be relevant to FINRA or the Participant(s) conducting routine examinations for the delta hedging exemption.

At each meeting of the OSG, each Participant shall be prepared to report on the status of its surveillance program for the previous quarter and any period prior thereto that has not previously been reported to the Group. In the event a DOSR believes it will not be able to complete its Regulatory Responsibility for its allocated Common Members, it will so advise the Group in writing promptly. The Group will undertake to remedy this situation by reallocating the subject Common Members among the remaining Participants. In such instance, the Group may determine to impose a regulatory fee for services provided to the DOSR that was unable to fulfill its Regulatory Responsibility.

IX. Each Participant will, upon request, promptly furnish a copy of the report or applicable portions thereof relating to any investigation made pursuant to the provisions of this Agreement to each other Participant of which the Common Member under investigation is a member.

X. Each Participant will routinely populate a common database, to be accessed by the Group relating to any formal regulatory action taken during the course of a Proceeding with respect to the Common Rules concerning a Common Member.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, to any Participant to the attention of that Participant's Representative, to the Participant's principal place of business or by email at such address as the Representative shall have filed in writing with the Chair.

XII. The costs incurred by each Participant in discharging its Regulatory Responsibility under this Agreement are not reimbursable. However, any of the Participants may agree that one or more will compensate the other(s) for costs incurred.

XIII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Group. Each Participant will notify the Common Members that have been allocated to it that such Participant will serve as DOSR for that Common Member.

XIV. This Agreement shall be effective upon approval of the Commission. This Agreement may only be amended in writing duly approved by each Participant. All amendments to this Agreement, excluding changes to Exhibits A, B and C, must be filed with and approved by the Commission.

XV. Any Participant may manifest its intention to cancel its participation in this Agreement at any time upon providing written notice to (i) the Group six months prior to the date of such cancellation, or such other period as all the Participants may agree, and (ii) the Commission. Upon receipt of the notice the Group shall allocate, in accordance with the provisions of this Agreement, those Common Members for which the canceling Participant was the DOSR. The canceling Participant shall retain its Regulatory Responsibility and other rights, privileges and duties pursuant to this Agreement until the Group has completed the reallocation as described above, and the Commission has approved the cancellation.

XVI. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, or such other period as all the Participants may agree. Such termination will become effective upon Commission approval.

XVII. Participation in the Group shall be strictly limited to the Participants and no other party shall have any right to attend or otherwise participate in the Group except with the unanimous approval of all Participants. Notwithstanding the foregoing, any national securities exchange registered with the SEC under Section 6(a) of the Act or any national securities association registered with the SEC under section 15A of the Act may become a Participant to this Agreement provided that: (i) Such applicant has adopted rules substantially similar to the Common Rules, and received approval thereof from the SEC; (ii) such applicant has provided each Participant with a signed statement whereby the applicant agrees to be bound by the terms of this Agreement to the same effect as though it had originally signed this Agreement and (iii) an amended agreement reflecting the addition of such applicant as a Participant has been filed with and approved by the Commission.

XVIII. This Agreement is wholly separate from the multiparty Agreement made pursuant to Rule 17d-2 by and among the American Stock Exchange, LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, LLC, Financial Industry Regulatory Authority, The NASDAQ Stock Market LLC, Inc., the New York Stock Exchange, LLC, the NYSE Arca, Inc., and the Philadelphia Stock Exchange, Inc. involving the allocation of regulatory responsibilities with respect to common members for

[4] For example, if one Participant was allocated a Common Member by another regulatory group that Participant would be assigned to be the DOSR of that Common Member, unless there is good cause not to make that assignment.

compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered into on June 5, 2008, and as may be amended from time to time.

Limitation of Liability

No Participant nor the Group nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Regulatory Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other Participants or its respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by the Participants, individually or as a group, or by the OSG with respect to any Regulatory Responsibility to be performed hereunder.

Relief From Responsibility

Pursuant to Section 17(d)(1)(A) of the Exchange Act and Rule 17d–2, the Participants join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve the Participants that are party to this Agreement and are not the DOSR as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOSR.

EXHIBIT A: COMMON RULES

VIOLATION I—EXPIRING EXERCISE DECLARATIONS (EED)—FOR LISTED EQUITY OPTIONS EXPIRING: THE THIRD SATURDAY FOLLOWING THE THIRD FRIDAY OF A MONTH, QUARTERLY, AND FOR LISTED FLEX OPTIONS

SRO	Description of rule	Exchange rule No.	Frequency of review
NYSE Amex	Exercise of Options Contracts	Rule 980	At Expiration.
BATS	Exercise of Options Contracts	Rule 23.1	At Expiration.
BOX	*Exercise of Options Contracts*	*Rule 9000*	*At Expiration.*
Nasdaq OMX B[O]X	Exercise of Options Contracts	Chapter VII, Section 1	At Expiration.
C2	Exercise of Options Contracts	Rule 11.1	At Expiration.
CBOE	Exercise of Options Contracts	Rule 11.1	At Expiration.
FINRA	Exercise of Options Contracts	Rule 2360(b)(23)	At Expiration.
ISE	Exercise of Options Contracts	Rule 1100	At Expiration.
Nasdaq	Exercise of Options Contracts	Nasdaq Chapter VIII, Sec. 1	At Expiration.
NYSE Arca	Exercise of Options Contracts	Rule 6.24	At Expiration.
NASDAQ OMX PHLX	Exercise of Equity Options Contracts	Rule 1042	At Expiration.

VIOLATION II—POSITION LIMITS (PL)—FOR LISTED EQUITY OPTIONS EXPIRING: THE THIRD SATURDAY FOLLOWING THE THIRD FRIDAY OF A MONTH, QUARTERLY

SRO	Description of rule (for review as they apply to PL)	Exchange rule No.	Frequency of review
NYSE Amex	Position Limits (includes exemptions)	Rule 904	Daily.
	Liquidating Positions	Rule 907	As Needed.
BATS	Position Limits	Rule 18.7	Daily.
	Exemptions from Position	Rule 18.8	As Needed.
	Liquidation Positions	Rule 18.11	As Needed.
BOX	*Position Limits*	*Rule 3120*	*Daily.*
	Exemptions from Position	*Rule 3130*	*As Needed.*
	Liquidation Positions	*Rule 3160*	*As Needed.*
Nasdaq OMX B[O]X	Position Limits	Chapter III, Section 7	Daily.
	Exemptions from Position Limits	Chapter III, Section 8	As Needed.
	Liquidation Positions	Chapter III, Section 11	As Needed.
C2	Position Limits	Rule 4.11	Daily.
	Liquidation of Positions	Rule 4.14	As Needed.
CBOE	Position Limits	Rule 4.11	Daily.
	Liquidation of Positions	Rule 4.14	As Needed.
FINRA	Position Limits	Rule 2360(b)(3)	Daily.
	Liquidation of Positions and Restrictions on Access	Rule 2360(b)(6)	As Needed.
ISE	Position Limits	Rule 412	Daily.
	Exemptions from Position Limits	Rule 413	As Needed.
	Liquidating Positions	Rule 416	As Needed.
Nasdaq	Position Limits	Nasdaq Rule Chapter III Section 7	Daily.
	Exemptions from Position Limits	Nasdaq Rule Chapter III Section 8	As Needed.
	Liquidating Positions	Nasdaq Rule Chapter III Section 11	As Needed.
NYSE Arca	Position Limits (includes exemptions)	Rule 6.8	Daily.
	Liquidation of Position	Rule 6.7	As Needed.
NASDAQ OMX PHLX	Position Limits	Rule 1001	Daily.
	Liquidation of Positions	Rule 1004	As Needed

VIOLATION III—LARGE OPTIONS POSITION REPORT (LOPR)—FOR LISTED EQUITY AND ETF OPTIONS

SRO	Description of rule (for review as they apply to LOPR)	Exchange rule No.	Frequency of review
NYSE Amex	Reporting of Options Positions	Rule 906	Yearly.
BATS	Reports Related to Position Limits	Rule 18.10	Yearly.

VIOLATION III—LARGE OPTIONS POSITION REPORT (LOPR)—FOR LISTED EQUITY AND ETF OPTIONS—Continued

SRO	Description of rule (for review as they apply to LOPR)	Exchange rule No.	Frequency of review
BOX	*Reports Related to Position Limits*	*Rule 3150*	*Yearly.*
Nasdaq OMX B[O]X	Reports Related to Position Limits	Chapter III, Section 10	Yearly.
C2	Reports Related to Position Limits	Rule 4.13(a),	Yearly.
	Reports Related to Position Limits	Rule 4.13(b)	Yearly.
	Reports Related to Position Limits	Rule 4.13(d)	Yearly.
CBOE	Reports Related to Position Limits	Rule 4.13(a),	Yearly.
	Reports Related to Position Limits	Rule 4.13(b)	Yearly.
	Reports Related to Position Limits	Rule 4.13(d)	Yearly.
FINRA	Options	Rule 2360(b)(5)	Yearly.
ISE	Reports Related to Position Limits	Rule 415	Yearly.
Nasdaq	Reports Related to Position Limits	Chapter III Section 10	Yearly.
NYSE Arca	Reporting of Options Positions	Rule 6.6	Yearly.
NASDAQ OMX PHLX	Reporting of Options Positions	Rule 1003	Yearly.

VIOLATION IV—OPTIONS CLEARING CORPORATION (OCC) ADJUSTMENT PROCESS

SRO	Description of rule (as they apply to OCC Adjustments/By-laws Article VI, Section 1.01(a) and .02))	Exchange rule No.	Frequency of review
NYSE Amex	Business Conduct	Rule 16	Yearly.
BATS	Adherence to Law	Rule 18.1	Yearly.
BOX	*Adherence to Law*	*Rule 3010*	*Yearly.*
Nasdaq OMX B[O]X	Adherence to Law	Chapter III, Section 1	Yearly.
C2	Adherence to Law	Rule 4.2	Yearly.
CBOE	Adherence to Law	Rule 4.2	Yearly.
FINRA	Violation of By-Laws and Rules of FINRA or the OCC	Rule 2360(b)(21)	Yearly.
ISE	Adherence to Law	Rule 401	Yearly.
Nasdaq	Adherence to Law	Chapter III, Section 1	Yearly.
NYSE Arca	Adherence to Law and Good Business Practice	Rule 11.1	Yearly.
NASDAQ OMX PHLX	Violation of By-Laws and Rules of OCC	Rule 1050	Yearly.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–551 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 4–551. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of Amex, BATS, C2, CBOE, ISE, FINRA, Arca, NASDAQ, BOX, BX and Phlx. 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 *4–551* and should be submitted on or before June 8, 2012.

V. Discussion

The Commission continues to believe that the Plan, as proposed to be amended, is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related market surveillance matters that would otherwise be performed by multiple SROs. The Plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the Plan, the Plan promotes, and will continue to promote, investor protection. Under paragraph (c) of Rule 17d-2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The purpose of the amendment is to add BOX as a Participant to the Plan. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay.[15] In addition, the Commission notes that the prior version of this Plan was

[15] On April 27, 2012, the Commission granted BOX's application for registration as a national securities exchange. *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012).

published for comment, and the Commission did not receive any comments thereon.[16] Finally, the Commission does not believe that the amendment to the Plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. 4–551.

It is therefore ordered, pursuant to Section 17(d) of the Act, 16 that the Plan, as amended by and between the Amex, BATS, C2, CBOE, ISE, FINRA, Arca, NASDAQ, BOX, BX and Phlx filed with the Commission pursuant to Rule 17d–2 on May 2, 2012 is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOSR as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOSR under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12019 Filed 5–17–12; 8:45 am]

BILLING CODE 8011–01–P

[16] *See supra* note 14 (citing to Securities Exchange Act Release No. 61588).

[17] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66982; File No. SR–BOX–2012–001]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Rules Based on the Boston Options Exchange Group, LLC (''BOX Group'') Rules and Recent BOX Group Rule Filings

May 14, 2012.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 9, 2012, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. 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

BOX Options Exchange LLC (the ''Exchange'') proposes to update its rules based on the Boston Options Exchange Group, LLC (''BOX Group'') rules and recent BOX Group rule filings. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 27, 2012, the Exchange became registered as a national securities exchange under Section 6 of the Securities Exchange Act of 1934 (''Exchange Act'').[4] The automated electronic trading system that is currently operated by BOX Group as a facility of NASDAQ OMX BX, Inc. will, upon the commencement of the Exchange's operations as a national securities exchange, be operated by BOX Market LLC as a facility of the Exchange. As such, the operation and functionalities of the system are the same as are in effect under the rules of the BOX Group facility. The anticipated launch of the system as a facility of the Exchange is May 14, 2012. The purpose of this filing is to update the Exchange rules with the same changes as were recently adopted by NASDAQ OMX BX, Inc. for the BOX Group.

First, BOX proposes to amend Rule 7150(f)(1) to reduce the duration of the Price Improvement Period (''PIP'') from one second to one hundred milliseconds. The PIP allows BOX Options Participants to designate certain customer orders for price improvement and submit such orders to the PIP (''PIP Order'') with a matching contra order (''Primary Improvement Order''). Once such an order is submitted, BOX commences a PIP by broadcasting a message to Options Participants that (1) states that a Primary Improvement Order has been processed; (2) contains information concerning series, size, PIP Start Price and side of the market of the order; and (3) states when the PIP will conclude (''PIP Broadcast''). Further, responses within a PIP (*i.e.,* Improvement Orders), are also broadcast to BOX Options Participants. This proposed rule change would reduce the duration of the PIP from one second to 100 milliseconds. The approval order for the BOX Group facility rule change stated that the Commission believes that, given advances in the electronic trading environment, reducing the duration of the PIP from one second to one hundred milliseconds could facilitate the prompt execution of orders while continuing to provide market participants with an opportunity to compete for bids and/or offers without compromising the ability for adequate exposure and participation in PIP.[5] Additionally, BOX believes the proposed rule change could provide more customer orders an opportunity for price improvement because it will reduce the market risk for all Participants executing trades in the PIP. This proposed amendment is based on the recent amendment to Chapter V, Section 18(e)(i) of the BOX Group rules.[6]

Second, BOX proposes to amend IM–5050–6(a) and IM–6090–2(a) to expand the Short Term Option Series Program (''Weeklys Program''). Currently, BOX may select up to 25 currently listed option classes on which Weekly options may be opened in the Weeklys Program. BOX proposes to increase this to thirty option classes to participate in the Weeklys Program. BOX also proposes to amend the BOX Rules to allow BOX to open short term option series that are opened by other securities exchanges in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 66871 (April 27, 2012) (File No. 10–206).

[5] *See* Securities Exchange Act Release No. 66306 (Feb. 2, 2012), 77 FR 6608 (Feb. 8, 2012) (SR–BX–2011–084).

[6] *See* Securities Exchange Act Release No. 66306 (Feb. 2, 2012), 77 FR 6608 (Feb. 8, 2012) (SR–BX–2011–084).

options classes selected by other exchanges under their respective short term option rules. This change is being proposed notwithstanding the proposed cap of thirty series per class under the Weeklys Program.[7] With regard to the impact of this proposal on system capacity, BOX has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of classes that participate in the Weeklys Program. The proposed increase to the number of classes and number of series per classes eligible to participate in the Weekly Program is required for competitive purposes as well as to ensure consistency and uniformity among the competing options exchanges that have adopted similar Weeklys Programs. This proposed amendment is based on recent amendments to Supplementary Material .07 to Chapter IV, Section 6 and Supplementary Material .02 to Chapter XIV, Section 10 of the BOX Group rules.[8]

Third, BOX proposes to amend Rule 7110(c)(6) to amend the definition of Order Entry to include Customer Cross Orders. In particular, BOX proposes to add the definition of a Customer Cross Order, specifying that a Customer Cross Order is comprised of a non-Professional, Public Customer Order to buy and a non-Professional, Public Customer Order to sell at the same price and for the same quantity. BOX also proposes to specify that Customer Cross Orders be automatically executed upon entry provided that the execution is between the best bid and offer on BOX (''BBO'') and will not trade-through the national best bid or offer (''NBBO''). Customer Cross Orders entered at a price that is outside the BBO or the NBBO will be automatically cancelled, and Customer Cross Orders may only be entered in the regular trading increments applicable to the options class. BOX also proposes to amend IM–7140–1, which prohibits an Options Participant from being a party to any arrangement designed to circumvent the requirements applicable to executing agency orders as principal, to specifically reference affiliates of Options Participants. This proposed amendment is based on recent amendments to Chapter V, Section 14(c) and Supplementary Material .01 to Chapter V, Section 17 of the BOX Group rules.[9]

Fourth, BOX proposes to amend Rule 7110(c)(5) and Rule 7130(b)(1) to correct cross references to the definition of Intermarket Sweep Order (''ISO'') in subsection (h) of Rule 15000 and not (g) as currently reflected.

Fifth, BOX proposes to amend Rule 7230 to (1) clarify certain provisions within Rule 7230(a) regarding to whom the liability limitation applies; (2) codify provisions within the BOX Rules to permit BOX to compensate Participants for losses under certain circumstances; and (3) establish the maximum amount of such compensation that BOX may provide during a calendar month. BOX Rule 7230 provides, in general, that neither the Exchange, BOX, nor any of their respective affiliates with regard to BOX will be liable to BOX Options Participants for any losses arising from the use of BOX or the BOX Trading Host. The Exchange is proposing to codify provisions within the BOX Rules that permit BOX, for customer service reasons, to compensate an Options Participant, within specified limits as proposed, for certain identified losses. Additionally, the Exchange is proposing to clarify certain provisions within Rule 7230 regarding to whom it is applicable. BOX represents that the determination to compensate a BOX Options Participant will be made on an equitable and non-discriminatory basis without regard to whether the Participant is a Market Maker or Order Flow Provider on BOX, and that such determinations will be made pursuant to procedures of BOX Market Operations Center with regulatory oversight established by BOX. Additionally, BOX represents that BOX will maintain a record of Participant claims including documentation detailing its findings and details for approving or denying claims in accordance with its obligations under Section 17 of the Act. This proposed amendment is based on recent amendments to Chapter V, Section 26 of the BOX Group rules.[10]

Sixth, BOX proposes to amend Rule 7130(a) to specify the name and content of the BOX market trading data feed containing information that BOX makes available to BOX Options Participants without charge and to restructure the current subsection to provide more clarity. BOX provides the BOX High Speed Vendor Feed (''HSVF'') as an alternative for BOX Options Participants to receive BOX market data directly from BOX rather than via a commercial data vendor (which receives data from OPRA). The HSVF is available to all BOX Participants. The proposed rule change identifies the BOX proprietary data feed containing market information that BOX makes available to its Options Participants and sets forth in the BOX Rules that the HSVF is provided at no charge. The rule will specify that the HSVF contains the following information:

(i) Trades and trade cancellation information;

(ii) Best-ranked price level to buy and the best ranked price level to sell;

(iii) Instrument summaries (including information such as high, low, and last trade price and traded volume);

(iv) The five best limit prices for each option instrument;

(v) Request for Quote messages (see Rule 100(a)(57), Rule 7070(h), and Rule 8050);

(vi) PIP Order, Improvement Order and Block Trade Order (Facilitation and Solicitation) information (as set forth in Rule 7150 and 7270, respectively);

(vii) Orders exposed at NBBO (as set forth in this Rule 7130(b)(3) and Rule 8040(d)(6) of the BOX Rules, respectively);

(viii) Instrument dictionary (e.g. strike price, expiration date, underlying symbol, price threshold, and minimum trading increment for instruments traded on BOX);

(ix) Options class and instrument status change notices (e.g., whether an instrument or class is in pre-opening, continuous trading, closed, halted, or whether prohibited from trading); and

(x) Options class opening time.

All orders and executions displayed through the HSVF are anonymous and do not contain the identity of the party submitting the order. Additionally, the Exchange is making a voluntary decision to make this data available, unlike the best bid and offer which must be made available under the Act. The Exchange chooses to make the data available as proposed in order to improve market quality, to attract order flow, and to increase transparency. Once this proposed change becomes effective, the Exchange will continue making the data available until such time as the Exchange changes its rule. This proposed amendment is based on

[7] This was a competitive filing and based on recently approved filings and existing rules of The NASDAQ Stock Market LLC for the NASDAQ Options Market and NASDAQ OMX PHLX, Inc. *See* Securities Exchange Act Release Nos. 65775 (Nov. 17, 2011), 76 FR 72473 (Nov. 23, 2011) (SR–NASDAQ–2011–138) and 65776 (Nov. 17, 2011), 76 FR 72482 (Nov. 23, 2011) (SR–PHLX–2011–131).

[8] *See* Securities Exchange Act Release No. 66238 (Jan. 25, 2012), 77 FR 4850 (Jan. 31, 2012) (SR–BX–2012–005); Securities Exchange Act Release No. 66705 (Mar. 30, 2012), 77 FR 20684 (Apr. 5, 2012) (SR–BX–2012–024).

[9] *See* Securities Exchange Act Release No. 66356 (Feb. 8, 2012), 77 FR 8321 (Feb. 14, 2012) (SR–BX–2012–007).

[10] *See* Securities Exchange Act Release No. 66512 (Mar. 5, 2012), 77 FR 14452 (Mar. 9, 2012) (SR–BX–2012–011).

recent amendments to Chapter V, Section 16(a) of the BOX Group rules.[11]

Lastly, BOX proposes to amend Rule 7130(b)(1) to address how inbound orders are processed when the BOX best price on the same side of the market locks, or is locked by the opposite side NBBO. Currently, Rule 7130 sets forth that inbound orders on BOX are filtered prior to their entry on the BOX Book to ensure such orders will not Trade-Through the NBBO in accordance with the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). The rule provides that all of the filtering rules described are independent of whether the NBBO is locked or crossed, except where the BOX best price on the same side of the market as the inbound order has crossed, or is crossed by the opposite side NBBO, the order will be routed, if eligible, or rejected immediately. The Exchange proposes to amend the rule so that, in addition, where the BOX best price on the same side of the market as the inbound order has locked, or is locked by, the opposite side NBBO, the order will also be routed, if eligible, or rejected immediately. As such, the BOX trading engine is systematically either routing to an Away Exchange [12] or immediately rejecting such an order. Immediately rejecting such an order, which is not eligible for routing, prevents that order from being exposed,[13] and thereby removes the potential that such order could join the pre-existing locked market. The BOX NBBO filtering process set forth in Rule 7130 continues to be designed in a manner to prevent a sell order from being executed on BOX at a price inferior to the best bid available at any Away Exchange; similarly, any order to buy would not be executed on BOX at a price worse than the best offer available at any Away Exchange. The Exchange believes handling the order as described above is consistent with the objectives of the Plan and assists BOX Options Participants in that it systematically removes the potential that such an order could join a pre-existing locked market. This proposed amendment is based on recent amendments to Chapter V, Section 16 of the BOX Group rules.[14]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') [15] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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.

The automated electronic trading system that is currently operated by BOX Group as a facility of NASDAQ OMX BX, Inc. will, upon the commencement of the Exchange's operations as a national securities exchange, be operated by BOX Market LLC as a facility of the Exchange. As such, the operation and functionalities of the system are the same as are in effect under the rules of the BOX Group facility. With the exception of a technical amendment to correct an incorrect citation, all of the proposed amendments herein are the same as were recently adopted by the BOX Group. Updating the BOX rules to keep them in line with those that were previously a part of the BOX Group rules provides for consistency in rules.[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe 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 Effectiveness

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. The Commission notes that (with the exception of a technical amendment to correct an incorrect citation) all of the proposed amendments are the same as were recently adopted by the BOX Group. Further, the operation and functionalities of the automated trading system that will be operated by BOX Market LLC as a facility of the Exchange are the same as are currently operated by BOX Group as a facility of NASDAQ OMX BX. Updating the Exchange rules to keep them in line with those that were previously a part of the BOX Group rules will provide for consistency in rules. Additionally, the Exchange anticipates that the facility will begin operations on May 14, 2012. Waiver of the operative delay period will allow the Exchange to have the amended rules in place as soon as options trading on the BOX facility commences. Therefore, the Commission designates the proposal operative upon filing.[21]

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

[11] *See* Securities Exchange Act Release No. 66526 (Mar. 7, 2012), 77 FR 14845 (Mar. 13, 2012) (SR–BX–2012–017).

[12] *See* Rule 15030, providing in pertinent part, ''[o]nly orders that are specifically designated by Options Participants as eligible for routing will be routed to an Away Exchange (''Eligible Orders'').''

[13] *See* Rule 7130(b)(4), providing that where an order is received which is executable against the NBBO and there is not a quote on BOX that is equal to the NBBO, that the order is exposed on the BOX Book at the NBBO for a period of one second. If the order is not executed during the one second exposure period, then the order is either routed or cancelled.

[14] *See* Securities Exchange Act Release No. 66792 (Apr. 12, 2012), 77 FR 23316 (Apr. 18, 2012) (SR–BX–2012–25).

[15] 15 U.S.C. 78s(b)(1).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] The statutory basis for this proposed rule filing is the same as that contained in each of the BOX Group rule filings cited herein.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2012–001 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–BOX–2012–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2012–001 and should be submitted on or before June 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12033 Filed 5–17–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66984; File No. SR–NYSEAmex–2012–29]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change Amending Commentary .07 to NYSE Amex Options Rule 904 To Eliminate Position Limits for Options on the SPDR® S&P 500® Exchange-Traded Fund Which List and Trade Under the Symbol SPY

May 14, 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 May 2, 2012, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .07 to NYSE Amex Options Rule 904 to eliminate position limits for options on the SPDR® S&P 500® exchange-traded fund (''SPY ETF''),[3] which list and trade under the symbol SPY. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend Commentary .07 to NYSE Amex Options Rule 904 to eliminate position limits for SPY options.

Background

Position limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. The Exchange understands that the Commission, when considering the appropriate level at which to set option position and exercise limits, has considered the concern that the limits be sufficient to prevent investors from disrupting the market in the security underlying the option.[4] This consideration has been balanced by the concern that the limits ''not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.''[5]

SPY options are currently the most actively traded option class in terms of average daily volume (''ADV'').[6] The Exchange believes that, despite the popularity of SPY options as evidenced by their significant volume, the current position limits on SPY options could be a deterrent to the optimal use of this product as a hedging tool. The Exchange further believes that position limits on SPY options may inhibit the ability of certain large market participants, such as mutual funds and other institutional

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

[4] *See* Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 4911, 4912–4913 (February 1, 1999) (SR–CBOE–98–23) (citing H.R. No. IFC–3, 96th Cong., 1st Sess. at 189–91 (Comm. Print 1978)).

[5] *Id.* at 4913.

[6] SPY ADV was 2,156,482 contracts in April 2012. ADV for the same period for the next four most actively traded options was: Apple Inc. (option symbol AAPL)—1,074,351; S&P 500 Index (option symbol SPX)—656,250; PowerShares QQQ Trust℠, Series 1 (option symbol QQQ)—573,790; and iShares® Russell 2000® Index Fund (option symbol IWM)—550,316.

investors with substantial hedging needs, to utilize SPY options and gain meaningful exposure to the hedging function they provide.

The Exchange believes that current experience with the trading of SPY options, as well as the Exchange's surveillance capabilities, has made it appropriate to consider other, less prophylactic alternatives to regulating SPY options, while still seeking to ensure that large positions in SPY options will not unduly disrupt the options or underlying cash markets. Accordingly, the Exchange proposes to eliminate the position limits on SPY options—currently 900,000 contracts on the same side of the market.[7] In proposing the elimination of position limits on SPY options, the Exchange has considered several factors, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

Economically Equivalent Products

The Exchange has considered the existence of economically equivalent or similar products, and their respective position limits, if any, in assessing the appropriateness of proposing an elimination of position limits for SPY options.

For example, AM-settled options on the S&P 500 Index, which list and trade exclusively on the Chicago Board Options Exchange (''CBOE'') under the symbol SPX, are currently not subject to position limits.[8] Moreover, SPX options are 10 times the size of SPY options, so that a position of only 90,000 SPX options is the equivalent of a position of 900,000 SPY options, which is the current position limit for SPY options.[9]

Similarly, the C2 Options Exchange (''C2'') has recently introduced a PM-settled S&P 500 cash settled contract (''SPXPM''), which also is not subject to position limits.[10] This contract, unlike the existing SPX contract, is cash-settled based on the closing value of the S&P 500 Index. In this respect, SPXPM is very much like SPY options in that it is settled at the close, albeit into cash as opposed to shares of the underlying like SPY options.

The Exchange believes that, because SPX, SPXPM, and SPY options are ultimately derivative of the same benchmark—the S&P 500 Index—they should be treated equally from a position limit perspective. As a practical matter, investors utilize SPX, SPXPM, and SPY options and their respective underlying instruments and futures to gain exposure to the same benchmark index: The S&P 500. Further, because the creation and redemption process for the underlying SPY ETF allows large investors to transfer positions from a basket of stocks comprising the S&P 500 index to an equivalent number of ETF shares (and the reverse) with relative ease, there is no reason to disadvantage options overlying the one versus the other. The Exchange believes that this view is supported by the recent expansion of various exemptions from position limits, such as the Delta-Based Equity Hedge Exemption [11] for positions of a member, member organization or non-member affiliate that are delta neutral, which allows SPY option positions to be delta-hedged by positions in SPX options. Given that SPX options are not subject to position limits, a member or member organization (or non-member affiliate thereof) could theoretically establish a position in SPY options far in excess of the current 900,000 contract limit, provided that the position is hedged with SPX options. The Exchange believes that this situation accurately reflects the economic equivalence of SPX and SPY options, supporting the Exchange's proposal to further acknowledge this equivalence by eliminating position limits in SPY options.

The Exchange also believes that Commission findings in approving the SPXPM options further support treating SPY options in the same manner as SPX and SPXPM options for purposes of position limits. In particular, the Commission noted in approving SPXPM options that ''C2's proposal will offer investors another investment option through which they could obtain and hedge exposure to the S&P 500 stocks,'' and that ''C2's proposal will provide investors with the ability to trade an option on the S&P 500 index in an all-electronic market, which may better meet the needs of investors who may prefer to trade electronically.'' [12] The Commission also noted that ''C2's proposal will provide investors with added flexibility through an additional product that may be better tailored to meet their particular investment, hedging, and trading needs.'' [13] The Exchange believes that these Commission findings apply equally to SPY options. In this respect, SPY options with no position limit will (1) offer investors another investment option through which they could obtain and hedge significant levels of exposure to the S&P 500 stocks, (2) be available to trade on the Exchange (and presumably all other U.S. options exchanges) electronically, and (3) provide investors with added flexibility through an additional product that may be better tailored to meet their particular investment, hedging, and trading needs, because, among other things, they are PM-settled.

The Exchange notes that, with respect to competition amongst economically equivalent products, a 2005 paper by Hans Dutt and Lawrence Harris that set forth a model to determine appropriate position limits for cash-settled index derivatives observed that ''markets and their regulators should take a closer look at the underlying economic rationale for the levels at which they currently set their position limits to ensure that the limits adequately protect markets from manipulation and that inconsistent position limits do not produce competitive advantages and disadvantages among contracts.'' [14] On this point, the Exchange believes that if no position limits have been found to be warranted on both SPX and SPXPM options, then such treatment should be extended to SPY options so that inconsistent position limits do not produce competitive advantages and disadvantages among contracts.

In addition, the Exchange notes that the Dutt-Harris Paper focuses its attention on the concerns relating to manipulation of cash-settled derivatives, stating that ''[a]lthough

[7] *See* Commentary .07 to NYSE Amex Options Rule 904. *See also* Securities Exchange Act Release No. 64966 (July 26, 2011), 76 FR 45899 (August 1, 2011) (SR–NYSEAmex–2011–50).

[8] *See* Securities Exchange Act Release No. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (SR–CBOE–2001–22). Position limits were also eliminated for options on the S&P 100 Index (option symbol OEX) and the Dow Jones Industrial Average (option symbol DJX).

[9] The Exchange notes that the reduced-value option on the S&P 500 Index (option symbol XSP) is the equivalent size of SPY options and, similar to SPX options, is not subject to position limits. *See* Securities Exchange Act Release No. 56350 (September 4, 2007), 72 FR 51878 (September 11, 2007) (SR–CBOE–2007–79).

[10] *See* Securities Exchange Act Release No. 65256 (September 2, 2011), 76 FR 55969 (September 9, 2011) (SR–C2–2011–008) (''SPXPM Approval'').

[11] *See* Commentary .10 to NYSE Amex Options Rule 904.

[12] *See* SPXPM Approval at 55975.

[13] *Id.*

[14] *The Journal of Futures Markets,* Vol. 25, no. 10, 945–965, 949 (2005) (''Position Limits for Cash-Settled Derivative Contracts,'' by Hans R. Dutt and Lawrence E. Harris) (''Dutt-Harris Paper''). In the paper, the authors examined existing position limits to determine whether they were consistent with the model the authors developed, and found that the results indicated that existing limits were not correlated with the limits suggested by their model.

several scholars have argued that cash settlement may increase the risk of market manipulation, until recently, the theoretical problems arising from potential cash settlement manipulation has been considered minor, as evidenced by the lack of academic interest in this area.'' [15] The paper further noted that ''[t]he reason for this may arise from the fact that most exchange-traded derivative index contracts that are cash settled are broad-based, and each of the underlying components typically possesses ample liquidity,'' and that ''manipulation of the underlying components would likely be extremely costly to the would-be manipulator.'' [16] This suggests that whatever manipulation risk does exist in a cash-settled, broad-based product such as SPXPM, the corresponding manipulation risk in a physically-settled, but equally broad-based product such as SPY, is likely to be equally low, if not lower.

Similarly, the Exchange notes that in the Dutt-Harris Paper the authors observed that the lack of scholarly interest in the cash-settlement manipulation problem may have been ''due to the fact that, until recently, most U.S. exchange-traded cash-settled derivative contracts were based on broad indices of very liquid stocks,'' and that ''[m]anipulation of such instruments require very large trades that are costly to make and easy to detect through conventional surveillance.'' [17] This observation applies equally to SPY options, which are based on a broad index of very liquid stocks and can easily be created by submitting a position in the underlying securities. Moreover, it provides additional support for the Exchange's view that the enhanced reporting and surveillance for SPY options discussed below adequately address concerns about manipulation.[18]

Liquidity in the Option and the Underlying Security

The Exchange has also considered the liquidity of SPY options and the underlying SPY ETF in assessing the appropriateness of proposing an elimination of position limits for SPY options.

In approving the elimination of position and exercise limits on SPX options, the Commission noted that the deep, liquid markets for the securities underlying the S&P 500 Index reduced concerns regarding market manipulation or disruption in the underlying markets.[19] The Commission further noted that removing position limits for SPX options could also bring additional depth and liquidity, in terms of both volume and open interest, without increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.[20] The Exchange similarly believes that this would be the case if position limits for SPY options were eliminated.

In this regard, both the SPY ETF and SPY options similarly exhibit deep, liquid markets. However, SPY options are not as active as SPX options when adjusted for the difference in their notional size.[21] As described below, the Exchange believes that this is partly due to the existence of position limits for SPY options. The table below compares the ADV in both SPX and SPY options, and includes an ''implied SPY volume'' figure that reflects theoretical SPY ADV without the constraint of position limits:

Date range	Trade days	SPX option ADV	SPY option ADV	Implied SPY option ADV	Implied SPY option ADV shortfall
Jan 1, 2011 to Dec 31, 2011	252	1,567,535	5,789,511	15,675,353	9,885,842
Jan 1,2012 to Apr 19, 2012	75	1,343,735	4,525,709	13,437,353	8,911,644

The Exchange believes that certain factors may result in SPX options—adjusted for their larger notional size—currently trading with greater volume than SPY options.[22] In this regard, the Exchange believes that, based on input from various market participants, the existence of position limits in SPY options is reason in itself to instead utilize SPX options. Anecdotally, market participants perceive value in avoiding the regulatory risk of exceeding the SPY option position limit by instead using SPX options for their hedging needs. The Exchange also believes that, while exemptions are available with respect to position limits for SPY options, such exemptions, and the regulatory burden attendant therewith, may dissuade investors from using SPY options when they can instead use an SPX option without the need for such an exemption. Because SPY and SPX options are economically equivalent products, an investor deciding between the two would generally trade the product with the least barriers or requirements to engage in such activity. In this respect, SPX options are currently the easier product to trade.

As a further comparison, the following table sets forth certain data for both the SPY ETF and the combined volume for the component securities upon which the S&P 500 Index is based:

Date range	S&P 500 Index underlying component ADV [23]	S&P 500 Index underlying component average daily value traded	SPY ETF ADV	SPY ETF average daily value traded
Jan. 1, 2011 to Dec. 31, 2011	3,289,595,675	$4,149,726,217,456	218,227,747	$27,297,097,993
Jan. 1, 2012 to Apr. 19, 2012	2,851,457,600	3,860,704,307,080	145,164,527	19,684,577,239

[15] *Id.* at 946.

[16] *Id.*

[17] *Id.* at 948.

[18] The authors of the Dutt-Harris Paper further posited that ''position limits need only apply during the period when cash settlement takes place.'' *Id.* at 964. The Exchange notes that no such period exists with respect to SPY options, which are physically settled.

[19] *See supra* note 4 at 4913.

[20] *Id.*

[21] SPX options have a notional value 10 times greater than SPY options (i.e., one SPX contract equals 10 SPY contracts).

[22] The Exchange notes that the ''Implied SPY Option ADV Shortfall'' has narrowed over time and at an accelerated rate, which the Exchange believes is a direct result of the implementation of the Delta-Based Equity Hedge Exemption that allows SPY options to be hedged via SPX options.

This data shows that there is tremendous liquidity in both SPY ETF shares and the component securities upon which the S&P 500 Index is based. While the ADV for the components underlying the S&P 500 Index is greater than the ADV for the SPY ETF, the Exchange believes that SPY ETF volume has been, is currently and will likely continue to be within a range that the Commission has previously determined to be a deep, liquid market.[24]

Market Capitalization of the Underlying Security and the Related Index

The Exchange has also considered the market capitalization of the SPY ETF and the S&P 500 Index in assessing the appropriateness of proposing an elimination of position limits for SPY options.

The Exchange understands that the Commission similarly considered the market capitalization of the underlying index when it approved the elimination of position limits in SPX options. Accordingly, the Exchange believes that the capitalization of and the deep, liquid markets for the underlying SPY ETF reduces concerns regarding market manipulation or disruption in the underlying market. The table below shows the market capitalization of the SPY ETF and the S&P 500 Index:

Date range	Average S&P 500 Index market cap	Average SPY ETF market cap
Jan. 1, 2011 to Dec. 31, 2011	$11,818,270,341,270	$89,533,777,897
Jan. 1, 2012 to Apr. 19, 2012	12,547,946,920,000	99,752,986,022

This data shows the enormous capitalization of both the SPY ETF and the component securities upon which the S&P 500 Index is based. While the capitalization for the components underlying the S&P 500 Index is greater than that for the SPY ETF, the Exchange believes that the SPY ETF capitalization has nonetheless been, is currently and will likely continue to be at a level consistent with that which the Commission has previously determined to be enormously capitalized.[25]

The Exchange notes that the theoretical limit on one's ability to hedge both SPX and SPY options is the full market capitalization of the S&P 500 Index itself. This similarly contributes to the Exchange's determination that it is appropriate for position limits on SPY options to be eliminated.

Large Position Reporting and Margin Requirements

The Exchange has also considered the reporting of large option positions and related margin requirements in assessing the appropriateness of proposing an elimination of position limits for SPY options.

The Exchange notes that the Large Option Position Reporting (''LOPR'') requirement in NYSE Amex Options Rule 906 would continue to apply. Rule 906 requires members and member organizations to file a report with the Exchange with respect to each account in which the member or member organization has an interest; each account of a partner, officer, director, trustee or employee of such member organization; and each customer account that has established an aggregate position (whether long or short) that meets certain determined thresholds (e.g., 200 or more option contracts if the underlying security is a stock or Exchange-Traded Fund Share). Rule 906 also permits the Exchange to impose a higher margin requirement upon the account of a member or member organization when it determines that the account maintains an under-hedged position.

Monitoring accounts maintaining large positions provides the Exchange with the information necessary to determine whether to impose additional margin and/or whether to assess capital charges upon a member organization carrying the account. In addition, the Commission's net capital rule, Rule 15c3–1 under the Securities Exchange Act of 1934 (the ''Act''),[26] imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement, which should serve as an additional form of protection.

In approving SPXPM, the Commission addressed concerns about the lack of a position limit by noting that CBOE will rely on its enhanced surveillance requirements and procedures for SPX options to monitor trading activity in SPXPM options.[27] Similarly, the Exchange notes that certain option products are currently traded on the Exchange without position limits (e.g., the NASDAQ® 100 Index option (option symbol NDX) and the Russell 2000® Index option (option symbol RUT)), and believes that the reporting, surveillance and monitoring mechanisms in place for these products are effective and could easily accommodate SPY options if position limits thereon are eliminated.

Market on Close Volatility

The Exchange has also considered the potential for resulting or increased market on close volatility in assessing the appropriateness of proposing an elimination of position limits for SPY options.

SPY options are American-style, physically settled options that can be exercised at any time and settle into shares of the underlying SPY ETF. A key characteristic of the SPY ETF is that the number of shares outstanding is limited only by the number of shares available in the component securities of the S&P 500 Index, which can be used to create additional SPY ETF shares as needed. This in-kind creation and redemption mechanism has proven to be quite robust, as evidenced by the SPY ETF's close tracking of its benchmark index and the relatively small premiums or discounts to Net Asset Value (''NAV'') that it has historically exhibited.[28] Additionally, the ability to hedge with SPX options against the stocks underlying the S&P 500 is limited to the shares outstanding for those stocks—the same limit that applies to hedging with SPY options. Accordingly, the Exchange believes that the risk of distortions to the market resulting from the elimination of position limits in SPY options is no greater than the risk presented by SPX options not being subject to position limits.

As a physically-settled option, SPY options can be easily hedged via long or short positions in SPY ETF shares, which, as noted above, can be easily

[23] The data considers the aggregate volume for all component stocks of the S&P 500 Index.

[24] *See supra* note 4 at n. 13. The ADV for the components of the indexes underlying the options for which position limits were eliminated were 94.77 million shares (DJX), 244.3 million shares (OEX), and 757.5 million shares (SPX).

[25] *See supra* note 9 at 51879. Specifically, the market capitalization of the component securities of the Russell 2000 Index (''RUT'') of $1.73 trillion was determined to be enormously capitalized.

[26] 17 CFR 240.15c3–1.

[27] *See* SPXPM Approval at 55972.

[28] *See* SPDR® S&P 500® ETF Trust, Annual Report (September 30, 2011), available at *https://www.spdrs.com/library-content/public/SPY%20Annual%20Report%2009.30.11.pdf.*

created or redeemed as needed. With a physically-settled contract such as SPY options, once a hedge in the form of a long or short position is obtained, that hedge can only be lost if the underlying security becomes hard to borrow and the short position is bought in.[29] The Exchange believes that this ability to hedge with shares of the SPY ETF is very important, and reduces the likelihood of market on close volatility in the component securities underlying the S&P 500 Index (i.e., a market participant can remain fully hedged through expiration via shares of the SPY ETF), which should also be the case if position limits for SPY options are eliminated. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market. The Exchange believes that any potential concern regarding volatility at the closing that could result from an elimination in the position limits for SPY options is further alleviated by the current trading environment, including that there are markets for individual securities on more than one exchange, via unlisted trading privileges, that there is wide dispersion of trading across multiple exchanges, and that exchange procedures and systems are designed to facilitate orderly closings, even when there is volatility.[30]

Implementation

In addition to Commission approval, the implementation of this proposed rule change will be contingent on other factors, including the completion of any changes that may be necessary to the Exchange's regulatory and surveillance program. The Exchange will announce the implementation of the elimination of position limits on SPY options through a notice to ATP holders after any Commission approval of this proposed rule change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[31] of the Act, in general, and furthers the objectives of Section 6(b)(5),[32] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B.Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2012–29 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–NYSEAmex–2012–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2012–29 and should be submitted on or before June 8, 2012.

[29] As noted, the in-kind creation and redemption process allows for short term imbalances in supply and demand to be resolved readily, which in turn reduces the likelihood of getting ''bought in'' on a short position in SPY. Since the implementation of Regulation SHO, SPY has never been on the threshold security list, which further evidences the efficacy of the in-kind creation and redemption process in resolving imbalances in supply and demand.

[30] *See, e.g.,* Rule 123C—NYSE AMEX Equities (The Closing Procedures).

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12035 Filed 5–17–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66985; File No. SR–Phlx–2012–61]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rebates and Fees for Adding and Removing Liquidity in Select Symbols and Equity Options Fees

May 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 May 1, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section I, entitled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols'' and Section II, entitled ''Equity Options Fees''[3] to amend various fees and rebates within those sections.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXfilings,* 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes changes to Sections I and II of the Exchange's Pricing Schedule to: (1) Amend the Monthly Firm Fee Cap; (2) eliminate a Service Fee applicable to Firms who have reached the Monthly Firm Fee Cap; and (3) amend Qualified Contingent Cross fees and rebates. The Exchange also proposes to amend Section II to: (1) Adopt a fee reduction for Firm electronic orders in Penny and non-Penny Pilot Options;[4] and (2) amend the Customer rebate paid for certain electronically-delivered Customer orders. The Exchange believes that the amendments described above would incentivize Firms to transact a greater number of orders at the Exchange by eliminating the Service Fee applicable to Firms, reducing the QCC Service Fee and providing an opportunity to reduce Section II fees in lieu of the elimination of electronic orders from the Monthly Firm Fee Cap. The Exchange believes that the amended rebates applicable to QCC Orders would continue to incentivize members to transact QCC Orders. Finally, the Exchange is amending the Customer rebates on certain Penny Pilot and non-Penny Pilot Orders to attract additional Customer order flow, which should benefit all market participants.

Monthly Firm Fee Cap and Service Fee

Currently, Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Firm equity option transaction fees and QCC Transaction Fees, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend,[5] merger[6] or short stock interest strategy[7] and executions subject to the Reversal and Conversion Cap[8] are excluded from the Monthly Firm Fee Cap.[9] The Firm equity options transaction fees are waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet equity options transaction fees).[10] QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap.

The Exchange proposes to amend the Monthly Firm Fee Cap to exclude electronic orders. In other words, only Firm non-electronic equity option transaction fees and QCC Transaction Fees (electronic and non-electronic) in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. The exclusions and waivers currently noted in the Pricing

[33] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Equity options fees include options overlying equities, ETFs, ETNs, indexes and HOLDRS which are Multiply Listed, except SOX, HGX and OSX.

[4] Non-Penny refers to options classes not in the Penny Pilot. The Penny Pilot was established in January 2007; and in October 2009, it was expanded and extended through June 30, 2012. See Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot); 60873 (October 23, 2009), 74 FR 56675 (November 2, 2009) (SR–Phlx–2009–91) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60966 (November 9, 2009), 74 FR 59331 (November 17, 2009) (SR–Phlx–2009–94) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61454 (February 1, 2010), 75 FR 6233 (February 8, 2010) (SR–Phlx–2010–12) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62028 (May 4, 2010), 75 FR 25890 (May 10, 2010) (SR–Phlx–2010–65) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62616 (July 30, 2010), 75 FR 47664 (August 6, 2010) (SR–Phlx–2010–103) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 63395 (November 30, 2010), 75 FR 76062 (December 7, 2010) (SR–Phlx–2010–167) (notice of filing and immediate effectiveness extending the Penny Pilot); and 65976 (December 15, 2011), 76 FR 79247 (December 21, 2011) (SR–Phlx–2011–172) (notice of filing and immediate effectiveness extending the Penny Pilot). *See also* Exchange Rule 1034.

[5] A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. *See* Section II of the Pricing Schedule.

[6] A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. *See* Section II of the Pricing Schedule.

[7] A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. *See* Section II of the Pricing Schedule.

[8] Market Maker, Professional, Firm and Broker-Dealer equity options transaction fees are capped at $1,000 per day for reversal and conversion strategies executed on the same trading day in the same options class.

[9] The Monthly Firm Fee Cap is applicable to both Sections I and II of the Pricing Schedule.

[10] Member organizations must notify the Exchange in writing of all accounts in which the member is not trading in its own proprietary account.

Schedule related to the Monthly Firm Fee Cap would remain without change.

Additionally, the Exchange currently assesses Firms that (i) are on the contra-side of an electronically-delivered and executed Customer order; and (ii) have reached the Monthly Firm Fee Cap a $0.07 per contract fee, excluding PIXL Orders.[11] The Exchange proposes to eliminate this $0.07 per contract Service Fee as applicable to the Monthly Firm Fee Cap.

Qualified Contingent Cross Orders

Currently, the Exchange assesses Market Makers,[12] Professionals,[13] Firms and Broker-Dealers a QCC Transaction Fee of $0.20 per contract. QCC Transaction Fees apply to both electronic QCC Orders (''eQCC'')[14] and Floor QCC Orders[15] (collectively ''QCC Orders''). Today, the Exchange offers a rebate of $0.07 per contract on all qualifying executed QCC orders up to 1,000,000 contracts in a month, except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger or short stock interest strategy and executions subject to the Reversal and Conversion Cap. If a member exceeds 1,000,000 contracts in a month of qualifying executed QCC Orders, a $0.11 rebate is paid on all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), in that month.

The Exchange proposes to amend the current QCC Order rebates of $0.07 per contract and $0.11 per contract by eliminating those rebates and replacing those rebates with a tiered rebate schedule as follows:

Threshold	Rebate per contract
0 to 199,999 contracts in a month	$0.00
200,000 to 499,999 contracts in a month	0.01
500,000 to 699,999 contracts in a month	0.05
700,000 to 999,999 contracts in a month	0.07
Over 1,000,000 contracts in a month	0.11

The exclusions noted in the Pricing Schedule applicable to QCC rebates would continue to apply.

Additionally, the Exchange proposes to amend the current QCC Service Fee applicable to the Monthly Firm Fee Cap. Currently, a Service Fee of $0.07 per side is assessed once a Firm has reached the Monthly Market Maker Cap. This $0.07 Service Fee will apply once a Firm has reached the Monthly Firm Fee Cap. This $0.07 Service Fee will apply to every contract side of the QCC Order, as defined in Exchange Rule 1080(o) and Floor QCC Order, as defined in Exchange Rule 1064(e), after a Firm has reached the Monthly Firm Fee Cap.[16] The Exchange proposes to decrease this Service Fee from $0.07 per side to $0.01 per side.

Firm Electronic Options Transaction Charges in Penny Pilot and Non-Penny Pilot Options

The Exchange proposes to decrease the Firm electronic Options Transaction Charges in Penny Pilot and non-Penny Pilot Options by reducing the applicable Options Transactions Charges to $.11 per contract if a Firm executed greater than 750,000 electronically-delivered contracts a month in Penny Pilot or non-Penny Pilot Options, excluding Select Symbols. Currently Firms are assessed an electronic Options Transaction Charge for Penny Pilot options of $.25 per contract and an electronic Options Transaction Charge for non-Penny Pilot options of $.40 per contract. For example, if a Firm transacted greater than 750,000 contracts a month in Penny Pilot or non-Penny Pilot Options, then the Firm would be assessed an Options Transaction Charge of $.11 per contract for all Penny Pilot and non-Penny Pilot Options in that given month.

Customer Rebate

The Exchange proposes to amend the applicability of a Customer rebate which is offered today for members executing electronically-delivered Customer orders in Section II of the Pricing Schedule. Currently when a member transacts an average daily volume of 50,000 Customer contracts or greater in a given month the member is entitled to a rebate of $0.07 per contract. If the member qualified for the $0.07 rebate and added liquidity in a non-Penny Pilot Option the member would be eligible for an additional $0.03 per contract rebate for all qualifying Customer orders in a given month.[17]

The Exchange proposes to continue to offer a rebate of $.07 per contract for members executing electronically-delivered Customer orders when a member transacts an average daily volume of 50,000 Customer contracts or greater in a given month. The Exchange is proposing to amend the applicability of the additional rebate of $0.03 per contract. The Exchange proposes to pay the additional rebate of $0.03 per contract to members for those electronically-delivered Customer orders that qualified for the $0.07 rebate; and added liquidity in a Simple order in a non-Penny Pilot Option or added or removed liquidity, including auctions, in a Complex Order in a Penny Pilot Option.[18]

[11] ''A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (''Initiating Order'') provided it submits the PIXL order for electronic execution into the PIXL Auction (''Auction'') pursuant to Rule 1080. *See* Exchange Rule 1080(n).

[12] A ''Market Maker'' includes Specialists (see Rule 1020) and Registered Options Traders (''ROTs'') (Rule 1014(b)(i) and (ii), which includes Streaming Quote Traders (''SQTs'') (see Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (''RSQTs'') (see Rule 1014(b)(ii)(B). Directed Participants are also Market Makers.

[13] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[14] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. *See* Rule 1080(o). *See also* Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR–Phlx–2011–47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (''QCTs'') that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of Regulation NMS).

[15] A Floor QCC Order must: (i) Be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the National Best Bid and Offer (''NBBO''); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. *See* Rule 1064(e). *See also* Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR–Phlx–2011–56).

[16] The Service Fee is not assessed to a Firm that does not reach the Monthly Firm Fee Cap in a particular calendar month.

[17] PIXL Orders and QCC Orders are not eligible for the rebate and are excluded from the calculation of the average daily volume.

[18] Section II rebates and fees apply to both Simple and Complex Orders. A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at 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. Furthermore, 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 stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

Conforming Amendments

The Exchange also proposes to amend the Pricing Schedule at Section I to amend text related to the Monthly Firm Fee Cap to correspond to the amended language in Section II by qualifying that the Monthly Firm Fee Cap will apply to non-electronic equity option transactions for Section I and Section II symbols as well as QCC electronic and non-electronic transactions. The Exchange is proposing to delete repetitive text in Section II [19] and simply state that the QCC Transaction fees and rebates, defined in Section II, are applicable to Section I.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [20] in general, and furthers the objectives of Section 6(b)(4) of the Act [21] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Monthly Firm Fee Cap, Firm Volume Discount and Service Fees

The Exchange believes that the proposal to amend the Monthly Firm Fee Cap to exclude electronic equity option transactions is reasonable because the Exchange seeks to incentivize Firms in other ways that it believes would encourage Firms to transact more volume on the Exchange. In lieu of offering Firms a cap on electronic equity option transaction fees the Exchange is seeking to remain competitive with other options exchanges by amending the application of the Monthly Firm Fee Cap and reducing the QCC Service Fee [22] from $0.07 to $0.01 per side. The Exchange desires to continue to incentivize Firms to transact electronic orders, by providing Firms with an opportunity to pay lower fees in Section II of the Pricing Schedule by offering a reduction of Firm electronic Options Transaction Charges in Penny Pilot and non-Penny Pilot Options, provided the Firm has volume greater than 750,000 electronically-delivered contracts in a month.

The Exchange believes that it is equitable and not unfairly discriminatory to offer lower transaction fees in Section II of the Pricing Schedule, in lieu of a cap on electronic equity option transactions, and to continue to offer the cap for non-electronic transactions, including electronic and non-electronic QCC Transactions. Firms will continue to be rewarded in terms of a cap on non-electronic equity option transactions and QCC Transactions, which represents the majority of Firm executions and would be able to achieve potentially greater per contract discounts from the proposed incentive offered for equity option transactions in Section II. Further, the Exchange believes that it is equitable and not unfairly discriminatory to exclude Firm electronic equity option transactions from the Monthly Firm Fee Cap, because a Firm transacting electronic orders would still be able to include electronic (and non-electronic) QCC transactions in the Monthly Firm Fee Cap and would also have the opportunity to reduce Section II Firm electronic Options Transaction Charges in Penny Pilot and non-Penny Pilot Options if the Firm achieved a certain volume in a month.

The Exchange believes that its proposal to reduce the QCC Service Fee applicable to the Monthly Firm Fee Cap, once a Firm has reached the Monthly Firm Fee Cap, from $0.07 per side to $0.01 per contract side is reasonable because the Exchange will no longer apply the Monthly Firm Fee Cap as broadly, including both electronic and non-electronic equity option orders, but rather will only apply the Cap to non-electronic equity option transactions and QCC Transactions. The Exchange does not believe it is necessary to assess a $0.07 per side Service Fee on QCC Transactions at this time to recoup costs, but instead believes it is reasonable to assess Firms a $0.01 per contract QCC Service Fee, once Firms have reach the Monthly Firm Fee Cap, in order to recoup costs. This fee is comparable to the QCC Service Fee assessed by the International Securities Exchange, LLC (''ISE'').[23]

Further, the Exchange believes that its proposal to reduce the QCC Service Fee applicable to the Monthly Firm Fee Cap from $0.07 per side to $0.01 per contract side, once a Firm has reached the Monthly Firm Fee Cap, is equitable and not unfairly discriminatory because the reduction will be uniformly applied to all Firms transacting QCC Orders and exceeding the Monthly Firm Fee Cap. The QCC Service Fee of $0.01 per side is proposed to recoup costs incurred by the Exchange to offer this capability including trade matching and processing, post trade allocation, submission for clearing and customer service activities related to trading activity on the Exchange.

The Exchange believes that reducing the QCC Service Fee applicable to the Monthly Firm Fee Cap from $0.07 per side to $0.01 per side, once the Firm has reached the Monthly Firm fee Cap is equitable and not unfairly discriminatory when compared to the Monthly Market Maker Cap because the Monthly Market Maker Cap is applicable to all equity options transaction fees and QCC Transaction Fees while the Monthly Firm Fee Cap would apply to non-electronic equity option transaction fees and QCC Transaction Fees. The corresponding reduction to the QCC Service Fee is related to the proposed amendment which would not include electronic equity option transaction fees in the Monthly Firm Fee Cap.

Additionally, the Exchange is eliminating the $0.07 Service Fee for Firms that are on the contra-side of an electronically-delivered and executed Customer order. The Exchange believes that its proposal to eliminate the $0.07 Service Fee for Firms that are on the contra-side of an electronically-delivered and executed Customer order and have reached the Monthly Firm Fee Cap is reasonable because the Exchange is amending the applicability of the Monthly Firm Fee Cap to apply to non-electronic transactions and QCC Transactions, excluding electronic equity option transactions.[24] The Exchange believes that its proposal to eliminate the $0.07 Service Fee for Firms that are on the contra-side of an electronically-delivered and executed Customer order and have reached the Monthly Firm Fee Cap is equitable and not unfairly discriminatory because it will be uniformly applied to all participants that qualify for the Service Fee. Further, the elimination of the Service Fee is related to the proposed amendment to exclude electronic equity option transaction fees from the Monthly Firm Fee Cap. The Exchange believes that eliminating the Service Fee is consistent with the proposed amendment to the Monthly Firm Fee Cap and its applicability to electronically-delivered orders.

Qualified Contingent Cross Orders Rebate Program

The Exchange believes that its proposal to amend the current rebates applicable to QCC Orders by replacing the current $0.07 rebate for all

[19] The Commission notes that the deleted text appeared in Section I.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(4).

[22] The QCC Service Fee is applicable once the Firm has reached the Monthly Firm Fee Cap.

[23] *See* ISE's Fee Schedule.

[24] The Commission notes that both electronic and manual QCC Transactions are included in the Monthly Firm Fee Cap.

qualifying executed QCC Orders up to 1,000,000 contracts in a month with certain exceptions or the $0.11 per contract rebate for all qualifying executed QCC Orders over 1,000,000 with a tiered rebate schedule for QCC Orders is reasonable because the Exchange believes that the tiered schedule would continue to incentivize members. Also, the rebate structure for QCC Orders is similar to rebates at ISE.[25]

The Exchange believes that its proposal to amend the current rebates applicable to QCC Orders by replacing the current $0.07 rebate for all qualifying executed QCC Orders up to 1,000,000 contracts in a month with certain exceptions or the $0.11 per contract rebate for all qualifying executed QCC Orders over 1,000,000 with a tiered rebate schedule for QCC Orders is equitable and not unfairly discriminatory because all market participants transacting QCC Orders would be subject to the same rebate schedule.

Customer Rebate

The Exchange's proposal to amend the applicability of the Section II Customer rebate of $0.03 for all orders in that month if the member qualified for the $0.07 rebate and also added liquidity in a Simple non-Penny Pilot Option or added or removed liquidity in a Complex Order Penny Pilot Option (including auctions) is reasonable because this proposed amendment broadens the types of Customer orders that are potentially eligible for the increased rebate and encourages members to transact a greater number of Customer orders, which Customer order flow benefits all market participants. Specifically, creating incentives and attracting Customer orders to the Exchange benefits all market participants through increased liquidity at the Exchange.

The Exchange's proposal to amend the applicability of the Section II Customer rebate of $0.07 for all orders in that month if the member qualified for the $0.03 rebate and also added liquidity in a Simple non-Penny Pilot Option or added or removed liquidity in a Complex Order Penny Pilot Option (including auctions) is equitable and not unfairly discriminatory because the rebates would uniformly apply to all Customer transactions that meet the criteria for the rebate. Further, all market participants may equally qualify for the rebate.

Conforming Amendments

The Exchange's proposal to conform the text of Section I of the Pricing Schedule to reflect amendments to text in Section II of the Pricing Schedule is reasonable, equitable and not unfairly discriminatory because the amended text would clearly indicate what types of fees are included in the Monthly Firm Fee Cap and the applicability of the QCC Transaction fees and rebates. The Exchange believes that the proposed text clarifies the text of the Pricing Schedule.

The Exchange operates in a highly competitive market, comprised of nine exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee and rebate levels at a particular venue to be excessive. Accordingly, the fees that are assessed and the rebates paid by the Exchange must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[26] 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–2012–61 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–2012–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2012–61 and should be submitted on or before June 8, 2012.

[25] *See* ISE's Fee Schedule.

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12036 Filed 5–17–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66981; SR–NYSE–2011–56; SR–NYSEAmex–2011–86]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE Amex LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether to Disapprove Proposed Rule Changes To Codify Certain Traditional Trading Floor Functions That May Be Performed by Designated Market Makers and To Permit Designated Market Makers and Floor Brokers Access To Disaggregated Order Information

May 14, 2012.

On October 31, 2011, the New York Stock Exchange LLC (''NYSE'') and NYSE Amex LLC (''NYSE Amex'') (collectively, the ''SROs'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule changes (''SRO Proposals'') to amend certain of their respective rules relating to Designated Market Makers (''DMMs'')[3] and floor brokers. The SRO Proposals were published for comment in the **Federal Register** on November 17, 2011.[4] The Commission received no comment letters on the proposals. On December 22, 2011, the Commission extended the time period in which to either approve the SRO Proposals, disapprove the SRO Proposals, or to institute proceedings to determine whether to disapprove the SRO Proposals, to February 15, 2012.[5]

On February 15, 2012, the Commission instituted proceedings to determine whether to disapprove the proposed rule changes.[6] The Commission thereafter received five comments on the proposals.[7] NYSE Euronext, on behalf of the SROs, submitted a response letter on March 28, 2012.[8]

Section 19(b)(2) of the Act[9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule changes were published for notice and comment in the **Federal Register** on November 17, 2011. May 15, 2012 is 180 days from that date, and July 14, 2012 is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule changes so that it has sufficient time to consider the proposed rule changes, the issues raised in the comment letters that have been submitted in connection with the proposed rule changes, and the SROs' response to such issues in its response letter. Specifically, while commenters and the SROs noted a number of benefits to the proposals, as the Commission noted in the Order Instituting Proceedings, the proposals raise issues such as whether DMMs and floor brokers would receive a benefit under the proposals that is disproportionate to the services they provide.[10]

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[11] designates July 14, 2012, as the date by which the Commission should either approve or disapprove the proposed rule changes (SR–NYSE–2011–56 and SR–NYSEAmex–2011–86).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

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[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Rule 98(b)(2). ''DMM unit'' means any member organization, aggregation unit within a member organization, or division or department within an integrated proprietary aggregation unit of a member organization that (i) has been approved by NYSE Regulation pursuant to section (c) of NYSE Rule 98, (ii) is eligible for allocations under NYSE Rule 103B as a DMM unit in a security listed on the Exchange, and (iii) has met all registration and qualification requirements for DMM units assigned to such unit. The term ''DMM'' means any individual qualified to act as a DMM on the Floor of the Exchange under NYSE Rule 103. *See also* NYSE Amex Equities Rule 2(i). Rule 2(i) defines the term ''DMM'' to mean an individual member, officer, partner, employee or associated person of a DMM unit who is approved by the Exchange to act in the capacity of a DMM. NYSE Amex Equities Rule 2(j) defines the term ''DMM unit'' as a member organization or unit within a member organization that has been approved to act as a DMM unit under NYSE Amex Equities Rule 98.

[4] *See* Securities Exchange Act Release Nos. 65735 (November 10, 2011), 76 FR 71405 (SR–NYSEAmex–2011–86) and 65736 (November 10, 2011), 76 FR 71399 (SR–NYSE–2011–56).

[5] *See* Securities Exchange Act Release No. 66036, 76 FR 82011 (December 29, 2011).

[6] *See* Securities Exchange Act Release No. 66397, 77 FR 10586 (February 22, 2012) (''Order Instituting Proceedings'').

[7] *See* Letters to Elizabeth M. Murphy, Secretary, Commission, from Kenneth Polcari, dated March 12, 2012; Patrick Armstrong and Daniel Tandy, Co-Presidents, Alliance of Floor Brokers, dated March 13, 2012; Jonathan Corpina, President, and Jennifer Lee, Vice President, Organization of Independent Floor Brokers, dated March 13, 2012; James J. Angel, Ph.D., CFA, dated March 15, 2012; and John Petschauer, CEO, EZX, Inc., dated March 14, 2012.

[8] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Janet McGinness, Executive Vice President and Corporate Secretary, NYSE Euronext, dated March 28, 2012.

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Order Instituting Proceedings, *supra* note 6 at 10589.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66983; File No. SR–BX–2012–030]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Establishment of a New Options Market, NASDAQ OMX BX Options

May 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 May 1, 2012, NASDAQ OMX BX, Inc. (''Exchange'' or ''BX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III, below, which Items have been prepared by the Exchange. On May 8, 2012, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made several technical and clarifying changes to the proposal, as well as minor changes to the definitions of the terms ''primary market'' and ''Intermarket Sweep Order.'' *See* Amendment No. 1.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX is filing with the Commission a proposal for a new options market. Specifically, BX proposes to adopt new trading rules, as explained further below, to operate a fully automated, price/time priority execution system built on the core functionality of the NASDAQ Options Market (''NOM'').

The text of the proposed rule change is available at the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/,* at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to operate a new options market, identical to (but separate from) the NASDAQ Options Market (''NOM'').[4] The new market, called NASDAQ OMX BX Options, or BX Options, will be all-electronic with no physical trading floor and is described more fully below.

BX is a registered national securities exchange and a self-regulatory organization (''SRO''). BX is a wholly-owned subsidiary of The NASDAQ OMX Group, Inc. BX will operate the BX Options market.

BX's history dates back to the 1830s. For many years, the Boston Stock Exchange (''BSE'') listed the securities of companies in the Boston area, but then, in more recent years, BSE traded securities mainly on an unlisted trading privileges (''UTP'') basis with a trading floor and an automated order delivery and execution system. As such, the BSE was an active competitor among the equities markets, pioneering a system of competing specialists and remote competing specialists. BSE partnered with various investors to form Boston Options Exchange (''BOX'') to trade options, which launched in 2004.[5] In 2008, BSE merged into a subsidiary of The NASDAQ OMX Group, Inc. creating NASDAQ OMX BX. BX re-launched an equities marketplace utilizing state of the art NASDAQ technology, having closed its floor-based market, and today competes with many other markets in trading NMS stocks.

Consistent with that storied history as a long-time competitor in the U.S. markets, BX now proposes to launch an options market. BX Options will leverage the technology and infrastructure that have helped spawn the success of both NOM and NASDAQ OMX PHLX LLC (''PHLX''). Accordingly, BX believes that it can compete effectively as an options market, recognizing that there are nine options exchanges today competing vigorously. Initially, BX Options will have the same market structure and rules as NOM, focusing on a price/time priority market. Over time, as the BX Options market secures more participants, it will introduce additional, innovative technology.

In connection with its BX Options market, BX is proposing to adopt a series of rules based on the existing rules of NOM. BX will operate an electronic trading system developed to trade options (''System'' or ''Trading System'') that will provide for the electronic display and execution of orders in price/time priority without regard to the status of the entities that are entering orders.

Trading System

BX's options trading system will leverage current state of the art technology, including customer connectivity, messaging protocols, quotation and execution engine, order router, data feeds, and network infrastructure of the various markets owned by The NASDAQ OMX Group, Inc. This approach minimizes the technical effort required for existing BX members to begin trading options on the BX Options market. As a result, the BX Options market will closely resemble NOM, including, most prominently, by offering true price/time priority across all orders and participants rather than differentiating between participant/trading interest.

Like on NOM, all trading interest entered into the System will be automatically executable. Orders entered into the System will be displayed anonymously and, as such, will trade anonymously.[6] The BX Options market will be a participant exchange of OCC. The System will be linked to OCC for BX to transmit locked-in trades for clearance and settlement. The System will operate between the hours of 8:00 a.m. ET and market close, with all orders being available for execution from 9:30 a.m. to market close.

Minimum Quotation and Trading Increments. BX is proposing to apply the following quotation increments: (1) If the options series is trading at less than $3.00, five cents; (2) if the options series is trading at $3.00 or higher, ten cents; and (3) if the options series is trading pursuant to the Penny Pilot Program,[7] one cent if the options series is trading at less than $3.00, and five cents if the options series is trading at $3.00 or higher, except for QQQQ, SPY and IWM, where the minimum quoting increment will be one cent for all series.[8] In addition, BX is proposing that the minimum trading increment for options contracts traded on BX will be one cent for all series.

BX notes that allowing market participants to quote in smaller increments has been shown to reduce spreads, thereby lowering costs to investors. In addition, permitting options to be quoted in smaller increments pursuant to the Penny Pilot Program provides the opportunity for reduced spreads for a significant amount of trading volume. Although the Penny Pilot Program has contributed to the increase in quote message traffic, BX believes that its proposal is sufficiently limited such that it is unlikely to increase quotation message traffic beyond the capacity of market participants' systems and disrupt the timely receipt of information.

[4] There are several differences between the rules of NOM today and the proposed new options market, which NASDAQ intends to amend by submitting a proposed rule change shortly. Once these changes are in place, the rules of NOM and the rules of the new market will be the same. *See* Amendment No. 1.

[5] The NASDAQ OMX Group, Inc. does not own BOX, which has operated as a facility of BX and is currently pursuing its own status as a national securities exchange and SRO. Going forward, once BOX becomes an exchange, BX will no longer provide regulatory services to BOX. *See* Securities Exchange Act Release No. 66242 (January 26, 2012), 77 FR 4841 (January 31, 2012) (BOX Options Exchange LLC; Notice of Filing of Application, as amended, for Registration as a National Securities Exchange under Section 6 of the Act).

[6] However, options trades are not completely anonymous through settlement. *See* proposed BX Options Rules Chapter VI, Section 12. Options trades are submitted to The Options Clearing Corporation (''OCC'') with contra-side OCC member information.

[7] BX will participate in the Penny Pilot Program.

[8] *See* proposed BX Options Rules, Chapter VI, Section 5.

Opening and Halt Crosses. The BX Options System will support a single price opening or re-opening via an electronic cross.[9] The auctions at the opening and at the resumption of trading following a halt are identical to those that exist on NOM. Since NOM commenced trading in March of 2008, several enhancements have been made to the opening and re-opening cross process. The incremental changes that have been made to NOM's opening and re-opening cross have culminated in an efficient and stable process that BX plans to replicate for BX Options.

BX Options will operate a pre-opening phase that will begin prior to the opening of the market at a time to be determined by the Exchange. Orders may be submitted, modified, and cancelled throughout the pre-opening phase. Prior to opening the market (or resuming trading in the case of a halt), BX will calculate and disseminate certain indicative information: opening price, order imbalance, and the size and direction of any imbalance.[10] Thereafter, BX will determine via algorithm a single price at which a particular options series will open and will match via algorithm the maximum number of available orders. After the cross concludes, orders will be cancelled, routed, or posted depending on the instructions on the orders and open trading will commence.

Order Types. The System will make available to Participants various order types, including Limit Orders, Minimum Quantity Orders, Market Orders, Price Improving Orders, Intermarket Sweep Orders, One-cancels-the-other Orders, All-or-none Orders and Post-Only Orders, with characteristics and functionality similar to what is currently approved for use on NOM.[11]

''Limit Orders'' are orders to buy or sell options at a specified price or better. A limit order is marketable when, for a limit order to buy, at the time it is entered into the System, the order is priced at the current inside offer or higher, or for a limit order to sell, at the time it is entered into the System, the order is priced at the inside bid or lower.

''Minimum Quantity Orders'' are orders that require that a specified minimum quantity of contracts be obtained, or the order is cancelled. Minimum Quantity Orders are treated as having a time-in-force designation of Immediate or Cancel (''IOC'').

''Market Orders'' are orders to buy or sell at the best price available at the time of execution.

''Price Improving Orders'' are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as one cent. Price Improving Orders that are available for display will be displayed at the appropriate minimum price variation in that security (rounding down to the proper increment for buys, up to the proper increment for sells). The non-displayed price of a Price Improving Order is therefore not included in the National Best Bid and Offer (''NBBO'') and not subject to trade-through protection, although it is available to trade against eligible incoming orders.

''Intermarket Sweep Orders'' or ''ISOs'' are limit orders that are designated as ISOs in the manner prescribed by BX and are executed within the System at multiple price levels without respect to Protected Quotations of other Eligible Exchanges as defined in Chapter XII, Section 1. ISOs are not eligible for routing as set out in Chapter VI, Section 11.[12] Simultaneously with the routing of an ISO to the System, one or more additional limit orders, as necessary, are routed by the entering Participant to execute against the full displayed size of any protected bid or offer (as defined in Chapter XII, Section 1) in the case of a limit order to sell or buy with a price that is superior to the limit price of the limit order identified as an ISO (as defined in Chapter XII, Section 1). These additional routed orders must be identified as ISOs.

''One-cancels-the-other'' shall mean an order entered by a Market Maker that consists of a buy order and a sell order treated as a unit; the full execution of one of the orders causes the other to be canceled.

''All-or-none'' shall mean a market or limit order which is to be executed in its entirety or not at all. All-or-none Orders are treated as having a time-in-force designation of Immediate or Cancel. All-or-none Orders received prior to the opening cross or after market close will be rejected.

''Post-Only Orders'' are orders that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) If a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C). Post-Only Orders received prior to the opening cross or after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.

Time-in-Force Designations. Participants entering orders into the System may designate such orders to remain in force and available for display and/or potential execution for varying periods of time.[13] Unless cancelled earlier, once these time periods expire, the order (or the unexecuted portion thereof) is returned to the entering Participant.

''Immediate Or Cancel'' or ''IOC'' orders are orders that if after entry into the System a marketable order (or unexecuted portion thereof) becomes non-marketable, the order (or unexecuted portion thereof) will be canceled and returned to the entering Participant. IOC Orders will be available for entry from 8:00 a.m. until market close and for potential execution from 9:30 a.m. until market close. IOC Orders entered between 8:00 a.m. and 9:30 a.m. ET will be held within the System until 9:30 a.m. at which time the System shall determine whether such orders are marketable. IOC orders can be routed if designated as routable.

''DAY'' orders are orders that if after entry into the System, the order is not fully executed, the order (or unexecuted portion thereof) will remain available for potential display and/or execution until market close, unless canceled by the entering party, after which it shall be returned to the entering party. DAY

[9] *See* proposed BX Options Rules, Chapter VI, Section 8.

[10] *See* proposed BX Options Rules, Chapter VI, Section 8.

[11] *See* proposed BX Options Rules, Chapter VI, Section 1(d) [sic].

[12] Intermarket Sweep Orders or ISOs can have any time-in-force designation except WAIT; GTC ISOs are treated as having a time-in-force designation of Day. ISOs that are marked as Day or GTC lose the ISO designation once posted on the BX Options book. If an entering firm cancel/replaces that resting Day or GTC ISO order, the replacement order cannot be marked as ISO; if the replacement is marked as ISO, it will be rejected. *See* Amendment No. 1.

[13] *See* proposed BX Options Rules, Chapter VI, Section 1(g).

Orders will be available for entry from 8:00 a.m. until market close and for potential execution from 9:30 a.m. until market close.

''Good Til Cancelled'' or ''GTC'' orders are orders that if after entry into the System, the order is not fully executed, the order (or unexecuted portion thereof) will remain available for potential display and/or execution unless cancelled by the entering Participant, or until the option expires, whichever comes first. GTC Orders will be available for entry from 8:00 a.m. until market close and for potential execution from 9:30 a.m. until market close.

''WAIT'' shall mean for orders so designated, that upon entry into the System, the order is held for one second without processing for potential display and/or execution. After one second, the order is processed for potential display and/or execution in accordance with all order entry instructions as determined by the entering Participant.

Order Display/Matching System The System will be based upon the order display and execution functionality currently approved for use on NOM. Specifically, the System will allow Participants to enter priced limit orders to buy and sell BX Options-listed options. Orders entered by a Participant will be displayed (price and size) on an anonymous basis in the order display service of the System. Options Participants will be permitted to enter multiple orders at single or multiple price levels.

Routing. BX Options will provide routing services to its Participants. The BX Options market will support orders that are designated to be routed to the NBBO as well as orders that will execute only within the System. Orders that are designated as routable will be routed to other options markets to be executed when BX Options is not at the NBBO, consistent with the Options Order Protection and Locked/Crossed Market Plan. The System will ensure that orders designated to only execute within the System will not create a trade through or locked or crossed market violation.[14]

Orders sent by the System to other markets generally do not retain time priority with respect to other orders in the System and the System shall continue to execute other orders while routed orders are away at another market center. Once routed by the System, an order becomes subject to the rules and procedures of the destination market including, but not limited to, order cancellation. A routed order can be for less than the original incoming order's size. If a routed order is subsequently returned, in whole or in part, that routed order, or its remainder, shall receive a new time stamp reflecting the time of its return to the System, unless any portion of the original order remains on the System, in which case the routed order shall retain its original timestamp and its priority.

The order routing process shall be available to Participants from 9:30 a.m. ET until market close and shall route orders as described below. Participants can designate orders as either available for routing or not available for routing. All routing of orders shall comply with Chapter XII, Options Order Protection and Locked and Crossed Market Rules. The System provides a number of routing options pursuant to which orders are sent to other available market centers for potential execution, per the entering firm's instructions. Routing options may be combined with all available order types and time-in-force designations, with the exception of order types and time-in-force designations whose terms are inconsistent with the terms of a particular routing option. The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. The Exchange reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. The System routing options are SEEK[15] and SRCH.[16] BX is not proposing, at this time, to route Non-System Securities, which are securities not listed on the BX Options market; the routing functionality will be limited to options listed on BX.

BX Options intends to route orders in options using NASDAQ Options Services LLC (''NOS''), a broker-dealer that is a member of BX. NOS is also a member of PHLX and NASDAQ, and NOS provides routing functions for PHLX and NOM as well. BX, PHLX, NASDAQ, NOM and NOS are affiliates.[17] Accordingly, the affiliate relationship between BX and NOS, its member, raises the issue of an exchange's affiliation with a member of such exchange. Specifically, in connection with prior filings, the Commission has expressed concern that the affiliation of an exchange with one of its members raises the potential for unfair competitive advantage and potential conflicts of interest between an exchange's self-regulatory obligations and its commercial interests.[18]

Because BX proposes to use NOS as its outbound routing facility, providing outbound options routing from BX to other market centers, including affiliates PHLX and NOM, BX proposes to do so under the following conditions, which are the same as those found in NOM rules:

(1) NOS shall route orders to other market centers as directed by BX. NOS will be programmed to follow the algorithm and order type instructions established in the BX Options Rules and will not have discretion to change the terms of an order or the order routing instructions.

(2) NOS will not engage in any business other than: (a) As an outbound router for BX and (b) any other activities it may engage in as approved by the Commission;[19] provided, however, that immediately prior to the commencement of operations of NOS as an outbound router for the Exchange, the Exchange may use NOS to conduct a test of its routing functionality. In order to ensure that the routing functionality is operating properly prior to making it available to Participants, the Exchange proposes to use NOS to perform test trades in an actual security, prior to launch, so as to track the

[14] *See* proposed BX Options Rules, Chapter VI, Section 11.

[15] SEEK is a routing option pursuant to which an order will first check the System for available contracts for execution. After checking the System for available contracts, orders are sent to other available market centers for potential execution, per the entering firm's instructions. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center. If contracts remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

[16] SRCH is a routing option pursuant to which an order will first check the System for available contracts for execution. After checking the System for available contracts, orders are sent to other available market centers for potential execution, per the entering firm's instructions. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center. If contracts remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, it will re-route.

[17] In order for BX to provide outbound options routing services, its affiliates, PHLX and NASDAQ/NOM, must each file a proposed rule change to receive inbound orders from their affiliate exchange, BX.

[18] *See, e.g.,* Securities Exchange Act Release No. 58135 (July 10, 2008), 73 FR 40898 (July 16, 2008) (SR–NASDAQ–2008–061) (Permitting NOS to be affiliated with PHLX).

[19] NOS has been approved to provide routing services for NOM and PHLX. *See* Securities Exchange Act Release Nos. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009)(SR–Phlx–2009–32); and 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (order approving File Nos. SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080).

performance of the systems to be used by the Exchange from order entry to clearance and settlement. The test will be performed by entering buy or sell orders and then, upon execution of each, entering an offsetting sell order in the same security for the same quantity, in order to close out the test position and minimize financial impact on the Exchange. The Exchange will deliver the test orders to NOS, as the routing broker, which will route to the designated away market and receive an execution back. BX believes that this will allow it to perform adequate testing of its systems for routing member orders before such systems become operational. To the extent that the offsetting trades require the Exchange to pay out funds, the funds will be provided out of the cash accounts of the Exchange; to the extent that the trades result in a profit, the funds will be deposited in the cash accounts of the Exchange.

(3) NOS shall operate as a facility, as defined in Section 3(a)(2) of the Act, of BX.

(4) For purposes of SEC Rule 17d–1, the designated examining authority of NOS shall be a self-regulatory organization unaffiliated with BX or any of its affiliates.

(5) BX shall be responsible for filing with the Commission proposed rule changes related to the operation of, and fees for services provided by, NOS and NOS shall be subject to exchange nondiscrimination requirements.

(6) The books, records, premises, officers, agents, directors and employees of NOS as a facility of BX shall be deemed to be the books, records, premises, officers, agents, directors and employees of BX for purposes of, and subject to oversight pursuant to, the Act. The books and records of NOS as a facility of BX shall be subject at all times to inspection and copying by the Commission.

(7) Use of NOS to route orders to other market centers will be optional. Parties who do not desire to use NOS must enter orders into the System as ineligible for routing.

(8) NOS shall establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between BX and its facilities (including NOS as its routing facility) and any other entity.

These conditions are intended to address the Commission's concerns regarding potential conflicts of interest in instances where a member firm is affiliated with an exchange.

Furthermore, BX Rule 2140(a)(1) currently provides that BX or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in, or engage in a business venture with, an Exchange member or an affiliate of an Exchange member in the absence of an effective filing under Section 19(b) of the Act. Because NOS is an Exchange member and BX now proposes to engage in the business venture of outbound routing using NOS as its routing broker, as well as receiving inbound orders from its affiliates, NOM and PHLX through NOS, the Exchange has filed this proposed rule change under Section 19(b) of the Act.

In addition, pursuant to Rule 15c3–5 under the Act, NOS will implement certain tests designed to mitigate risks associated with providing the Exchange's members with access to such away trading centers. Pursuant to the policies and procedures developed by NOS to comply with Rule 15c3–5, if an order or series of orders are deemed to be violative of applicable pre-trade requirements under Rule 15c3–5, the order will be rejected prior to routing and/or NOS will seek to cancel the order if it has been routed.[20]

BX also proposes to accept inbound orders routed by NOS from PHLX and from NOM. As stated above respecting outbound routing to affiliates, the affiliate relationship between BX and NOS, its member, raises the issue of an exchange's affiliation with a member of such exchange, and the Commission has expressed concern that the affiliation of an exchange with one of its members raises the potential for unfair competitive advantage and potential conflicts of interest between an exchange's self-regulatory obligations and its commercial interests.[21] Accordingly, BX now proposes to permit BX to accept inbound orders that NOS routes in its capacity as a facility of PHLX and NOM, subject to certain limitations and conditions:

First, BX and the Financial Industry Regulatory Authority (''FINRA'') will maintain a regulatory contract, as well as an agreement pursuant to Rule 17d–2 under the Act (''17d–2 Agreement'').[22] Pursuant to the regulatory contract and the 17d–2 Agreement, FINRA will be allocated regulatory responsibilities to review NOS's compliance with certain BX rules.[23] Pursuant to the regulatory contract, however, BX retains ultimate responsibility for enforcing its rules with respect to NOS. Second, FINRA will monitor NOS for compliance with the Exchange's trading rules, and will collect and maintain certain related information.[24] Third, FINRA will provide a report to BX's chief regulatory officer (''CRO''), on a quarterly basis, that: (i) Quantifies all alerts (of which FINRA is aware) that identify NOS as a participant that has potentially violated Commission or BX rules, and (ii) lists all investigations that identify NOS as a participant that has potentially violated Commission or BX rules. Fourth, the Exchange has in place BX Rule 2140(c), which requires NASDAQ OMX, as the holding company owning both the BX and NOS, to establish and maintain procedures and internal controls reasonably designed to ensure that NOS does not develop or implement changes to its system, based on nonpublic information obtained regarding planned changes to BX's systems as a result of its affiliation with BX, until such information is available generally to similarly situated BX members, in connection with the provision of inbound order routing to the BX. Fifth, BX proposes that the routing of orders from NOS to BX, in NOS's capacity as a facility of PHLX and NOM, be authorized for a pilot period of one year. BX believes that the above-listed conditions protect the independence of the Exchange's regulatory responsibility with respect to NOS, and that these mitigate the aforementioned concerns about potential conflicts of interest and unfair competitive advantage.

Book Processing. All trading interest on the System will be automatically executable. The System, like NOM, will have a single execution algorithm based on price/time priority. The System and rules provide for the ranking, display, and execution of all orders in price/time priority without regard to the status of the entity entering an order. For each order, among equally-priced or better-priced trading interest, the System executes against available contra-side

[20] *See* proposed BX Options Rules, Chapter VI, Section 10(5).

[21] *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (Permitting NOS to be an affiliate). *See also* Securities Exchange Act Release Nos. 59153 (December 23, 2008), 73 FR 80485 (December 31, 2008)(SR–NASDAQ–2008–098); and 62736 (August 17, 2010), 75 FR 51861 (August 23, 2010) (SR–NASDAQ–2010–100).

[22] 17 CFR 240.17d–2.

[23] NOS is also subject to independent oversight by FINRA, its designated examining authority, for compliance with financial responsibility requirements.

[24] Pursuant to the regulatory contract, both FINRA and BX will collect and maintain all alerts, complaints, investigations and enforcement actions in which NOS (in its capacity as a facility of PHLX and NOM routing orders to BX) is identified as a participant that has potentially violated applicable Commission or BX rules. BX and FINRA will retain these records in an easily accessible manner in order to facilitate any potential review conducted by the Commission's Office of Compliance Inspections and Examinations.

displayed contract amounts in full, in price/time priority.[25] Any price improvement resulting from an execution in the System will accrue to the party taking liquidity.[26]

Acceptable Trade Range. The System will employ an Acceptable Trade Range (''ATR'') feature to limit the range of prices at which an order will be allowed to execute. The ATR is calculated by taking the reference price, plus or minus a value to be determined by the Exchange. (i.e., the reference price—(x) for sell orders and the reference price + (x) for buy orders). Upon receipt of a new order, the reference price is National Best Bid (''NBB'') for sell orders and the National Best Offer (''NBO'') for buy orders or the last price at which the order is posted whichever is higher for a buy order or lower for a sell order. If an order reaches the outer limit of the ATR (the ''Threshold Price'') without being fully executed, it will be posted at the Threshold Price for a brief period, not to exceed one second (''Posting Period''), to allow more liquidity to be collected. Upon posting, either the current Threshold Price of the order or an updated NBB for buy orders or the NBO for sell orders (whichever is higher for a buy order/lower for a sell order) then becomes the reference price for calculating a new ATR. If the order remains unexecuted, a New ATR will be calculated and the order will execute, route, or post up to the new ATR Threshold Price. This process will repeat until the order is executed, cancelled, or posted at its limit price.[27]

Data Feed. Like NOM, BX Options will offer two proprietary data feeds. BX Depth of Market (''BX Depth'') will be a data feed that provides quotation information for individual orders on the BX Options book, last sale information for trades executed on BX Options, and order imbalance information as set forth in BX Options Rules Chapter VI, Section 8. In addition, BX Top of Market (''BX Top'') will be a data feed that provides the BX Options best bid and offer and last sale information for trades executed on BX Options.[28]

BX Options Participants

Like NOM, BX will have only one category of members, known as ''Options Participants'' or ''Participants.'' All BX members will be eligible to participate in BX Options provided that BX specifically authorizes them to trade in the System and they become Participants; in other words, existing BX members will be required to comply with the incremental requirements of the proposed options rules. New BX members will be required to fulfill the requirements of the BX Rule 1000 Series to become a BX member as well as the incremental requirements set forth in the proposed options rules to become a BX Participant. The proposed rules avoid, to the greatest extent possible, proposing requirements that overlap with the rules already set forth in the Rule 1000 Series of the BX Rule Manual.

Only Options Participants will be permitted to transact business on BX Options via the System.[29] BX will authorize any Options Participant who meets certain enumerated qualification requirements to obtain access to BX Options. Among other things, Options Participants must be registered as broker-dealers pursuant to the Act and have as the principal purpose of being an Options Participant the conduct of a securities business. Every Options Participant shall at all times maintain membership in another registered options exchange that is not registered solely under Section 6(g) of the Act or FINRA.[30] There will be two types of Options Participants, Options Order Entry Firms and Options Market Makers. Options Order Entry Firms (''OEFs'') will be those Options Participants representing customer orders as agent on BX Options and non-Market Maker Participants conducting proprietary trading as principal.

Options Market Makers are Options Participants registered with the Exchange as Options Market Makers and registered with BX in one or more options listed on BX.[31] BX may suspend or terminate any registration of an Options Market Maker when, in BX's judgment, the interests of a fair and orderly market are best served by such action.

To become an Options Market Maker, an Options Participant is required to register by filing a written application. BX will not place any limit on the number of entities that may become Options Market Makers. BX Options Market Makers will be required to electronically engage in a course of dealing to enhance liquidity available on BX and to assist in the maintenance of fair and orderly markets.[32] Among other things, Options Market Makers would have to participate in the opening and maintain minimum net capital in accordance with SEC and BX Options Rules. Furthermore, Options Market Makers must maintain a two-sided market for at least one contract in at least 60% of the series in options in which the Options Market Maker is registered. To satisfy this requirement with respect to quoting a series, a Market Maker must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance. BX Regulation may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. Market Makers shall not be required to make two-sided markets pursuant to Section 5(a)(i) of Chapter VII in any Quarterly Option Series, any adjusted option series, and any option series until the time to expiration for such series is less than nine months. Accordingly, the continuous quotation obligations set forth in this rule shall not apply to Market Makers respecting Quarterly Option Series, adjusted option series,[33] and series with an expiration of nine months or greater. If a technical failure or limitation of a system of BX prevents a Market Maker from maintaining, or prevents a Market Maker from communicating to BX Options timely and accurate quotes, the duration of such failure or limitation shall not be included in any of these calculations with respect to the affected quotes.[34]

Options Market Makers must also comply with certain bid/ask differentials (quote spread

[25] *See* proposed BX Options Rules, Chapter VI, Section 10.

[26] *See* proposed BX Options Rules, Chapter VI, Section 10.

[27] *See* proposed BX Options Rules, Chapter VI, Section 10(7).

[28] BX offers other data feeds with respect to its equities market data. *See* BX Rule 7023.

[29] *See* proposed BX Options Rules, Chapter II.

[30] Pursuant to BX Rule 1002(e), members that transact business with customers shall at all times be members of FINRA.

[31] *See* proposed BX Options Rules, Chapter VII.

[32] Options Market Makers receive certain benefits for carrying out their duties. For example, a lender may extend credit to a broker-dealer without regard to the restrictions in Regulation T of the Board of governors of the Federal Reserve System if the credit is to be used to finance the broker-dealer's activities as market maker on a national securities exchange. Thus, an Options Market Maker has a corresponding obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify this favorable treatment.

[33] An adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

[34] Substantial or continued failure by an Options Market Maker to meet any of its obligations and duties, will subject the Options Market Maker to disciplinary action, suspension, or revocation of the Options Market Maker's registration in one or more options series.

parameters).[35] Options on equities (including Exchange-Traded Fund Shares), and on index options must be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid, including before and during the opening. However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the quotation for the underlying security on the primary market.

BX is also proposing an order exposure requirement comparable to that which currently applies on other registered options exchanges. Specifically, as set forth in Chapter VII, Section 12, with respect to orders routed to BX, Options Participants may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one second or (ii) the Options Participant has been bidding or offering on the Exchange for at least one second prior to receiving an agency order that is executable against such bid or offer.

Quotes and orders entered by Options Market Makers using the same market participant identifier will not be executed against quotes and orders entered on the opposite side of the market by the same market maker using the same identifier. In such a case, the System will cancel the oldest of the quotes or orders back to the entering party prior to execution.[36]

Regulation

The BX Options market will leverage many of the structures that BX has in place to operate a national securities exchange in compliance with Section 6 of the Act. As described in more detail below, like for NOM, there will be three elements of that regulation: (1) BX will join the existing options industry agreements pursuant to Section 17(d) of the Act; (2) BX's Regulatory Services Agreement with FINRA will govern many aspects of the regulation and discipline members that participate in options trading; and (3) BX will perform options listing regulation as well as real-time and post-trade regulation of options trading. The principle here, again, is that BX will regulate its options market much the way NOM is regulated today.

Section 17(d) of the Act and the related rules thereunder permit SROs to allocate certain regulatory responsibilities to avoid duplicative oversight and regulation. Under Rule 17d–1 thereunder, the SEC designates one SRO to be the Designated Examining Authority, or DEA, for each broker-dealer that is a member of more than one SRO. The DEA is responsible for the financial aspects of that broker-dealer's regulatory oversight. Because BX members also must be members of at least one other SRO, BX would generally not be designated as the DEA for any of its members.

Rule 17d–2 under the Act permits SROs to file with the Commission plans under which the SROs allocate among each other the responsibility to receive regulatory reports from, and examine and enforce compliance with specified provisions of the Act and rules thereunder and SRO rules by firms that are members of more than one SRO (''common members''). If such a plan is declared effective by the Commission, an SRO that is a party to the plan is relieved of regulatory responsibility as to any common member for whom responsibility is allocated under the plan to another SRO.

All of the options exchanges, FINRA, and the New York Stock Exchange (''NYSE'') have entered into the Options Sales Practices Agreement, a Rule 17d–2 agreement. Under this Agreement, the examining SROs will examine firms that are common members of BX and the particular examining SRO for compliance with certain provisions of the Act, certain of the rules and regulations adopted thereunder, certain examining SRO rules, and certain BX Rules. FINRA will be the examining SRO for BX Options.

For those regulatory responsibilities that fall outside the scope of any Rule 17d–2 agreements, BX will retain full regulatory responsibility under the Act. However, BX has entered into a Regulatory Services Agreement with FINRA, pursuant to which FINRA personnel operate as agents for BX in performing certain of these functions. In addition to performing certain membership functions for the Exchange, FINRA performs certain disciplinary and enforcement functions for the Exchange. Generally, FINRA investigates members, issue complaints, and conducts hearings pursuant to the Exchange's rules.

As is the case with NOM and BX equities, BX will supervise FINRA and continue to bear ultimate regulatory responsibility.

Finally, as it does with equities (and the same that is done for NOM by NASDAQ Regulation), BX Regulation will perform real-time surveillance of the BX Options market for the purpose of maintaining a fair and orderly market at all times. As it does with BX's equities trading and the same that is done for NOM by NASDAQ Regulation, BX Regulation will monitor BX Options trading market on a real-time basis to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation by FINRA. BX Regulation will also conduct post-trade surveillance to determine whether the trading activity requires further investigation by FINRA.

In addition, BX Regulation will oversee the process for determining and implementing trade halts, identifying and responding to unusual market conditions, and administering BX's process for identifying and remediating ''obvious errors'' by and among its Options Participants.[37] Appeals of disciplinary hearings will be handled by the Exchange Review Council.

BX's disciplinary rules are set forth in the 9000 series of BX Rules; such disciplinary rules will apply to Options Participants and their associated persons. BX's Minor Rule Violation Plan (''MRVP'') is set forth in Rule 9216 and related IM–9216. At this time, BX proposes to amend its MRVP to cover certain BX Options rules listed in proposed Chapter X, Section 7.

BX's MRVP specifies those uncontested minor rule violations with sanctions not exceeding $2,500 that would not be subject to the provisions of Rule 19d–1(c)(1) under the Act[38] requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization. Rule 19d–1(c) allows SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions.

Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission will not be considered ''final'' for purposes of Section 19(d)(1) of the Act

[35] *See* proposed BX Options Rules, Chapter VI, Section 6(d)(ii) [sic].

[36] *See* proposed BX Options Rules, Chapter VI, Section 10(6).

[37] BX's proposed obvious and catastrophic error rule mirrors NOM's, stating that the Exchange shall either nullify a transaction or adjust the execution price of a transaction that meets the standards of the rule, which takes into account whether the execution price of a transaction is higher or lower than the Theoretical Price for the series by a certain amount. Like on NOM, obvious error decisions can be appealed to a panel of the Market Operations Review Committee, which will be comprised minimally of representatives of one member engaged in Market Making and two industry representatives not engaged in Market Making. *See* proposed BX Options Rules, Chapter V, Section 6 and BX By-Laws Article IV, Section 4.14(d).

[38] 17 CFR 240.19d–1(c)(1).

if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.[39]

As stated above, currently, BX has in place a MRVP,[40] and is now proposing to amend that plan to cover options. In this regard, BX proposes to amend IM–9216, Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2), in the BX Equity Rules. Specifically, BX proposes to add a reference to BX Options Rules, Chapter X, Section 7—Penalty for Minor Rule Violations for Options Trading, in order to make clear that these provisions are included in BX's MRVP. The rules included in proposed Chapter X, Section 7 are similar to those of other options exchanges, and include position limit violations of Chapter III, Section 7, order entry-related violations of Chapter VII, Sections 6(a)–(c), continuous quoting required by Chapter VII, Section 6(d), various reporting obligations in Chapter III, Sections 7–10, expiring exercise declaration rules in Chapter VIII, Sections 1–3, audit trail submission and recordkeeping requirements of Chapter V, Section 7 and Chapter IX, Sections 1–3, representation of orders, Chapter VII, Section 12, trade reporting, Chapter VI, Sections 14 and 15, locked and crossed Market Violations, Chapter XII, Section 3, trade-through violations, and Chapter XII, Section 2(a), failure to timely file amendments to Form U4, Form U5 and Form BD.[41] Upon approval of the MRVP, BX will provide the Commission a quarterly report of actions taken on minor rule violations under the MRVP. The quarterly report will include BX's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the sanction imposed, the number of times the rule violation has occurred, and the date of disposition. BX believes that adding these options rules to its MRVP should help it carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

Accordingly, BX represents that it has the ability to discharge all regulatory functions related to its proposed options market. In connection with its regulatory functions, the Exchange represents that its regulatory oversight committee and its CRO will assume responsibility for regulating quoting and trading on BX Options and conduct by BX Options Participants. The Exchange's CRO has general supervision of the regulatory operations of the Exchange, including overseeing surveillance, examination, and enforcement functions, and administers the Regulatory Services Agreement between the Exchange and FINRA. BX's By-Laws and rules provide that it has disciplinary jurisdiction over its members so that it can enforce its members' compliance with its rules and the federal securities laws.[42] The Exchange's rules also permit it to sanction members for violations of its rules and violations of the federal securities laws by, among other things, expelling or suspending members, limiting members' activities, functions, or operations, fining or censuring members, or suspending or barring a person from being associated with a member.[43] BX's Rules also provide for the imposition of fines for minor rule violations in lieu of commencing disciplinary proceedings. This framework will apply to BX Options.[44]

National Market System Plans

As discussed herein, BX is a participant in the various national market system plans for options trading established under Section 11A of the Act, because BX has been the SRO for the BOX market, which currently operates as its facility. Because BOX is becoming its own, separate national securities exchange, it is pursuing its own membership in these various plans. BX plans to retain these plan memberships in order to operate BX Options. Specifically, BX is a member of the Options Order Protection and Locked/Crossed Market Plan, the Options Listings Procedures Plan (discussed below), and the Plan for the Reporting of Options Last Sale Reports and Quotation Information,[45] through the Options Price Reporting Authority (''OPRA''). In addition, BX is a participant in the Options Regulatory Surveillance Authority (''ORSA'') and the Plan for the Selection and Reservation of Securities Symbols. BX is transferring its status as a participant exchange in OCC to BOX and securing a membership therein.

Options Order Protection and Locked/Crossed Market Plan Rules

BX will participate in the Options Order Protection and Locked/Crossed Market Plan (''Plan''), and therefore will be required to comply with the obligations of Participants under the Plan. BX proposes to adopt rules relating to the Plan that are substantially similar to the rules in place on or proposed by all of the options exchanges that are Participants in the Plan. The Plan essentially applies the Regulation NMS price-protection provisions to the options markets. Similar to Regulation NMS, the Plan requires the Plan Participants to adopt rules ''reasonably designed to prevent Trade-Throughs,'' while exempting Intermarket Sweep Orders from that prohibition. The Plan's definition of an Intermarket Sweep Order is essentially the same as under Regulation NMS. The remaining exceptions to the trade-through prohibition, discussed more specifically below, either track those under Regulation NMS or correspond to unique aspects of the options market, or both. The proposed rules in Chapter XII conform to the requirements of the Plan. Section 1 sets forth the defined terms for use under the Plan. Section 2 prohibits trade-throughs and exempts Intermarket Sweep Orders from that prohibition. Section 2 also contains additional exceptions to the trade-through prohibition that track the exceptions under Regulation NMS or correspond to exceptions on other options exchanges, or both.[46] Section 3 sets forth the general prohibition against locking/crossing other eligible exchanges as well as several exceptions that permit locked markets in limited circumstances; such exceptions have been approved by the Commission for inclusion in the rules of other options exchanges.[47] Specifically, the exceptions to the general prohibition on locking and crossing occur when (1) the locking or crossing quotation was displayed at a time when the Exchange was experiencing a failure, material delay, or malfunction of its systems or equipment; (2) the locking or crossing

[39] In approving BX Rule 9216, the Commission noted that the Exchange proposed that any amendments to such rule made pursuant to a rule filing submitted under Rule 19b–4 of the Act would automatically be deemded a request for Commission approval of a modification to its MRVP. Securities Exchange Act Release No. 26737 (April 17, 1989), 54 FR 16438 (April 24, 1989) (SR–BSE–88–2).

[40] *See* BX Rule 9216(b).

[41] *See e.g.* ISE Rule 1614.

[42] *See e.g.* Exchange By-Laws, Article XII, Section 12.2.

[43] *See e.g.* BX Rule 8310.

[44] BX Rules apply to Options Participants and the trading of options contracts on BX Options. *See* BX Options Rules, Chapter I, Section 2. Options Participants must, among other things, be an existing member or become a member of the Exchange, pursuant to the BX 1000 Rule Series, as well as maintain a membership on at least one other options exchange. *See* BX Options Rules, Chapter II, Sections 1 (b)(iii) and 2(f).

[45] *See www.opradata.com.*

[46] *See e.g.,* NOM Rules, Chapter XII, Section 2.

[47] *See e.g.,* NOM Rules, Chapter XII, Section 3.

quotation was displayed at a time when there is a Crossed Market; or (3) the Member simultaneously routed an Intermarket Sweep Order to execute against the full displayed size of any locked or crossed Protected Bid or Protected Offer.

Securities Traded on BX Options

BX proposes to adopt listing standards for options traded on BX (Chapter IV of proposed rules) as well as for index options (Chapter XIV) that are identical to the approved rules of other options exchanges, including NOM.[48] These include the specific criteria for underlying securities in proposed Section 3 of Chapter IV, as well as the withdrawal of such approval. In addition, Section 6 will cover the series of options contracts open for trading, which spells out the appropriate exercise dates and strike prices. In addition, BX intends to participate in the $2.50 Strike Price Program,[49] the $1.00 Strike Price Program,[50] the $5 Strike Price Program [51] and the $.50 Strike Program [52] (''Programs'') on the same terms and conditions as the other options exchanges. BX believes that the programs will provide investors with flexibility in tailoring their options positions to meet their investment objectives while avoiding the unnecessary proliferation of illiquid options series. Sections 7 and 8 cover adjustments and long-term options, respectively. With regard to the impact on system capacity, BX has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of option series that may be listed and traded pursuant to the Programs.

BX is a member of the Options Listings Procedures Plan and will list and trade options already listed on other options exchanges. BX will gradually phase-in its listing and trading of options, beginning with a selection of actively traded options. BX will provide the specific list in an Options Trader Alert to its membership. At least initially, BX does not plan to develop new options products or listing standards. BX is aware that, in the event BX determines to trade an options class not listed on another options exchange or within BX's existing listing standards, BX will be required to submit a proposed rule change to establish listing standards.

Exemptions

BX proposes to incorporate by reference as BX Options Rules certain rules of Chicago Board Options Exchange, Incorporated (''CBOE''), NYSE and FINRA. Specifically, BX proposes to incorporate by reference: (1) CBOE position and exercise limits governing position and exercise limits for equity and index options, which are cross-referenced in Chapter III, Sections 7 and 9 of the BX Options Rules and Chapter XIV, Sections 5 and 7 of the BX Options Rules, respectively; (2) the margin rules of the CBOE or the NYSE, which are referenced in Chapter XIII, Section 3 of the BX Options Rules; and (3) FINRA's rules governing communications with the public, which are referenced in Chapter XI, Section 22 of the BX Options Rules. BX will notify Participants whenever the CBOE proposes to change a position limit rule that has been incorporated by reference into the BX Options Rules.

BX proposes to incorporate by reference as BX Options Rules certain rules of the CBOE, NYSE, and FINRA such that BX members will comply with a BX rule by complying with the CBOE, NYSE, or FINRA rule referenced. In connection with its proposal to incorporate CBOE, NYSE, and FINRA rules by reference, BX requests, pursuant to Rule 240.0–12,[53] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those BX Options Rules that are effected solely by virtue of a change to a cross-referenced CBOE, NYSE, or FINRA rule. BX proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. BX agrees to provide written notice to Participants prior to the launch of BX Options of the specific CBOE, NYSE, and FINRA rules that it will incorporate by reference.[54] BX will notify Participants whenever the CBOE, NYSE or FINRA propose to change a rule that has been incorporated by reference into the BX Options Rules.

Using its authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.[55] Each such exempt SRO agreed to be governed by the incorporated rules, as amended from time to time, but is not required to file a separate proposed rule change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. In addition, each SRO incorporated by reference only regulatory rules (*e.g.,* margin, suitability, arbitration), not trading rules, and incorporated by reference whole categories of rules (i.e., did not ''cherry-pick'' certain individual rules within a category). Each exempt SRO had reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it. BX believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.

No Relationship to BOX

The new BX Options market will not be related to the BOX market. Although BX is currently the SRO for the BOX market, once the BOX market is approved as a national securities exchange, it will operate as a separate SRO from BX; it will not be regulated by BX or owned by The NASDAQ OMX Group, Inc. Accordingly, The NASDAQ OMX Group, Inc. will continue to own and operate BX, including the new BX Options market.

Fees

The Exchange has proposed that Chapter XV will be titled Options Pricing, and provide that BX Options Participants may be subject to the Charges for Membership, Services and Equipment in the Rule 7000 Series as well as the fees in Chapter XV. Furthermore, Section 1, Collection of Exchange Fees and Other Claims, requires that each BX Options Participant, and all applicants for

[48] *See* NOM Rules, Chapters IV and XIV.

[49] *See* proposed Chapter IV, Section 6, Supplementary Material .03.

[50] *See* proposed Chapter IV, Section 6, Supplementary Material .02.

[51] *See* proposed Chapter IV, Section 6(d)(v).

[52] *See* proposed Chapter IV, Section 6, Supplementary Material .05.

[53] 17 CFR 240.0–12.

[54] BX will provide such notice through a posting on the same Web site location where BX posts its own rule filings pursuant to Rule 19b–4(1) under Act, within the time frame required by that Rule. The Web site posting will include a link to the location on the CBOE, NYSE, or FINRA Web site where those SROs' proposed rule changes are posted.

[55] *See* Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (Order Granting Application for Exemptions Pursuant to Section 36(a) of the Exchange Act by the American Stock Exchange LLC, the International Securities Exchange, Inc., the Municipal Securities Rulemaking Board, the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Boston Stock Exchange, Inc.).

registration, shall be required to provide a clearing account number for an account at the National Securities Clearing Corporation (''NSCC'') for purposes of permitting the Exchange to debit any undisputed or final fees, fines, charges and/or other monetary sanctions or other monies due and owing to the Exchange or other charges related to Rule 1002(c)(1). Sections 2–6 are reserved for the eventual transaction, routing and access fees that BX will impose and separately file as a proposed rule change. Section 7 provides that all fee disputes concerning fees which are billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation; all fee disputes must be submitted no later than 60 days after receipt of a billing invoice. Section 8 covers the sales fee applicable when a sale in options occurs with respect to which BX is obligated to pay a fee to the SEC under Section 31 of the Act (''Sales Fee''). The Sales Fee is collected indirectly from members through their clearing firms by a designated clearing agency, as defined by the Act, on behalf of BX. The amount of the Sales Fee is equal to the Section 31 fee rate multiplied by the member's aggregate dollar amount of covered sales resulting from transactions through BX transaction execution systems during any computational period.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [56] in general, and furthers the objectives of Section 6(b)(5) of the Act [57] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers. Further, BX believes that the proposal is consistent with Sections 6(b)(1) of the Act,[58] which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulation thereunder, and the rules of the exchange. The BX Options market could confer important benefits on the public and market participants. In particular, BX's entry into the marketplace will provide market participants with an additional venue for executing orders in standardized options, enhance innovation, and increase competition between and among the options exchanges, resulting in better prices and executions for investors.

BX believes that because BX Options is part of BX and all BX Options Participants are BX members, the composition and selection of the BX Board of Directors will continue to satisfy the requirement in Section 6(b)(3) of the Act that the rules of the Exchange provide for the fair representation of members in the selection of directors and administration of the Exchange.[59]

In addition, BX's MRVP, as proposed to be amended, is consistent with Sections 6(b)(1), 6(b)(5) and 6(b)(6) of the Act, which require, in part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Commission and of the exchange.[60] In addition, because IM–9216 offers procedural rights to a person sanctioned for a violation listed in proposed Chapter X, Section 7, BX will provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act.[61] This proposal to include the rules listed in Chapter X, Section 7 in BX's MRVP is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[62] because it should strengthen BX's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. In requesting the proposed change to the MRVP, BX in no way minimizes the importance of compliance with BX Rules and all other rules subject to the imposition of fines under the MRVP. However, the MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. BX will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.

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. BX operates in an intensely competitive global marketplace for listings, financial products, transaction services, and market data. Relying on its array of services and benefits, BX competes for the privilege of providing market and listing services to broker-dealers and issuers. BX's ability to compete in this environment is based in large part on the quality of its trading systems, the overall quality of its market and its attractiveness to the largest number of investors, as measured by speed, likelihood and cost of executions, as well as spreads, fairness, and transparency. With these aspects of competition as a guide, BX designed its current proposal to create, like NOM, the fastest, fairest, most transparent and most efficient trading venue available for the trading of options. The resulting system should further reduce overall trading costs and increase price competition, both pro-competitive developments. BX believes that the resulting system will have the pro-competitive effect of spurring further initiative and innovation among market centers and market participants. Market participants that disagree and do not view these developments as pro-competitive, will have the flexibility to use only those functions that improve their trading or to not use the system at all; participation in the system in whole or in part is completely voluntary. BX Options will benefit individual investors, options trading firms, and the options market generally. The entry of an innovative, low cost competitor such as BX will promote competition, further spurring existing markets to improve their own execution systems and reduce trading costs. BX Options will differentiate its market by offering innovative features in the future. BX Options will operate in a highly competitive market comprised of nine other U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send

[56] 15 U.S.C. 78f(b).

[57] 15 U.S.C. 78f(b)(5).

[58] 15 U.S.C. 78f(b)(1).

[59] 15 U.S.C. 78f(b)(3).

[60] 15 U.S.C. 78f(b)(1), 78f(b)(5) and 78f(b)(6).

[61] 15 U.S.C. 78f(b)(7).

[62] 17 CFR 240.19d–1(c)(2).

order flow to competing exchanges based on many factors, including technology, functionality, reliability, fees and customer service.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2012–030 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–BX–2012–030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BX–2012–030 and should be submitted on or before June 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[63]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12034 Filed 5–17–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66979; File No. SR–BOX–2012–002]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt the Fee Schedule For Trading on BOX

May 14, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 10, 2012, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b-4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BOX Options Exchange LLC (the ''Exchange'') proposes to amend its Fee Schedule in preparation for the expected launch of trading of the BOX Market facility on May 14, 2012. The text of the proposed rule change is available from the principal office of the Exchange, on the Exchange's Internet Web site at *http://boxexchange.com,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule in preparation for the expected launch of trading of its BOX Market LLC options trading facility (''BOX'') on May 14, 2012. The Exchange proposes to establish fees related to trading on BOX.

Exchange Fees

The Exchange proposes Exchange Fees based on transaction type and account type. More specifically, the Exchange proposes fees for Auction Transactions (transactions executed through the BOX Price Improvement Period, Solicitation, and Facilitation auction mechanisms), and non-Auction Transactions (transactions executed on the BOX Book). The account types on BOX are Public Customer, Professional, Broker-Dealer, and Market Maker (see Exchange Rule 100 Series for definitions of each). All of the proposed fees are identical to fees currently in place on the Boston Options Exchange Group,

[63] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

LLC, an options trading facility of NASDAQ OMX BX, Inc.[5]

For Auction Transactions, the Exchange proposes a $0.15 fee for customer Improvement Orders in the PIP and Responses in the Solicitation and Facilitation mechanisms.[6] The Exchange proposes a $0.25 fee for Broker-Dealers and Market Makers for Improvement Orders in the PIP and Responses in the Solicitation and Facilitation mechanisms. Exchange Fees for Initiating Participants in Auction Transactions through Primary Improvement Orders, Facilitation Orders, or Solicitation Orders will be based upon a Participants' monthly average daily volume (''ADV'') in Auction Transactions as calculated at the end of each month as set forth below.

Initiating participant monthly ADV in auction transactions	Per contract fee (all account types)
150,001 contracts and greater	$0.10
100,001 contracts to 150,000 contracts.	$0.12
50,001 contracts to 100,000 contracts.	$0.15
20,001 contracts to 50,000 contracts.	$0.17
1 contract to 20,000 contracts	$0.25

For non-Auction Transactions, the Exchange proposes to impose a per contract fee of $0.07 for Public Customers, $0.20 for Professionals, and $0.40 for Broker-Dealers. Additionally, the Exchange proposes a tiered, per contract fee for Market Makers, based upon their monthly ADV in non-Auction Transactions on BOX as set forth below:

Market maker monthly ADV in non-auction transactions	Per contract fee
150,001 contracts and greater	$0.13
100,001 contracts to 150,000 contracts.	$0.16
50,001 contracts to 100,000 contracts.	$0.18
10,001 contracts to 50,000 contracts.	$0.20
1 contract to 10,000 contracts	$0.25

The Exchange proposes a $0.22 per contract surcharge for Broker-Dealers and Market Makers for all transactions in options on the Nasdaq-100® Index (NDX) and on the Mini-NDX® Index (MNX). BOX incurs licensing fees for transactions in these classes of options and believes it is appropriate and reasonable to pass that fee through to its Participants.

Liquidity Fees and Credits

The Exchange proposes liquidity fees and credits for all options classes traded on BOX (unless explicitly stated otherwise) and proposes that they be applied in addition to any applicable Exchange Fees as described above (and in Section I of the Fee Schedule). The proposed liquidity fees and credits are identical to fees and credits currently in place on the Boston Options Exchange Group, LLC, an options trading facility of NASDAQ OMX BX, Inc.

Liquidity Fees and Credits for Non-Auction Transactions

Orders that add liquidity to the BOX Book will be charged a transaction fee upon execution. Any order, including an order with a Fill and Kill designation, which executes against an order that is being exposed before being placed on the BOX Book, will be considered to add liquidity. Any order, including an order with a Fill and Kill designation, which removes liquidity by trading immediately upon entry to the BOX Book or following its exposure as part of NBBO filtering, will receive a credit.

The Exchange proposes that orders that add liquidity to the BOX Book will be charged a per contract fee of $0.22 for Penny Pilot Classes, and $0.65 for adding liquidity in non-Penny Pilot Classes. Orders that remove liquidity from the BOX Book (non-Auction Transactions) will be provided a per contract credit of $0.22 for transactions in Penny Pilot Classes, and $0.65 for removing liquidity in non-Penny Pilot Classes.

Liquidity Fees and Credits for PIP Transactions

The Exchange proposes that PIP Transactions in classes where the minimum price variation of $0.01 (i.e., Penny Pilot classes there the trade price is less than $3.00 and all series in QQQ, SPY, and IWM) will be assessed a fee for adding liquidity or provided a credit for removing liquidity of $0.30, regardless of account type. PIP Orders (i.e., the agency orders opposite the Primary Improvement Order) shall receive the ''removal'' credit. Improvement Orders will be charged the ''add'' fee.

Further, the Exchange proposes a fee for adding liquidity or a credit for removing liquidity of $0.75, regardless of account type, for PIP transactions where the minimum price variation is greater than $0.01 (i.e., all non-Penny Pilot Classes, and Penny Pilot Classes where the trade price is equal to or greater than $3.00, excluding QQQ, SPY, and IWM). The Exchange proposes that this $0.75 liquidity fee and credit applicable to these PIP transactions be operative on a pilot basis until February 28, 2013.

In connection with the pilot, the Exchange agrees to submit to the Commission on a quarterly basis during the pilot period certain monthly PIP transaction data in series traded in penny increments compared to series traded in nickel increments, subdivided by when BOX is at the NBBO and when BOX is not at the NBBO, including: (1) Volume by number of contracts traded; (2) number of contracts executed by the Initiating Participant as compared to others (''retention rate''); (3) percentage of contracts receiving price improvement when the Initiating Participant is the contra party and when others are the contra party; (4) average number of participants responding in the PIP; (5) average price improvement amount when the Initiating Participant is the contra party; (6) average price improvement amount when others are the contra party; and (7) percentage of contracts receiving price improvement greater than $0.01, $0.02 and $0.03 when the Initiating Participant is the contra party and when others are the contra party. Boston Options Exchange Group, LLC will provide this pilot data to the Commission for the time period from February 1, 2012, until the date BOX begins operations as a facility of the Exchange. The Exchange will provide the data to the Commission from the date BOX begins operations as a facility of the exchange through the period until February 1, 2013, and for any period thereafter as the Commission may request.

Liquidity Fees and Credits for Facilitation and Solicitation Transactions

The Exchange proposes that Agency Orders submitted to the Facilitation and Solicitation mechanisms receive the ''removal'' credit and Responses

[5] The automated electronic trading system operated by Boston Options Exchange Group, LLC as an options trading facility of NASDAQ OMX BX, Inc. will, upon the commencement of the Exchange's operations as a national securities exchange, be operated by BOX Market LLC as a facility of the Exchange. As such, the operation and functionalities of the system are the same as are in effect under the rules of the Boston Options Exchange Group, LLC facility. The Exchange is not proposing to adopt the fees currently set forth in Section 5b (CMS Order Routing Service), Section 5d (fees assessed to third-party service providers for testing or support) or Section 6a (compliance examination assessment) of the Fee Schedule of the Boston Options Exchange Group, LLC as the fees will not be applicable to BOX or the Exchange.

[6] References to customer in the Fee Schedule and this proposal include Public Customers and Professionals, unless otherwise noted.

executed in these mechanisms be charged the ''add'' fee. The fee and credit for all account types for Facilitation or Solicitation transactions is proposed to be $0.30 for all options classes.

Transactions Exempt From Liquidity Fees and Credits

Transactions which occur on the opening or re-opening of trading and Outbound Eligible Orders routed to an Away Exchange as defined in Exchange Rule 15000 Series are deemed to neither ''add'' nor ''remove'' liquidity, and as such will be subject only to the applicable exchange fees described in Section I of the Fee Schedule, and exempt from the Liquidity Fees and Credits.

Routing Fees

The Exchange proposes to adopt a $0.50 per contract routing fee for Professional accounts.[7] The Exchange proposes this routing fee, in part to offset the various costs BOX incurs in providing routing services. BOX uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to an away market. The Exchange proposes that BOX will route non-Professional, Public Customer Orders to an away exchange without imposing any fee, if more than 40% of the Participants' total non-Professional, Public Customer Orders sent to BOX each month execute on BOX. Executions on BOX would include orders executing on the BOX Book, or through any other BOX mechanism that may be available to execute Public Customer Orders (e.g., PIP, Solicitation or Facilitation Auction Mechanisms). If 60% or more of a Participants' total non-Professional, Public Customer Orders executed through BOX each month are routed to and executed at an away exchange, BOX will assess a $0.50 per contract routing fee to all of a Participants' Public Customer orders routed to an away exchange for execution for the month. BOX will calculate the percentage of contracts executed on BOX compared to the percentage routed and executed away at the end of each month. The routing fees proposed are identical to the routing fees currently in place on the Boston Options Exchange Group, LLC, an options trading facility of NASDAQ OMX BX, Inc.

[7] By comparison, BOX does not route broker-dealer proprietary orders and thus does not assess them any routing fees.

Technology Fees

Points of Presence (''PoP'') are the sites where BOX Participants connect to the BOX market network for communication with BOX. Each PoP is operated by a third-party supplier under contract to BOX. The amount to be paid by each BOX Participant will vary based on the Participant's particular configuration, the determining factors being the number of physical connections a BOX Participant has and the bandwidth associated with each.

''Installation'' and ''Hosting'' costs are related to the physical installation of equipment (generally routers, though possibly other hardware) at the PoP site. BOX Participants will be required to pay the related fee only if they have physical installations at the BOX PoP and for which BOX incurs fees from its own service suppliers. ''Cross Connect'' fees are per physical connection and vary by size from the smallest (T–1) to the largest (CAT 6) that BOX may provide. The one time setup and ongoing monthly fees associated with Participant connection to BOX are set forth below. BOX Options Participants that waive-in as Options Participants will not be subject to the setup fees, and Participants that supply their own physical cross connections to BOX would not incur a fee. The Technology Fees proposed are identical to the technology fees currently in place on the Boston Options Exchange Group, LLC, an options trading facility of NASDAQ OMX BX, Inc.

Setup (one time charge for new BOX Participants)	
Installation	$350
Cross Connect per T–1	250
Cross Connect per T–3	350
Cross Connect per CAT 5, 5E, 6[8]	500
Monthly	
Hosting	200
Cross Connect per T–1	100
Cross Connect per T–3	200
Cross Connect per CAT 5, 5E, 6	250

Additionally, Back Office Trade Management Software (''TMS'') is optional software to which BOX Participants may subscribe in order to manage their BOX trades prior to their transmission by BOX to OCC. The Exchange proposes a monthly, per user fee as set forth in the table below, depending on the number of users per Participant:

Users 1 to 5	$300
Users 6 to 10	250
Users 11 and up	200

[8] CAT 5E and CAT 6 are not included in the current Fee Schedule of the Boston Options Exchange Group, LLC facility. The additions of these Cross Connect types to the tables for Setup and Monthly fees are to update the Exchange Fee Schedule to more accurately reflect the various types of Cross Connects that are available, including these newer and larger CAT 5E and CAT 6.

Regulatory Fees

The Exchange proposes an Options Regulatory Fee (''ORF'') of $0.003 per contract to be assessed to each BOX Options Participant for all options transactions executed or cleared by the BOX Options Participant and cleared by The Options Clearing Corporation (OCC) in the customer range, regardless of the exchange on which the transaction occurs. The ORF is collected indirectly from BOX Options Participants. The OCC collects the ORF on behalf of BOX through each BOX Options Participant's clearing broker.

Finally, the Exchange proposes that its Fee Schedule reflect a number of fees to be collected and retained by FINRA in connection with a BOX Options Participant's registration of persons associated with the Participant through FINRA's WebCRD system. The specific fees are set forth below and are identical to fees in place for Participants of the Boston Options Exchange Group, LLC options trading facility.

(1) FINRA CRD Processing Fee: $85.00

(2) FINRA Disclosure Processing Fee: $95.00

(3) FINRA Annual System Processing Fee: $30.00

(4) Fingerprinting Fees—vary depending on the submission:

(a) First card submission: $27.50;

(b) Second card submission: $13.00;

(c) Third card submission: $27.50;

(d) Processing fingerprint results where the member had prints processed through a self-regulatory organization other than FINRA: $13.00.

As mentioned in note 5 above, the Exchange is not proposing any fees currently set forth in Section 5b (CMS Order Routing Service), Section 5d (fees assessed to third-party service providers for testing or support) or 6a (compliance examination assessment) of the Fee Schedule of the Boston Options Exchange Group, LLC as the fees will not be applicable to BOX or the Exchange.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(4) of the Act,[10] in particular, in that it provides

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

for the equitable allocation of reasonable dues, fees, and other charges among BOX Options Participants and other persons using its facilities.

Exchange Fees

The Exchange believes the fees proposed for transactions on BOX are reasonable. BOX will operate within a highly competitive market in which market participants can readily direct order flow to any of eight other competing venues if they deem fees at a particular venue to be excessive. The proposed fee structure is intended to attract order flow to BOX by offering market participants incentives to submit their orders to BOX.

The Exchange believes it is equitable and non-discriminatory to provide Initiating Participants a tiered fee structure related to its participation in BOX Auction Transactions. The proposed fee structure related to trading activity in BOX Auction Transactions is available to all BOX Options Participants and they may choose to trade on BOX to take advantage of the discounted fees for doing so, or not. The Exchange also believes the proposed fees for the BOX auction mechanisms to be reasonable. Participants will benefit from the opportunity to aggregate their trading in the BOX Facilitation and Solicitation Auction mechanisms with their PIP transactions to more easily attain a discounted fee tier. The tiered fee structure proposed for trading in the BOX auction mechanisms aims to attract order flow to BOX, providing greater potential liquidity within the overall BOX market, its auction mechanisms, to the benefit of all BOX market participants.

The Exchange believes that providing a volume discount to Options Participants that initiate auctions on customer orders is appropriate to provide an incentive to BOX Participants to submit their customer orders to BOX, particularly into the PIP for potential price improvement. This potentially increased volume also increases potential revenue to BOX, and would allow BOX and the Exchange to spread its administrative and infrastructure costs over a greater number of transactions, leading to lower costs per transaction. The decreased per transaction costs allows BOX to share its savings with its Participants in the form of lower tier rates. Furthermore, such a discount is necessary to limit the exposure that Initiating Participants will have to liquidity removal fees, because as Initiating Participants they will be adding liquidity and will be charged a fee should their principal order execute against the customer order in any BOX Auction Transaction.

With regard to exchange fees for transactions on the BOX Book, the Exchange believes it is equitable and not unfairly discriminatory for BOX Market Makers to have the opportunity to benefit from a potentially discounted fee less than that charged to broker-dealers. The Exchange believes that the proposed tiered and potentially discounted fees for Market Makers that on a daily basis, trade an average daily volume (as calculated at the end of the month) of 10,000 contracts or more on BOX represents a fair and equitable allocation of reasonable dues, fees, and other charges as it is aimed at incentivizing these participants to provide a greater volume of liquidity. The Exchange believes that giving incentives for this activity results in increased volume on BOX. Such increased volume increases potential revenue to BOX, and would allow BOX and the Exchange to spread its administrative and infrastructure costs over a greater number of transactions, leading to lower costs per transaction. The decreased per transaction costs allows BOX to share its savings with its Participants in the form of lower tier rates.

The increased liquidity also benefits all investors by deepening the BOX liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange believes that the volume based discounts such as the reducing tiered execution fee proposed for Market Makers are equitable because they are open to all Market Makers on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery processes. Finally, Market Makers have obligations that other Participants do not. In particular, they must maintain active two-sided markets in the classes in which they are appointed, and must meet certain minimum quoting requirements. As such, the Exchange believes it is appropriate that Market Makers be charged potentially lower transaction fees on BOX when they provide greater volumes of liquidity to the market.

The Exchange also believes it is equitable and not unfairly discriminatory that Public Customers be charged lower fees in non-Auction Transactions than Professionals and broker-dealers on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for Public Customer transactions are appropriate and not unfairly discriminatory. The Exchange believes comparably lower customer transaction fees are reasonable. The Exchange believes it promotes the best interests of investors to have lower transaction costs for Public Customers, and that the proposed reduction in fees will attract Public Customer order flow to BOX. The Exchange believes the proposed fees charged to broker-dealers, and market makers are reasonable because they are designed to be comparable to the fees that such accounts would be charged at competing venues.

Further, the Exchange believes the proposed $0.20 fee per executed contract for Professional accounts in non-Auction Transactions to be equitable, reasonable, and not unfairly discriminatory. BOX does not assess ongoing systems access fees, ongoing fess for access to BOX market data, or fees related to order cancellation. Professional accounts, while Public Customers by virtue of not being broker-dealers, generally engage in trading activity more similar to broker-dealer proprietary trading accounts (more than 390 orders per day on average). This level of trading activity draws on a greater amount of BOX system resources than that of non-Professional Public Customers. Simply, the more orders submitted to BOX, the more messages sent to and received from BOX, the more orders potentially routed to away exchanges, and the more BOX system resources utilized. This level of trading activity by Professional accounts results in greater ongoing operational costs to BOX. As such, BOX aims to recover its costs by assessing Professional accounts a market competitive fee for non-Auction Transactions. Generally, competing options exchanges assess Professionals fees at rates more comparable to fees charged to broker-dealers. Sending orders to and trading on BOX are entirely voluntary. Under these circumstances, BOX transaction fees must be competitive to attract order flow, execute orders, and grow its market. As such, BOX believes its trading fees proposed for Professional accounts are fair and reasonable. While comparably higher transaction fees than those assessed to Public Customers, BOX is assessing Professional accounts transaction fees at a rate ($0.20) lower

than that charged to broker-dealer proprietary trading firms.

Moreover, the Exchange believes the transaction fees proposed for broker-dealers in non-Auction Transactions are reasonable. As stated above, BOX operates within a highly competitive business. The proposed fees charged to broker-dealers are designed to be comparable to the fees that such accounts would be charged at competing venues. Further, and as stated above, the Exchange believes that participants that add liquidity on BOX will not be impaired by the level of fees on broker-dealer proprietary accounts proposed. The Exchange believes other parts of the proposed BOX fee structure (e.g., tiered Initiating Participant fees and Liquidity Fees and Credits) will provide incentives for broker-dealers to send order flow to BOX.

The Exchange believes it is equitable and not unfairly discriminatory to charge broker-dealer proprietary accounts comparably higher fees than BOX Market Makers. Market Makers have obligations that other Participants do not. In particular, they must maintain active two-sided markets in the classes in which they are appointed, and must meet certain minimum quoting requirements. As such, the Exchange believes it is appropriate that Market Makers be charged lower transaction fees on BOX. The Exchange also believes it is equitable and not unfairly discriminatory that customers, including Professionals, be charged lower transaction fees than broker-dealers on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for broker-dealers, as compared to customers, is appropriate and not unfairly discriminatory.

Regarding the surcharge for transactions in NDX and MNX, due to a licensing agreement with The NASDAQ OMX Group, Inc. (''NASDAQ OMX'') to use various indices and trademarks in connection with the listing and trading of index options on NDX and MNX, BOX will pay a per contract license fee of $0.22 to NASDAQ OMX for NDX and MNX options contracts traded on BOX. The Exchange proposes this surcharge fee for transactions in NDX and MNX options to offset the costs incurred by BOX for each transaction in these options. The Exchange believes that passing this cost through to BOX Options Participants that trade these instruments is the most equitable means of recovering the costs of the license.

The Exchange's proposal to assess broker-dealers and Market Makers a $.22 per contract surcharge for transactions in MNX and NDX, as compared to no surcharge being assessed to customers, is equitable and not unfairly discriminatory because the Exchange believes that a lower customer fee benefits all market participants by incentivizing market participants to transact a greater number of customer orders, which results in increased liquidity.

The Exchange believes that the proposed Exchange Fees will keep BOX competitive with other exchanges as well as apply in such a manner so as to be equitable among BOX Participants. The Exchange believes the proposed fees are fair and reasonable and must be competitive with fees in place on other exchanges. Further, the Exchange believes that this competitive marketplace impacts the fees proposed for BOX.

Liquidity Fees and Credits

The Exchange believes that it is reasonable and equitable to provide a credit to any Participant that removes liquidity from BOX. The Exchange further believes these credits will attract order flow to BOX, resulting in greater liquidity to the benefit of all market participants. The Exchange believes that the proposed fees for adding liquidity and credits for removing liquidity are equitable and not unfairly discriminatory because such fees and credits apply uniformly to all categories of participants, across all account types. As stated above, BOX operates within a highly competitive market in which market participants can readily direct order flow to any of eight other competing venues if they deem fees at a particular venue to be excessive. The proposed fees and credits are intended to attract order flow to BOX by offering incentives to all market participants to submit their orders to BOX.

The Exchange believes it is equitable and non-discriminatory to assess the proposed fees for the BOX Solicitation and Facilitation Auction mechanisms because the proposed fee for adding liquidity and credit for removing liquidity will apply uniformly to all categories of participants, across all account types. The Exchange also believes the proposed fees and credits for the BOX auction mechanisms to be reasonable. The fee structure proposed for these auction mechanisms, in particular, the proposed credit for removing liquidity, aims to attract order flow to these BOX auction mechanisms, providing greater potential liquidity within the overall BOX market to the benefit of all BOX market participants.

The Exchange notes that the proposed fees and credits for transactions on BOX offset one another in any particular transaction. The result is that BOX will collect a fee from Participants that add liquidity on BOX and credit another Participant an equal amount for removing liquidity. Stated otherwise, the collection of these liquidity fees will not directly result in revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants to attract order flow. The Exchange believes it is appropriate to provide incentives to market participants to direct order flow to remove liquidity from BOX, similar to various and widely-used, exchange sponsored payment for order flow programs. Further, the Exchange believes that fees for adding liquidity on BOX will not deter Participants from seeking to add liquidity to the BOX market so that they may interact with those participants seeking to remove liquidity.

The Exchange believes it is reasonable to assess the proposed liquidity fees and credits at lower rates ($0.22 and $0.30) in series that trade in $0.01 increments compared to higher rates ($0.65 and $0.75) in series that trade in increments of $0.05 or more. The Exchange believes that options that trade at these wider spreads of $0.05 or more merit offering greater inducement for market participants. In particular, within the PIP, minimum increments of $.05 or $.10 provide greater opportunity for market participants to offer price improvement. As such, BOX believes that the opportunity for additional price improvement provided by these wider spreads, again merits offering greater incentive for Participants to increase the potential price improvement for customer orders in these PIP transactions.

Routing Fees

BOX believes that the proposed routing fee structure for routing customer orders to other market venues is reasonable because the fee will allow BOX to recoup its transaction costs attendant with offering routing services that are optional for Participants. BOX uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to and executed at an away market, in addition to the transaction fees charged by other exchanges. In order to better recover those related costs and to potentially generate additional revenue, the Exchange proposes a routing fee structure associated with providing this

optional service. The Exchange is proposing a routing fee structure to continue to provide routing services for non-Professional, Public Customer Order at no charge if the Participants trade on BOX 40% of their non-Professional Public Customer volume traded through BOX each month.

Additionally, the Exchange believes that the proposed fee for routing Professional customer orders to various markets is reasonable, equitable, and not unfairly discriminatory in that the fee will further allow BOX to recoup its costs attendant with offering optional routing services. BOX does not route broker-dealer proprietary orders, and therefore, does not assess routing fees on such orders. BOX Participants can manage their own routing to different options exchanges or can utilize a myriad of other routing solutions that are available to market participants. Further, the characteristics of Professional accounts tend to be more similar to broker-dealers than to non-Professional Public Customers. As such, BOX believes Professionals are more likely to be able to route their orders to the exchange venues where they wish to trade. By assessing a fee for routing certain orders, BOX aims to recover its costs in providing this optional service. The Exchange believes that providing non-Professional, Public Customers a preferred rate for routing is consistent with the long history in the options markets of such customers being given preferred fees. The Exchange believes the proposed routing fee structure is equitable and not unfairly discriminatory because the incentive to trade on BOX it is available to all Participants on an equal basis.

The Exchange believes it is reasonable, equitable, and not unfairly discriminatory to assess Participants a fee for routing non-Professional, Public Customer Orders to away exchanges, if those Participants are submitting such orders to BOX so as to evade other exchanges' fees and take advantage of BOX routing services. Based on market data related to activity on the Boston Options Exchange Group, LLC, an options trading facility of NASDAQ OMX BX, Inc., BOX believes that it is reasonable to charge Participants a fee if they intentionally submit orders to BOX when limited liquidity is on BOX at the NBBO. This limited liquidity may not be enough to fill the orders submitted, and thus, BOX is required, in accordance with its obligations to customer orders under the national market system plan for Options Order Protection and Locked/Crossed Markets, to route such orders to a market that is displaying liquidity at the NBBO. The market data indicates that the Boston Options Exchange, LLC facility generally routes significantly less than 60% of a Participant's non-Professional, Public Customer Orders to an away exchange for execution. As such, the Exchange believes that this proposed routing fee will only impact Participants submitting orders to BOX intending to evade other exchanges' fees and take advantage of BOX routing services.

The Exchange believes the proposed routing fee structure is equitable and not unfairly discriminatory because the incentive to trade on BOX is available to all Participants on an equal basis. The Exchange believes it is reasonable and equitable to provide Participants (A) an incentive to trade on BOX, and (B) the ability to route customer orders at no cost, because transactions executed on BOX increase BOX market activity and market quality. Greater liquidity and additional volume executed on BOX aids the price and volume discovery process. Participant trading on BOX also results in revenue that BOX is able to use to provide routing services at no cost to Participants. Accordingly, the Exchange believes that the proposal is not unfairly discriminatory because it promotes enhancing BOX market quality. The routing fees proposed are intended to provide an incentive to BOX Participants to submit orders for execution on BOX and not engage in abusive and predatory practices to evade fees on other exchanges.

BOX therefore believes that assessing the fee only to those Participants that have 60% or more of their total non-Professional, Public Customer Orders routed to an away exchange for execution is reasonable, and an equitable allocation of its fees for providing routing services. The Exchange believes that permitting a Participant to have up to 60% of such orders routed to an away exchange for execution without being assessed any routing fee is reasonable and appropriate.

Technology Fees

The Exchange believes that the proposed Technology Fees constitute an equitable allocation of fees, and not unfairly discriminatory, as all similarly situated Options Participants and other market participants would be charged the same amounts for the same services. Additionally, access to the BOX market will be offered on fair and non-discriminatory terms. The proposed Technology Fees are expected to offset the costs BOX and the Exchange incur in maintaining, and implementing ongoing improvements to BOX, including increasing connectivity costs, costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and technology support. The Exchange believes that its proposed fees are reasonable in that they are competitive with those charged by other venues.

Regulatory Fees

The Exchange believes the proposed ORF is reasonable because it is lower than many competitor exchanges. The ORF will help the Exchange offset regulatory expenses. The Exchange believes that the ORF is equitable and not unfairly discriminatory because it is objectively allocated to BOX Options Participants in that it would continue to be charged to all Participants on all of their transactions that clear as customer at OCC. The Exchange believes that the amount of resources required to regulate non-customer trading activity will be significantly less than the amount of resources the Exchange must dedicate to regulate customer trading activity. Regulating customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity. Surveillance and regulation of non-customer trading activity tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are anticipated to be higher than the costs associated with administering the non-customer component of its regulatory program. As such, the Exchange proposes assessing higher fees to those firms that will require more Exchange regulatory services based on the amount of customer options business they conduct.

As previously stated, the OCC collects the ORF on behalf of BOX through each BOX Options Participant's clearing broker. In addition, the ORF seeks to recover the costs of supervising and regulating Participants, including performing routine surveillances, and policy, rulemaking, interpretive, and enforcement activities. The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, do not exceed regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission.

Finally, the Exchange believes it is reasonable, equitable and not unfairly discriminatory for the FINRA fees to be included on the Exchange Fee Schedule

because these fees are not being assessed or set by BOX or the Exchange, but by FINRA, and will be assessed to broker-dealers that register associated persons through FINRA's WebCRD system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [11] and Rule 19b–4(f)(2) thereunder,[12] because it establishes or changes a due, fee, or other charge applicable only to a member.

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 Exchange 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–BOX–2012–002 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–BOX–2012–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2012–002 and should be submitted on or before June 8, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12032 Filed 5–17–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of QPC Lasers, Inc., Sweet Success Enterprises, Inc., Trinsic, Inc., Veridicom International, Inc., Windswept Environmental Group, Inc., and Wyndstorm Corp.; Order of Suspension of Trading

May 16, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of QPC Lasers, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sweet Success Enterprises, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Trinsic, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Veridicom International, Inc. because it has not filed any periodic reports since the period ended September 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Windswept Environmental Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wyndstorm Corp. because it has not filed any periodic reports since the period ended October 31, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 16, 2012, through 11:59 p.m. EDT on May 30, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–12208 Filed 5–16–12; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Orbit E-Commerce, Inc., Orion Ethanol, Inc., Pacificnet, Inc., PainCare Holdings, Inc., Pay88, Inc., Rahaxi, Inc., and Raven Biofuels International Corp.; Order of Suspension of Trading

May 16, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orbit E-Commerce, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Orion Ethanol, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacificnet, Inc. because it has not filed any periodic reports since the period ended April 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PainCare Holdings, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pay88, Inc. because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rahaxi, Inc. because it has not filed any periodic reports since the period ended March 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Raven Biofuels International Corp. because it has not filed any periodic reports since the period ended March 31, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 16, 2012, through 11:59 p.m. EDT on May 30, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–12206 Filed 5–16–12; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 7890]

Determination Under the Foreign Assistance Act and the Department of State, Foreign Operations, and Related Programs Appropriations Acts

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended (FAA), notice is hereby given that the Deputy Secretary of State has made a determination pursuant to Section 620H of the FAA, and Section 7021 of the Department of State, Foreign Operations, and Related Programs Appropriations, 2012 (Div. F, Pub. L. 112–174), and similar provisions in prior-year appropriations acts, and has concluded that publication of the determination would be harmful to the national security of the United States.

This notice shall be published in the **Federal Register**.

Dated: April 27, 2012.

William J. Burns,

Deputy Secretary of State.

[FR Doc. 2012–12133 Filed 5–17–12; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2012–0073]

Notice of Request for Information Collection Approval

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*) this notice announces the U.S. Department of Transportation's (DOT) intention to renew the utilization of the individual employment discrimination complaint form when processing Equal Employment Opportunity (EEO) discrimination complaints filed by applicants for employment with the Department. The Office of Management and Budget (OMB) approved the form in 2009 with its renewal required by September 30, 2012.

DATES: Comments on this notice must be received by July 17, 2012.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–2012–0073] by any of the following methods:

- *Web Site: www.regulations.gov.* Follow the online instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name (Office of the Secretary, DOT) and docket number for this rulemaking. You should provide two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided, and will be available to Internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

Docket: For Internet access to the docket to read background documents and comments received, go to *www.regulations.gov.* Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tami Wright, Associate Director, Compliance Operations Division (S–34), Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, 202–366–9370 or (TTY) 202–366–0663.

SUPPLEMENTARY INFORMATION:

Form Title: Individual Complaint of Employment Discrimination.

OMB Control Number: OMB #2105–0556.

Type of Request: OMB Renewal.

Abstract: DOT will utilize the form to collect information necessary to process EEO discrimination complaints filed by

individuals who are not Federal employees and are applicants for employment with the Department. These complaints are processed in accordance with the Equal Employment Opportunity Commission's regulations, 29 CFR part 1614, as amended. DOT will use the form to: (a) Request requisite information from the applicant for processing his/her EEO employment discrimination complaint; and (b) obtain information to identify an individual or his or her attorney or other representative, if appropriate. An applicant's filing of an EEO employment complaint is solely voluntary. DOT estimates that it takes an applicant approximately one hour to complete the form.

Respondents: Job Applicants filing EEO employment discrimination complaints.

Estimated Number of Respondents: 10 per year.

Estimated Total Burden on Respondents: 10 hours per year.

Comments are invited on: (a) Whether the proposed collection of information is reasonable for the proper performance of the EEO functions of the Department, and (b) the accuracy of the Department's estimate of the burden of the proposed information collection. All responses to the notice will be summarized and included in the request for Office of Management and Budget approval. All comments also will become a matter of public record.

Issued in Washington, DC, on May 11, 2012.

Camille Hazeur,

Director, Departmental Office of Civil Rights.

[FR Doc. 2012–12051 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Flight Simulation Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection of this information is necessary to ensure safety of flight by ensuring complete and adequate training, testing, checking, and experience is obtained and maintained by those who conduct flight simulation training.

DATES: Written comments should be submitted by July 17, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0680.

Title: Flight Simulation Device Initial and Continuing Qualification and Use.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: This request reflects requirements necessary under Title 14 CFR part 61, part 63, part 91, part 121, part 135, part 141, and part 142, to ensure safety-of-flight by ensuring that complete and adequate training, testing, checking, and experience is obtained and maintained by those who operate under these parts of the regulation and use flight simulation in lieu of aircraft for these functions. The FAA uses the information it collects and reviews to ensure compliance and adherence to regulations and, where necessary, to take enforcement action on violators of the regulations.

Respondents: 46 flight simulation device operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 88 hours.

Estimated Total Annual Burden: 66,840 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on May 10, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–12098 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Commercial Space Transportation Licensing Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information will determine if applicant proposals for conducting commercial space launches can be accomplished according to regulations issued by the Office of the Associate Administrator for Commercial Space Transportation.

DATES: Written comments should be submitted by July 17, 2012.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0608.

Title: Commercial Space Transportation Licensing Regulations.

Form Numbers: FAA Form 8800–1.

Type of Review: Renewal of an information collection.

Background: The Commercial Space Launch Act of 1984, 49 U.S.C. App. §§ 2601—2623, as recodified at 49 U.S.C. Subtitle IX, Ch. 701—Commercial Space Launch Activities, 49 U.S.C. 70101–70119 (1994), requires certain data be provided in applying for a license to conduct commercial space launch activities. These data are required to demonstrate to the Federal Aviation Administration (FAA), Associate Administrator for Commercial Space Transportation (AST), that a license applicant's proposed activities meet applicable public safety, national security, and foreign policy interests of the United States.

Respondents: Approximately 4 space launch applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1544.5 hours.

Estimated Total Annual Burden: 6,178 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on May 10, 2012.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2012–12099 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twelfth Meeting: RTCA Special Committee 217, Joint with EUROCAE WG–44, Terrain and Airport Mapping Databases

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

ACTION: Meeting Notice of RTCA Special Committee 217, Joint with EUROCAE WG–44, Terrain and Airport Mapping Databases.

SUMMARY: The FAA is issuing this notice to advise the public of the twelfth meeting, RTCA Special Committee 217, Joint with EUROCAE WG–44, Terrain and Airport Mapping Databases.

DATES: The meeting will be held June 18–22, 2012, from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 217. The agenda will include the following:

June 18–22, 2012

- Chairmen's remarks and introductions
- Housekeeping
- Approve minutes from previous meeting
- Review and approve meeting agenda
- Schedule for this week
- Provide comment resolution to Revised DO–276A/ED–98A
- Consider/Approve FRAC Draft for PMC Consideration—Revised DO–276A/ED–98A, User Requirements for Terrain and Obstacle Data
- Work items for V & V Document
- Review results of ToR presentation to PMC of June 13th
- Review results of Guidance Material Presentation
- Update work program
- Action Item Review
- Resolve Secretary
- Closing Plenary
- Plenary Adjourns

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

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

John Raper,

Manager, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–12100 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

74th Meeting: RTCA Special Committee 147, Minimal Operations Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

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

ACTION: Meeting Notice of RTCA Special Committee 147, Minimal Operations Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of the 74th meeting of RTCA Special Committee 147, Minimal Operations Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held June 6–8, 2012, from 8:30 a.m.–3:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 147. The agenda will include the following:

June 6, 2012

- SC–147 Surveillance Working Group: To meet from 9:00 a.m.–5:00 p.m. at:
  - Honeywell Offices, 101 Constitution Ave. NW., Suite 500, Washington, DC 20001

June 7, 2012

- SC–147 Requirements Working Group: June 7, 2012; 1:00–5:00
  - Honeywell Offices, 101 Constitution Ave. NW., Suite 500, Washington, DC 20001

June 8, 2012—Plenary

- Joint SC–147 & EUROCAE WG–75 Plenary Session: June 8, 2012
  - SC–147 & WG–75 Co-Chairmen's opening remarks
  - Introductions
  - Approval of Agenda & Summary from 73rd meeting of SC–147
  - New SC–147 Terms of Reference Euro
- EUROCAE WG–75: Status of current activities
- Working Group Status Reports
  - Requirement Working Group
  - Surveillance Working Group
  - DO–300A Status, Schedule, and Issues
- TCAS Program Office Activities
  - Study of RA Downlink Accuracy & implications for potential passive coordination with other systems
  - Future CAS development efforts
- SESAR Activities Workgroup Reports
  - Summary of Reducing RA

Thresholds Analysis (Detailed briefing to be given to Requirements Working Group, June 7.)
- SESAR/EUROCAE plans forward on RA Threshold Analysis/Potential MOPS Updates Industry Solicitation Progress Report
- AVS and other FAA activities
- Other Business
- Action Items
- Time and Place of Next meeting
- Plenary Adjourns

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

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

John Raper,

Manager, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–12097 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifteenth Meeting: RTCA Special Committee 214, Joint With EUROCAE WG–78, Standards for Air Traffic Data Communication Services

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

ACTION: Meeting Notice of RTCA Special Committee 214, Joint with EUROCAE WG–78, Standards for Air Traffic Data Communication Services.

SUMMARY: The FAA is issuing this notice to advise the public of the fifteenth meeting of RTCA Special Committee 214, Joint with EUROCAE WG–78, Standards for Air Traffic Data Communication Services.

DATES: The meeting will be held June 4–8, 2012, from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Maastricht UAC, Eurocontrol Maastricht UAC, The Netherlands. Contact *Christopher.Adams@eurocontrol.int,* or Tel.: +31 43 366 1396.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* Please confirm your attendance to *Christopher.Adams@eurocontrol.int* no later than May 21, 2012 with the following security information: Last Name/First name, Organization, ID or Passport number, Details for visiting the Maastricht centre, hotels and how to get here can be found at *http://www.eurocontrol.int/articles/maastricht-upper-area-control-centre-muac-contacts,* (for hotels please note that the hotel ''Tulip Inn Maastricht Airport'' is next to the runway and the cargo hangers—first flight at between 06:00 and 06:15)

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 214. The agenda will include the following:

June 4, 2012

PLENARY

- Welcome/Introduction/Administrative Remarks
- Approval of the Agenda
- Approval of the Minutes of Plenary 14
- Review Action Item Status
- Coordination Activities
- ICAO OPLINK
  - Status of changes in RCP Manual
  - Status of message set coordination and schedule
  - Status of Standards
  - Revision A of DO305/ED154
  - DO–281B/ED–92B
  - Review SC214/WG78 schedule, impact on TORs

1330–1700: Plenary Session

- Review of work
  - SPR & INT documents version I
  - Status OPA Version I (RCP/RSP/RIP Specifications)
  - Status OSA Version I
  - SC–214/WG–78 plan for publication
  - Validation activities
- Review of Position Papers and Contributions
- Approval of Sub
- Approval of Sub-Group Meeting Objectives

Day 2 (Tuesday) 900–1700: Sub-Group Sessions

Day 3 (Wednesday) 900–1700: Sub-Group Sessions

Day 4 (Thursday): Plenary Session

- Configuration Sub-Group Report & Assignment of Action Items
- Validation Sub-Group Report & Assignment of Action Items
- VDL Sub-Group Report & Assignment of Action Items
- Security Ad Hoc Group Report
- Review Dates and Locations 2012 Plenary and SG Meetings
- Any Other Business
- Adjourn

Day 5 (Friday) 900–1600: Sub-Group Sessions

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

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

John Raper,

Manager, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–12083 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration (FHWA)

Notice of Intent To Prepare an Environmental Impact Statement: Milwaukee County

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed freeway corridor improvement project on I–94 in Milwaukee County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Bethaney Bacher-Gresock, Environmental Major Projects Manager, FHWA Wisconsin Division Office, City Center West, 525 Junction Road, Suite 8000, Madison, WI 53717; Telephone: (608) 662–2119.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT), will prepare an Environmental Impact Statement (EIS) for proposed improvements in the I–94 corridor in Milwaukee County, WI. The purpose of the project is to replace deteriorating pavement and bridges and improve safety, while identifying methods to accommodate existing and projected future traffic volumes; this may result in the full reconstruction and redesign of the I–94 corridor. The EIS will evaluate I–94 between 70th Street on the west and 25th Street on the east (2.85 miles). The EIS will also evaluate interchanges with I–94 at 68th Street/70th Street, Hawley Road, Mitchell

Boulevard, U.S. 41/STH 341 (Stadium Interchange), 35th Street and 26th Street/Saint Paul Avenue as well as U.S. 41 at Wisconsin Avenue/Wells Street. The EIS will be developed in accordance with 23 U.S.C. 139, 23 CFR 771, and 40 CFR 1500–1508.

Public involvement is a critical component of the National Environmental Policy Act (NEPA) project development process and will occur throughout the development of the EIS. The EIS will be made available for review by federal and state resource agencies and the public. Specific efforts to encourage involvement by, and solicit comments from, minority and low-income populations in the project study area will be made. A series of public information meetings will be held during the project study. Public notice will be given as to the time and place of all workshops and public information meetings. In addition, a public hearing will be held after the completion of the Draft EIS. Inquiries related to the I–94 East-West Corridor Study can be sent to *DOTI94EastWest@dot.wi.gov,* and a public Web site will be maintained throughout the study for public comment and information at *http://www.sefreeways.org.* To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the FHWA address provided above.

Projects receiving Federal funds must comply with Title VI of the Civil Rights Act and Executive Order 12898 Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this project. It is also Federal policy to identify and address any disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: May 10, 2012.

Bethaney Bacher-Gresock,

Environmental Major Projects Manager, Federal Highway Administration, Madison Wisconsin.

[FR Doc. 2012–12086 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0059]

Agency Information Collection Activity Under OMB Review: Automotive Fuel Economy Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a renewal of an information collection. The collection involves vehicle manufacturers submitting reports to the Secretary of Transportation on whether a manufacturer will comply with an applicable average fuel economy standard for the model year for which the report is made, the actions a manufacturer has taken or intends to take to comply with the standard and other information the Secretary requires by regulation. The information to be collected will be used to and/or is necessary because of the requirements of 49 U.S.C. 32902. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by July 17, 2012.

ADDRESSES: You may submit comments [identified by Docket No. NHTSA–2012–0059] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1 (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Katz, Fuel Economy Division, Office of International Policy, Fuel Economy and Consumer Programs, NVS–132, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Phone: (202) 366–4936.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2127–0019.

Title: 49 CFR part 537, Automotive Fuel Economy Reports.

Type of Review: Renewal of a previously approved information collection .

Background: 49 United States Code (U.S.C.) 32907(a) requires a manufacturer to submit reports to the Secretary of Transportation on whether a manufacturer will comply with an applicable average fuel economy standard under 49 U.S.C. 32902 of this title for the model year for which the report is made, the actions a manufacturer has taken or intends to take to comply with the standard and other information the Secretary requires by regulation. Under 49 CFR part 537, NHTSA also requires manufacturers to provide data on vehicle footprint so that the agency can determine a manufacturer's required fuel economy level and its compliance with that level.

The information collected provides NHTSA with advance indication whether automotive manufacturers are complying with the applicable average fuel economy standards, furnishes NHTSA with the necessary information to prepare its annual update on the Automotive Fuel Economy Program, aids NHTSA in responding to general requests concerning automotive fuel economy and supplies NHTSA with detailed and current technical and economic information that will be used to evaluate possible future average fuel economy standards.

Respondents: Automobile manufacturers.

Estimated Number of Respondents: 30.

Estimated Number of Responses: 54; some manufacturers have multiple fleets and 49 CFR part 537 requires a separate report for each fleet.

Estimated Total Annual Burden: Thirty automotive manufacturers must comply with 49 CFR 537. For each current model year, each manufacturer is required to submit semi-annual reports: A pre-model year report and a mid-model year report. The pre-model year report must be submitted during the month of December, and the mid-model year report must be submitted during the month of July. The total number of responses submitted by automotive manufacturers is 54. We currently have a clearance based on

reports being received from 22 manufacturers with an estimated total annual burden of 2,339 hours. Including 8 additional manufacturers, results in an additional reporting burden of 850 hours. Adding that burden to the existing burden of 2,339 hours, results in a total of 3,189 hours.

Estimated Frequency: A pre-model report and a mid-model report are required to be submitted by manufacturers once per model year for each applicable fleet (domestic passenger car, imported passenger car and light trucks).

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance, (b) the accuracy of the estimated burden, (c) ways for the Department to enhance the quality, utility and clarity of the information collection and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Dated: Issued on: May 11, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–12049 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; Jaguar Land Rover

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Jaguar Land Rover North America LLC's, (Land Rover) for an exemption of the Land Rover LR2 vehicle line in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted, because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541.

DATES: The exemption granted by this notice is effective beginning with the 2013 model year.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated April 13, 2012, Land Rover requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Land Rover LR2 vehicle line, beginning with Model Year (MY) 2013. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Land Rover provided a detailed description and diagram of the identity, design and location of the components of the antitheft device for the Land Rover LR2 vehicle line. Land Rover will install a passive, transponder-based, electronic engine immobilizer antitheft device as standard equipment on its LR2 vehicle line beginning with MY 2013. Key components of its antitheft device will include a power train control module (PCM), instrument cluster, body control module (BCM), remote frequency receiver, immobilizer antenna unit (IAU), smart key, door control units and a perimeter alarm system. The immobilizer device is automatically armed when the Smart Key is removed from the vehicle. Land Rover stated that the Smart Key is programmed and synchronized to the vehicle through the means of an identification key code and a randomly generated secret code that are unique to each vehicle. Additionally, Land Rover states that the audible and visual perimeter alarm system that will be installed as standard equipment can be armed manually or programmed to arm automatically with the Smart Key. If the hood, luggage compartment or doors are opened during an unauthorized entry attempt, the vehicle siren alarm will sound and the exterior lights will flash. Land Rover's submission is a complete petition as required by 49 CFR part 543.7, in that it meets the general requirements contained in 49 CFR part 543.5 and the specific content requirements of 49 CFR part 543.6.

Land Rover stated that there are two methods of vehicle operation and engine start: (1) Unlocking the vehicle with the Smart Key unlock button and pressing the Start button, and (2) using the emergency key blade. Land Rover further stated that, when the Start button is pressed, a search begins in order to find and authenticate the Smart Key within the vehicle interior. A coded exchange between the BCM and Smart Key is entered through the IAU. If the exchange is successful, the BCM will pass the valid key status to the Instrument Cluster. With the ignition on, the BCM is forced to communicate with the instrument Cluster. The BCM sends the ''key valid'' message to the PCM which initiates a coded data transfer. If successful, the engine is authorized to start. If the Smart Key has a discharged battery or is damaged, the emergency key blade can be used to unlock the door. Pressing the ignition start button initiates a search to find and authenticate the Smart Key within the vehicle interior. If authentication is unsuccessful, the Smart Key must be docked in the lower steering column cowl. Once the correct key is placed in the correct position, and the ignition start button is pressed again, a coded exchange is entered via the IAU. If the exchange is successful, the BCM will pass the valid key status to the instrument cluster. The BCM then sends a message to the PCM initiating a coded data transfer and successful engine start.

In addressing the specific content requirements of 543.6, Land Rover provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Land Rover conducted tests based on its own specified standards. Land Rover provided a detailed list of the tests conducted (*i.e.,* temperature and humidity cycling, high and low temperature cycling, mechanical shock, random vibration, thermal stress/shock tests, material resistance tests, dry heat, dust and fluid ingress tests). Land Rover stated that it believes that its device is reliable and durable because it complied with specified requirements for each test. Additionally, Land Rover stated that the vehicle's key recognition sequence includes in excess of a billion code combinations with encrypted data that is secure against duplication. The coded data transfer between modules also uses a unique, secure identifier, random number and a secure public algorithm. Furthermore, Land Rover stated that there is no means to bypass

the key locking system of the vehicle with force because the vehicle does not have a conventional mechanical key barrel since the LR2 is equipped with a push button vehicle ignition.

Land Rover informed the agency that its LR2 vehicle line was first equipped with an engine immobilizer device beginning with its MY 2008 vehicles and, as a result, there are no data available to compare the LR2 with an immobilizer device to an LR2 without an immobilizer device. Land Rover stated that based on MY 2008 and 2009 theft data information published by NHTSA, Land Rover LR2 vehicles equipped with immobilizers had a theft rate that was below the median. The average theft rates using 2 MYs' data are 0.7504 and 0.2904 respectively. Therefore, Land Rover has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements. Land Rover also stated that the immobilizer in the Land Rover LR2 line is no less effective than similar devices NHTSA has already granted full exemptions (i.e., Range Rover Evoque and Jaguar XK and XJ). Additionally, Land Rover notes a Highway Loss Data Institute news release (July 19, 2000) showing approximately a 50% reduction in theft for vehicles installed with an immobilizer device.

Based on the supporting evidence submitted by Land Rover on the device, the agency believes that the antitheft device for the LR2 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation, attracting attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key, preventing defeat or circumvention of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Land Rover has provided adequate reasons for its belief that the antitheft device for the Land Rover LR2 vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Land Rover provided about its device.

For the foregoing reasons, the agency hereby grants in full Land Rover's petition for exemption for the Land Rover LR2 vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with its 2013 model year vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device, is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Land Rover decides not to use the exemption for this line, it shall formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Land Rover wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 11, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–12050 Filed 5–17–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35435]

CaterParrott Railnet, L.L.C.—Sublease and Operation Exemption—Georgia & Florida Railway, L.L.C.

CaterParrott Railnet, L.L.C. (CPR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to sublease from Georgia & Florida Railway, L.L.C. (GRF) and operate approximately 43.2 miles of rail line between milepost 30.6, near Valdosta, and milepost 73.8, at Willacoochee, in Lowndes, Berrien, and Atkinson Counties, GA. (the Line). GRF currently leases the Line from the Georgia Department of Transportation, which owns the physical assets of the Line.

CPR certifies that its projected annual revenues as a result of this transaction will not result in CPR's becoming a Class II or Class I rail carrier and will not exceed $5 million.

According to CPR, the transaction is expected to be consummated on or after June 3, 2012, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than May 25, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35435, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 655 Fifteenth Street NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: May 15, 2012.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2012–12081 Filed 5–17–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, *Public Law 104–13,* on or after the date of publication of this notice.

DATES: Written comments must be received on or before June 18, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave., NW., Suite 11020, Washington, DC 20220, or on-line at *http://www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *http://www.reginfo.gov.*

SUPPLEMENTARY INFORMATION: *Title:* SSBCI Allocation Agreement for Participating States.

OMB Control Number: 1505–0227.

Abstract: The SSBCI Allocation Agreement for States, which is required by Title III of the Small Business Jobs Act of 2010 (Pub. L. 111–240, ''the Act''), will memorialize the terms and conditions for funds made available to participating states under the SSBCI. Among other duties, included in the terms of this agreement is the requirement that all Participating States submit quarterly and annual reporting to Treasury which details the use of funds under the program. This information is necessary in order to comply with reporting requirements established by the Act.

The SSBCI Allocation Agreement for Participating Municipalities is a modified version of the SSBCI Allocation Agreement for Participating States that contains additional specific provisions for municipalities participating in the SSBCI, principally: (a) A requirement that municipal applicants applying jointly for SSBCI funds shall document and provide to Treasury a copy of a cooperative agreement that details the roles and responsibilities among each municipality as a condition of closing; and (b) a requirement that, for any loans or investments made outside of the geographic borders of a Participating Municipality, that Participating Municipality shall warrant in writing that such a transaction will result in significant economic benefit to that municipality.

The SSBCI Application form will collect information from Participating States, territories, or municipalities that wish to request an amendment to their existing approved SSBCI Application throughout the term of the Allocation Agreement. This form will collect the following: (a) Information about proposed changes to the apportionment of SSBCI funds among programs; (b) program design information for proposed new programs; or, (c) proposed material changes to the design of programs. Only those participating states, territories, or municipalities that elect to request a modification to their original SSBCI Application will be required to complete this form.

The SSBCI Technical Assistance Quarterly Review collection is a voluntary collection from Participating States, territories, and municipalities that will be conducted telephonically on a quarterly basis and will not require a written submission to Treasury.

The SSBCI Technical Assistance Quarterly Review will collect the following: (a) Qualitative data related to program performance; (b) an assessment of program implementation status to date; and (c) an assessment any future challenges to program performance. This data will be used by Treasury to determine the types and methods through which to offer technical assistance to participants in order to assist states with meeting the program performance goals of achieving the private leverage expectations of the SSBCI.

Type of Review: Extension of a currently approved collection.

Affected Public: States, territories, the District of Columbia and municipalities that were approved by Treasury to participate in the SSBCI.

SSBCI Quarterly and Annual Reporting Requirements

Estimated Number of Respondents: 62.

Estimated Average Time per Respondent: Approximately ten (10) hours per respondent per year. The estimated average time per respondent for the quarterly report is one (1) hour per report for a total of four (4) hours per year. The estimated average time per respondent for the annual report ranges from two (2) hours per year to approximately nineteen (19) hours per year depending on the use of electronic reporting mechanisms. The weighted average time per respondent for the annual report is 6.36 hours per year. The total estimated annual burden for this collection is 642 hours per year.

SSBCI Allocation Agreement for Participating Municipalities

Estimated Number of Respondents: 5.

Estimated Average Time per Respondent: SSBCI anticipates that 3 applicants will require a cooperative agreement. The estimate time to complete this document is 40 hours per agreement, for a net, one-time total of 120 hours. Municipalities that have applied for the SSBCI program anticipate a total of 195 loan or investment transactions per year. SSBCI estimates that approximately 20% of these transactions may occur outside of the boundaries of applicant municipalities and that for each applicable transaction, the warranty will take approximately 1 hour to complete. Therefore, the estimated annual burden associated with warrants will take 39 hours.

SSBCI Application Form

Estimated Number of Respondents: 15 per year.

Estimated Average Time per Respondent: The estimated average time per respondent to complete the sections of the application form that document program design is approximately nine (9) hours per respondent per year. SSBCI estimates that approximately 15 respondents will elect to request a modification each year for a total estimated annual burden of 135 hours per year.

SSBCI Technical Assistance Quarterly Review

Estimated Number of Respondents: 62.

Estimated Average Time per Respondent: Approximately four (4) hours per respondent per year. The

estimated average time per respondent for the quarterly review is one (1) hour telephone call conducted a total of four (4) hours per year. The estimated total annual burden is 248 hours per year.

SSBCI Compliance Guidance

Estimated Number of Respondents: 62.

Estimated Average Time per Respondent: Approximately one (1) hour per respondent per year to collect suggested disclosures, approximately four (4) hours per respondent per year to maintain suggested records, and approximately one-quarter (0.25) of an hour per respondent per year to optionally submit an annual audit of state program financials to SSBCI. All information collections and estimated burdens are optional for all respondents. The estimated total annual burden is 326 hours per year.

Estimated Total Annual Burden Hours for all Collections: 1,390 hours, plus a one-time total burden of 135 hours for municipalities that apply jointly.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2012–12026 Filed 5–17–12; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of two individuals whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the two individuals identified in this notice pursuant to section 805(b)(2) and (3) of the Kingpin Act is effective on May 15, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On May 15, 2012, the Director of OFAC designated the following two individuals whose property and interests in property are blocked pursuant to section 805(b)(2) and (3) of the Kingpin Act.

The additional designees are as follows:

1. MEMON, Ibrahim Abdul Razaaq (a.k.a. MEMON, Ibrahim Abdul Razak; a.k.a. ''MUSHTAQ ''; a.k.a. ''MUSTAQ''; a.k.a. ''SIKANDER''; a.k.a. ''TIGER MEMON''), Bldg. No. 21 Room No. 1069, Fisherman Colony Mahim, Mumbai, India; House No. C–201, Extension–A, Karachi Development Scheme, Karachi, Pakistan; DOB 24 Nov 1960; POB Mumbai (Bombay), India; nationality India; Passport AA762402 (Pakistan); alt. Passport L152818 (India) (individual) [SDNTK]
2. SHAKEEL, Chhota (a.k.a. AHMED, Sheikh Shakeel; a.k.a. MOHIDDIN, Shaikh Shakil Babu; a.k.a. SHAKEEL, Chota; a.k.a. SHAKIL, Chhota), R. No. 11, 1st Floor Ruksans Manzil, 78 Temkar Street, Nagpada, Mumbai, India; DOB 31 Dec 1955; alt. DOB 1960; POB Mumbai (Bombay), India; nationality India (individual) [SDNTK]

Dated: May 15, 2012.

John H. Battle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2012–12143 Filed 5–17–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Wednesday, June 6, 2012.

FOR FURTHER INFORMATION CONTACT: Roberta B. Zarin, Director, TE/GE Communications and Liaison; 1111 Constitution Ave. NW.; SE:T:CL—NCA–679; Washington, DC 20224. Telephone: 202–283–8868 (not a toll-free number). Email address: *Roberta.B.Zarin@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Wednesday, June 6, 2012, from 9:30 a.m. to 11:30 a.m., at the Internal Revenue Service; 1111 Constitution Ave. NW.; Room 3313; Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities.

Reports from five ACT subgroups cover the following topics:

Employee Plans:

—Analysis and Recommendations Regarding the Scope of the Employee Plans Examination Process

Exempt Organizations:

—Form 1023—Updating it for the Future

Federal, State and Local Governments:

—TIN Matching as an Effective Online Business Tool to Improve Compliance

Indian Tribal Governments:

—Report on the General Welfare Doctrine as Applied to Indian Tribal Governments and Their Members

Tax Exempt Bonds:

—A Survey of IRS Forms for Information Reporting

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Cynthia PhillipsGrady to confirm their attendance. Ms. PhillipsGrady can be reached at (202) 283–9954.

Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Photo identification must be presented. Please use the main entrance at 1111 Constitution Ave. NW., to enter the building.

Should you wish the ACT to consider a written statement, please call (202) 283–8868, or write to: Internal Revenue Service; 1111 Constitution Ave. NW.; SE:T:CL—NCA–679; Washington, DC 20224, or email *Roberta.B.Zarin@irs.gov.*

Dated: May 11, 2012.

Roberta B. Zarin,

Designated Federal Official, Tax Exempt and Government Entities Division.

[FR Doc. 2012–12160 Filed 5–17–12; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 77 Friday,

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Part II

Environmental Protection Agency

40 CFR Parts 136, 260, et al.

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 136, 260, 423, 430, and 435

[EPA–HQ–OW–2010–0192; FRL–9664–6]

RIN 2040–AF09

Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule modifies the testing procedures approved for analysis and sampling under the Clean Water Act. EPA proposed these changes for public comment on September 23, 2010. The changes adopted in this final rule fall into the following categories: New and revised EPA methods and new and revised methods published by voluntary consensus standard bodies (VCSB), such as ASTM International and the Standard Methods Committee; updated versions of currently approved methods; methods reviewed under the alternate test procedures (ATP) program; clarifications to the process for EPA approval for use of alternate procedures for nationwide and Regional use; minimum quality control requirements to improve consistency across method versions; corrections to previously approved methods; and revisions to sample collection, preservation, and holding time requirements. Finally, EPA makes changes to three effluent guideline regulations.

DATES: This regulation is effective on June 18, 2012. The incorporation by reference of these methods is approved by the Director of the Federal Register on June 18, 2012. For judicial review purposes, this final rule is promulgated as of 1:00 p.m. (Eastern time) on June 1, 2012 as provided at 40 CFR 23.2 and 23.7.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2010–0192. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publically available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the HQ Water Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number is 202–566–2426 for the HQ Water Docket.

FOR FURTHER INFORMATION CONTACT: For information regarding the changes to inorganic chemical methods, contact Lemuel Walker, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, 1200 Pennsylvania Ave. NW., Washington, DC 20460, 202–566–1077 (email: *walker.lemuel@epa.gov*). For information regarding the changes to organic chemical methods, contact Maria Gomez-Taylor, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, 1200 Pennsylvania Ave. NW., Washington, DC 20460, 202–566–1005 (email: *gomez-taylor.maria@epa.gov*). For information regarding the changes to microbiological and whole effluent toxicity methods, contact Robin Oshiro, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, 1200 Pennsylvania Ave. NW., Washington, DC 20460, 202–566–1075 (email: *oshiro.robin@epa.gov*).

SUPPLEMENTARY INFORMATION:

A. General Information

1. Does this action apply to me?

EPA Regions, as well as States, Territories and Tribes authorized to implement the National Pollutant Discharge Elimination System (NPDES) program, issue permits with conditions designed to ensure compliance with the technology-based and water quality-based requirements of the Clean Water Act (CWA). These permits may include restrictions on the quantity of pollutants that may be discharged as well as pollutant measurement and reporting requirements. If EPA has approved a test procedure for analysis of a specific pollutant, the NPDES permittee must use an approved test procedure (or an approved alternate test procedure if specified by the permitting authority) for the specific pollutant when measuring the required waste constituent. Similarly, if EPA has established sampling requirements, measurements taken under an NPDES permit must comply with these requirements. Therefore, entities with NPDES permits will potentially be affected by the actions in this rulemaking. Categories and entities that may potentially be affected by the requirements of today's rule include:

Category	Examples of potentially affected entities
State, Territorial, and Indian Tribal Governments.	States, Territories, and Tribes authorized to administer the NPDES permitting program; States, Territories, and Tribes providing certification under Clean Water Act section 401; State, Territorial, and Indian Tribal owned facilities that must conduct monitoring to comply with NPDES permits.
Industry	Facilities that must conduct monitoring to comply with NPDES permits.
Municipalities	POTWs or other municipality owned facilities that must conduct monitoring to comply with NPDES permits.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists types of entities that EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability language at 40 CFR 122.1 (NPDES purpose and scope), 40 CFR 136.1 (NPDES permits and CWA) and 40 CFR 403.1 (Pretreatment standards purpose and applicability). If you have questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What process governs judicial review of this rule?

Under Section 509(b)(1) of the Clean Water Act (CWA), judicial review of today's CWA rule may be obtained by filing a petition for review in a United States Circuit Court of Appeals within 120 days from the date of promulgation of this rule. For judicial review purposes, this final rule is promulgated as of 1 p.m. (Eastern time) on June 1, 2012 as provided at 40 CFR 23.2. The

requirements of this regulation may also not be challenged later in civil or criminal proceedings brought by EPA.

C. Abbreviations and Acronyms Used in the Preamble and Final Rule

AOAC: AOAC International
ASTM: ASTM International
ATP: Alternate Test Procedure
CFR: Code of Federal Regulations
CWA: Clean Water Act
EPA: Environmental Protection Agency
FLAA: Flame Atomic Absorption Spectroscopy
HRGC: High Resolution Gas Chromatography
HRMS: High Resolution Mass Spectrometry
ICP/AES: Inductively Coupled Plasma-Atomic Emission Spectroscopy
ICP/MS: Inductively Coupled Plasma-Mass Spectrometry
ISO: International Organization for Standardization
MS: Mass Spectrometry
NIST: National Institute of Standards and Technology
NPDES: National Pollutant Discharge Elimination System
QA: Quality Assurance
QC: Quality Control
SDWA: Safe Drinking Water Act
SM: Standard Methods
SRM: Standard Reference Material
STGFAA: Stabilized Temperature Graphite Furnace Atomic Absorption Spectroscopy
USGS: United States Geological Survey
VCSB: Voluntary Consensus Standards Body
WET: Whole Effluent Toxicity

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K. Congressional Review Act

I. Statutory Authority

EPA is promulgating today's rule pursuant to the authority of sections 301(a), 304(h), and 501(a) of the Clean Water Act (''CWA'' or the ''Act''), 33 U.S.C. 1311(a), 1314(h), 1361(a). Section 301(a) of the Act prohibits the discharge of any pollutant into navigable waters unless the discharge complies with a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the Act. Section 304(h) of the Act requires the Administrator of the EPA to ''* * * promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to [section 401 of this Act] or permit application pursuant to [section 402 of this Act].'' Section 501(a) of the Act authorizes the Administrator to ''* * * prescribe such regulations as are necessary to carry out this function under [the Act].'' EPA generally has codified its test procedure regulations (including analysis and sampling requirements) for CWA programs at 40 CFR part 136, though some requirements are codified in other Parts (*e.g.,* 40 CFR Chapter I, Subchapters N and O).

II. Summary of Final Rule

The following sections describe the changes EPA is making in today's final rule.

A. New EPA Methods and New Versions of Previously Approved EPA Methods

This rule approves new EPA methods and new versions of already approved EPA methods. The following discussion briefly describes the EPA methods added today to Part 136.

1. Oil and grease. Today's rule adds a new version of EPA Method 1664, 1664 Revision B: n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT–HEM; Non-polar Material) by Extraction and Gravimetry for use in CWA programs. Today, EPA is also amending the RCRA regulations at 40 CFR 260.11, which currently specify the use of Method 1664 Rev. A, to provide additionally for use of the revised version, 1664 Rev. B. As stated in the preamble to the proposal (75 FR 58026, Sept. 23, 2010), EPA encourages that future delistings cite ''Method 1664 Rev. B'' while delistings already granted may continue to use Method 1664 Rev. A.

On December 14, 2011, EPA published a notice of data availability (NODA) on a new method for oil and grease for use in Clean Water Act programs (see 76 FR 77742). This method, ASTM D–7575–10, uses a different extractant (a membrane filter instead of n-hexane for the extraction of oil and grease material) and a different measurement technique (infrared absorption instead of gravimetry) from the extractant and measurement technique of currently approved methods for oil and grease. The new method was discussed in the September 23, 2010 notice but EPA did not propose it for use as an approved method to be codified at 40 CFR 136.3 because oil and grease is a method-defined parameter. By definition, the measurement results of method-defined parameters are specific to the described method and are not directly comparable to results obtained by another method. However, since publication of the Methods Update Rule proposal, the Agency received additional data and information about this method and is re-considering whether it should add this

method to the list of approved methods for oil and grease at 40 CFR 136.3. In the NODA, EPA proposed to include ASTM D–7575 for the measurement of oil and grease based on comments received in response to its September 23, 2010 proposal and the additional data. EPA will make a decision on the inclusion of the new method once it reviews the public comments received in response to the NODA and will then publish that decision in a separate **Federal Register** notice.

2. Metals. Today's rule adds EPA Method 200.5 (Revision 4.2): ''Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma—Atomic Emission Spectrometry'' to Table IB. The rule also clarifies that the axial orientation of the torch is allowed for use with EPA Method 200.7. Thus, EPA will allow the use of axial instruments or radial instruments to measure metals in water samples.

3. Pesticides. Today's rule adds EPA Method 525.2 to Table IG (Test Methods for Pesticide Active Ingredients) as an additional approved method for all parameters for which EPA has previously approved EPA Method 525.1, and also adds Methods 525.1 and 525.2 to Table ID for the same parameters for which EPA had previously approved Method 525.1 in Table IG. The rule also adds some of the methods for Pesticide Active Ingredients (Table IG) to applicable parameters listed in Table ID for general use. These methods are:

a. EPA Method 608.1, ''The Determination of Organochlorine Pesticides in Municipal and Industrial Wastewater.'' This method measures chlorobenzilate, chloroneb, chloropropylate, dibromochloropropane, etridiazole, PCNB, and propachlor.

b. EPA Method 608.2, ''The Determination of Certain Organochlorine Pesticides in Municipal and Industrial Wastewater.'' This method measures chlorothalonil, DCPA, dichloran, methoxychlor, and permethrin.

c. EPA Method 614, ''The Determination of Organophosphorus Pesticides in Municipal and Industrial Wastewater.'' This method measures azinphos methyl, demeton, diazinon, disulfoton, ethion, malathion, parathion methyl, and parathion ethyl.

d. EPA Method 614.1, ''The Determination of Organophosphorus Pesticides in Municipal and Industrial Wastewater.'' This method measures dioxathion, EPN, ethion, and terbufos.

e. EPA Method 615, ''The Determination of Chlorinated Herbicides in Municipal and Industrial Wastewater.'' This method measures 2,4-D, dalapon, 2,4-DB, dicamba, dichlorprop, dinoseb, MCPA, MCPP, 2,4,5-T, and 2,4,5-TP.

f. EPA Method 617, ''The Determination of Organohalide Pesticides and PCBs in Municipal and Industrial Wastewater.'' This method measures aldrin, α-BHC, β-BHC, γ-BHC (lindane), captan, carbophenothion, chlordane, 4,4′-DDD, 4,4′-DDE, 4,4′-DDT, dichloran, dicofol, dieldrin, endosulfan I, endosulfan II, endosulfan sulfate, endrin, endrin aldehyde, heptachlor, heptachlor epoxide, isodrin, methoxychlor, mirex, PCNB, perthane, strobane, toxaphene, trifluralin, PCB-1016, PCB-1221, PCB-1232, PCB-1242, PCB-1248, PCB-1254, and PCB-1260.

g. EPA Method 619, ''The Determination of Triazine Pesticides in Municipal and Industrial Wastewater.'' This method measures ametryn, atraton, atrazine, prometon, prometryn, propazine, sec-bumeton, simetryn, simazine, terbuthylazine, and terbutryn.

h. EPA Method 622, ''The Determination of Organophosphorus Pesticides in Municipal and Industrial Wastewater.'' This method measures azinphos methyl, bolstar, chlorpyrifos, chlorpyrifos methyl, coumaphos, demeton, diazinon, dichlorvos, disulfoton, ethoprop, fensulfothion, fenthion, merphos, mevinphos, naled, parathion methyl, phorate, ronnel, stirofos, tokuthion, and trichloronate.

i. EPA Method 622.1, ''The Determination of Thiophosphate Pesticides in Municipal and Industrial Wastewater.'' This method measures aspon, dichlofenthion, famphur, fenitrothion, fonophos, phosmet, and thionazin.

j. EPA Method 632, ''The Determination of Carbamate and Urea Pesticides in Municipal and Industrial Wastewater.'' This method measures aminocarb, barban, carbaryl, carbofuran, chlorpropham, diuron, fenuron, fenuron-TCA, fluometuron, linuron, methiocarb, methomyl, mexacarbate, monuron, monuron-TCA, neburon, oxamyl, propham, propoxur, siduron, and swep.

4. Microbiologicals. Today's rule approves the 2005 versions of EPA Method 1622, ''Cryptosporidium in Water by Filtration/IMS/FA'' and EPA Method 1623, ''Cryptosporidium and Giardia in Water by Filtration/IMS/FA'' in Table IH for ambient water.

The rule approves revised versions of EPA Methods 1103.1, 1106.1, 1600, 1603, and 1680 in Table IH. The rule also approves the revised version of EPA Methods 1600, 1603 and 1680 in Table IA. We corrected technical errors in these revisions.

5. Non-Conventionals. Today's rule adds EPA Method 1627, ''Kinetic Test Method for the Prediction of Mine Drainage Quality'' to Table IB as a new parameter termed ''Acid Mine Drainage.''

6. Organics. Today's rule approves EPA Method 624, ''Purgeables,'' for the determination of acrolein and acrylonitrile in wastewater and revises footnote 4 to Table IC to specify that the laboratory must provide documentation about its ability to measure these analytes at the levels necessary to comply with associated regulations.

B. New Standard Methods and New Versions of Approved Standard Methods

This rule approves the following Standard Methods (SM) for certain pollutants currently listed in Table IB at Part 136. Laboratories performing measurements using any of the approved Standard Methods must follow the quality control (QC) procedures specified in the 20th or 21st edition of Standard Methods. Below is a list of the Standard Methods added to Table IB in Part 136:

1. SM 5520 B–2001 and SM 5520 F–2001, Oil and Grease, gravimetric
2. SM 4500–NH_3 G–1997, Ammonia (as N) and TKN, automated phenate method
3. SM 4500–B B–2000, Boron, curcumin method
4. SM 4140 B–1997, Inorganic Ions (Bromide, Chloride, Fluoride, Orthophosphate, and Sulfate), capillary ion electrophoresis with indirect UV detection
5. SM 3114 B–2009, Arsenic and Selenium, AA gaseous hydride
6. SM 3114 C–2009, Arsenic and Selenium, AA gaseous hydride
7. SM 3111 E–1999, Aluminum and Beryllium, direct aspiration atomic absorption spectrometry
8. SM 5220 B–1997, Chemical Oxygen Demand (COD), titrimetric
9. SM 3500–Cr B–2009, Chromium, colorimetric method
10. SM 4500–N_{org} D–1997, Kjeldahl Nitrogen, semi-automated block digestor colorimetric
11. SM 3112 B–2009, Mercury, cold vapor, manual
12. SM 4500–P G–1999 and SM 4500–P H–1999, Phosphorus, Total, automated ascorbic acid reduction
13. SM 4500–P E–1999 and SM 4500–P F–1999, Phosphorus, Total, manual, and automated ascorbic acid reduction
14. SM 4500–O B, D, E and F–2001, Oxygen, Dissolved, Winkler
15. SM 4500–O D–2001, Oxygen, Dissolved, Winkler

16. SM 4500–O E–2001, Oxygen, Dissolved, alum flocculation modification
17. SM 5530 B–2005, Phenols, manual distillation
18. SM 5530 D–2005, Phenols, colorimetric
19. SM 3500–K C–1997, Potassium, Total, selective electrode method
20. SM 2540 E–1997, Residues—Volatile, gravimetric
21. SM 4500–SiO_2 E–1997 and SM 4500–SiO_2 F–1997, Silica, Dissolved, automated molybdosilicate
22. SM 4500–SO_4^{2-} C–1997, D–1997, E–1997, F–1997 and G–1997, Sulfate, gravimetric, and automated colorimetric
23. SM 4500–S^{2-} B–2000 and C–2000, Sulfide, sample pretreatment

C. New ASTM Methods and New Versions of Previously Approved ASTM Methods

The rule approves the following ASTM methods for existing pollutants and ASTM methods for new pollutants to 40 CFR part 136, Table IB for inorganic compounds, and Table IC for organic compounds.

1. ASTM D2036–09 (B), Cyanide—Total, Cyanide amenable to cholorination
2. ASTM D6888–09, Cyanide—Available, flow injection and ligand exchange
3. ASTM D7284–08, Cyanide—Total, flow injection
4. ASTM D7511–09, Cyanide—Total, segmented flow injection
5. Free cyanide is added as a new parameter (24A in Table IB); two ASTM methods (D4282–02 and D7237–10) are approved, in addition to a new version of OIA 1677(2009) for this parameter. D4282–02 is a Standard Test Method for Determination of Free Cyanide in Water and Wastewater by Microdiffusion, and Method D7237–10 is a Standard Test Method for Free Cyanide with Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection.
6. ASTM D888–09 (A), Oxygen Dissolved, Winkler
7. ASTM D7573–09, Organic Carbon—Total, combustion
8. ASTM D7065–06, Five new chemicals in water: Nonylphenol (NP), Bisphenol A (BPA), p-tert-Octylphenol (OP), Nonylphenol Monoethoxylate (NP1EO), and Nonylphenol Diethoxylate (NP2EO), Gas Chromatography/Mass Spectrometry

D. New Alternate Test Procedures at 40 CFR 136.3

The rule approves eight methods submitted to EPA for review through the alternate test procedures (ATP) program and deemed acceptable based on the evaluation of documented method performance. The eight methods approved are added to Table IB:

1. Hach Company's Method 10360 Luminescence Measurement of Dissolved Oxygen in Water and Wastewater and for Use in the Determination of BOD_5 and $cBOD_5$, Revision 1.2 dated October 2011
2. In-Situ Incorporated's Method 1002–8–2009 Dissolved Oxygen Measurement by Optical Probe
3. In-Situ Incorporated's Method 1003–8–2009 Biochemical Demand (BOD) Measurement by Optical Probe
4. In-Situ Incorporated's Method 1004–8–2009 Carbonaceous Biochemical Oxygen Demand (CBOD) Measurement by Optical Probe
5. Mitchell Method M5271 dated July 31, 2008 for turbidity
6. Mitchell Method M5331 dated July 31, 2008 for turbidity
7. Thermo Scientific's Orion Method AQ4500 dated March 12, 2009 for turbidity
8. Easy (1–Reagent) Nitrate Method dated November 12, 2011 for nitrate, nitrite and combined nitrate/nitrite

E. Clarifications and Corrections to Previously Approved Methods in 40 CFR 136.3

The rule also clarifies the procedures for measuring orthophosphate and corrects typographical or other citation errors in Part 136. Specifically, the rule clarifies the purpose of the immediate filtration requirement in orthophosphate measurements (Table IB, parameter 44), which is to assess the dissolved or bio-available form of orthophosphorus (*i.e.,* that portion which passes through a 0.45-micron filter)—hence the requirement to filter the sample immediately upon collection (*i.e.,* within 15 minutes of collection). EPA has added a footnote (24) to Table II providing this clarification. The rule also corrects missing citations to the table of microbiological methods for ambient water monitoring which are specified in Table IH at 40 CFR 136.3. When EPA approved the use of certain microbiological methods on March 26, 2007 (72 FR 14220), EPA inadvertently omitted fecal coliform, total coliform, and fecal streptococcus methods from the table. This omission is corrected in today's rule.

F. Revisions in Table II at 40 CFR 136.3(e) to Required Containers, Preservation Techniques, and Holding Times

The rule revises some of the current requirements in Table II at 136.3(e).

1. The rule revises footnote 4 of Table II to clarify the sample holding time for the Whole Effluent Toxicity (WET) samples for the three toxicity methods by adding the following sentence: ''For static-renewal toxicity tests, each grab or composite sample may also be used to prepare test solutions for renewal at 24 h, 48 h, and/or 72 h after first use, if stored at 0–6 °C, with minimum head space.'' In addition, EPA will post on the WET Web site corrections to errata in the ''Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms'' manual (EPA 2010e).

2. The rule revises the cyanide sample handling instructions in Footnote 5 of Table II to recommend the treatment options for samples containing oxidants described in ASTM's sample handling practice for cyanide samples, D7365–09a.

3. The rule revises the cyanide sample handling instructions in Footnote 6 of Table II to describe options available when the interference mitigation instructions in D7365–09a are not effective, and to allow the use of any technique for removal or suppression of interference, provided the laboratory demonstrates and documents that the alternate technique more accurately measures cyanide through quality control measures described in the analytical test method.

4. The rule revises footnote 16 of Table II instructions for handling Whole Effluent Toxicity (WET) samples by adding two sentences: ''Aqueous samples must not be frozen. Hand-delivered samples used on the day of collection do not need to be cooled to 0 to 6 °C prior to test initiation.''

5. The rule revises footnote 22 to Table II to read ''Sample analysis should begin as soon as possible after receipt; sample incubation must be started no later than 8 hours from time of collection.''

6. The rule adds three entries at the end of Table II with the containers, preservation, and holding times for the alkylated phenols, adsorbable organic halides, and chlorinated phenolics. When EPA proposed ASTM D7065–06 for the alkylated phenols, commenters noted that EPA did not include preservation and holding time information in Table II. When EPA moved EPA Methods 1650 and 1653

from 40 CFR part 430 to Table IC, EPA inadvertently omitted the associated parameters to Table II, and is correcting this omission in today's rule. The Table II information for containers, preservation, and holding times for these three new entries are taken from the approved methods.

G. Revisions to 40 CFR 136.4 and 136.5

This rule changes §§ 136.4 and 136.5 to clarify the procedures for obtaining review and approval for the use of alternate test procedures (alternate methods or ATPs) for those methods for which EPA has published an ATP protocol (there are published protocols for chemistry, radiochemical, and microbiological culture methods). In particular, it establishes separate sections outlining the procedures for obtaining EPA review and approval for nationwide use of an ATP (§§ 136.4), and the procedures for obtaining approval for limited use of an ATP (§§ 136.5).

In addition, this rule adds language to Part 136.5 to clarify the purpose and intent of limited use applications. This provision only allows use of an alternate method for a specific application at a facility or type of discharge. The Regional Alternate Test Procedure (ATP) Coordinator or the permitting authority, at his/her discretion, may grant approval to all discharges or facilities specified in the approval letter. However, the appropriate permitting authority within a state may request supporting test data from each discharger or facility prior to allowing any such approvals.

Today's rule further clarifies that the limited use provision cannot be used to gain nationwide approval and is not a way to avoid the full examination of comparability that is required for alternate test procedures when EPA considers a method for nationwide use with the ultimate goal of listing it as an approved CWA method at 40 CFR part 136. As further clarification, in the event that EPA decides not to approve a method proposed for nationwide use, the Regional ATP Coordinator or the permitting authority may choose to reconsider any previous limited use approvals of the alternate method. Based on this reconsideration, the Regional ATP Coordinator or the permitting authority will notify the user(s) if the limited use approval is withdrawn. Otherwise, the limited use approvals remain in effect.

H. Revisions to Method Modification Provisions at 40 CFR 136.6

This section allows users to make certain modifications to an approved method to address matrix interferences without the extensive review and approval process specified for an alternate test procedure at 136.4 and 136.5. Today's rule revises 136.6 to provide more examples of allowed and prohibited method modifications. The intent of today's revisions is to clarify those situations in which an ATP is required and those where it is not. Analysts may use the examples to help assess the need for a formal ATP, and in the event an ATP is not needed to document that their modification is acceptable and does not depart substantially from the chemical principles in the method being modified.

In response to comments, EPA has included additional examples of allowed and prohibited method modifications and has made some revisions to the text language as discussed in Section III below.

I. New Quality Assurance and Quality Control Language at 40 CFR 136.7

EPA is specifying ''essential'' quality control elements at § 136.7 for use in conducting an analysis for CWA compliance monitoring. This new language is added because auditors, co-regulators, laboratory personnel, and the regulated community have noted the variations in quality assurance (QA) and quality control (QC) procedures practiced by laboratories that use 40 CFR part 136 methods for compliance monitoring. Some of these methods are published by voluntary consensus standards bodies, such as the Standard Methods Committee, and ASTM International. Standard Methods and ASTM are available in printed or electronic compendia, or as individual online files. As mentioned in the proposal, each organization has a unique compendium structure. QA and QC method guidance or requirements may be listed directly in the approved consensus method, or, as is more often the case, these requirements are listed in other parts of the compendium.

Regardless of the publisher, edition, or source of an analytical method approved for CWA compliance monitoring, analysts must use suitable QA/QC procedures whether EPA or other method publishers have specified these procedures in a particular Part 136 method, or referenced these procedures by other means. These records must be kept in-house as part of the method testing documentation. Consequently, today's rule clarifies that an analyst using these consensus standard body methods for reporting under the CWA must also comply with the quality assurance and quality control requirements listed in the appropriate sections in that consensus standard body compendium. EPA's approval of use of these voluntary consensus standard body methods contemplated that any analysis using such methods would also meet the quality assurance and quality control requirements prescribed for the particular method. Thus, not following the applicable and appropriate quality assurance and quality control requirements of the respective method means that the analysis does not comply with the requirements in EPA's NPDES regulations to monitor in accordance with the procedures of 40 CFR part 136 for analysis of pollutants.

For methods that lack QA/QC requirements (as specified in this new section at 40 CFR 136.7), whether developed by EPA, a vendor, or a consensus standard body, analysts can refer to and follow the QA/QC published in several public sources. Examples of these sources include the relevant QA/QC sections of an equivalent approved EPA method, or voluntary consensus standards published as Part 136 approved methods (*e.g.,* Standard Methods, ASTM International, and AOAC). In addition to and regardless of the source of the laboratory's or method's QA and QC instructions, for methods that lack QA/QC requirements, EPA is adding requirements at 136.7 to specify twelve essential quality control elements that must be in the laboratory's documented quality system unless a written rationale is provided to explain why these quality control elements are inappropriate for a specific analytical method or application. These twelve essential quality control checks must be clearly documented in the written SOP (or method) along with a performance specification or description for each of the twelve checks, as applicable to the specific method. EPA has clarified the language in this section in response to public comments. The revised language is discussed in section III below.

J. Revisions at 40 CFR Part 423 (Steam Electric Power Generating Point Source Category)

The rule revises the 40 CFR part 423 definitions for total residual chlorine and free available chlorine at §§ 423.11(a) and 423.11(l) to allow the use of ''chlorine—total residual'' and ''chlorine—free available'' methods in § 136.3(a), Table IB, or other methods approved by the permitting authority.

III. Changes Between the Proposed Rule and the Final Rule

Except as noted below, the content of the final rule is the same as that of the proposed rule.

A. EPA Is Not Adding EPA Method 1614A

The Agency proposed to add Method 1614A, ''Brominated Diphenyl Ethers in Water, Soil, Sediment, and Tissue by HRGC/HRMS.'' EPA developed this method to determine 49 polybrominated diphenyl ether (PBDE) congeners in aqueous, solid, tissue, and multi-phase matrices. This method uses isotope dilution and internal standard high resolution gas chromatography/high resolution mass spectrometry (HRGC/HRMS). The commenters were divided on whether EPA should approve this method. Two commenters stated that Method 1614A would be a valuable addition to the list of approved methods, while two other commenters stated that the method has not been sufficiently validated for use in Clean Water Act programs. Upon further evaluation of the data supporting the use of this test procedure and the peer review comments, EPA agrees with those commenters who stated that additional validation data are needed to fully characterize the performance of this method for various matrices and has decided not to include Method 1614A in today's final rule.

B. Deferral of Action on EPA Method 1668C

The Agency proposed to add EPA Method 1668C, ''Chlorinated Biphenyl Congeners in Water, Soil, Sediment, Biosolids, and Tissue by HRGC/HRMS.'' This method measures individual chlorinated biphenyl congeners in environmental samples by isotope dilution and internal standard high resolution gas chromatography/high resolution mass spectrometry (HRGC/HRMS). As discussed in the proposal, Part 136 methods for chlorinated biphenyls (PCBs) only measure a mixture of congeners in seven Aroclors—PCB–1016, PCB–1221, PCB–1232, PCB–1242, PCB–1248, PCB–1254, and PCB–1260, while Method 1668C can measure the 209 PCB congeners in these mixtures.

EPA began development of this method in 1995, initially covering 13 congeners labeled ''toxic'' by the World Health Organization. In 1999, EPA expanded the scope of the method to include all 209 PCB congeners. The method has been used to support several studies, including the 2001 National Sewage Sludge Survey and the National Lake Fish Tissue Survey. Since 1999, EPA has revised the method to incorporate additional information and data collected such as the results of an inter-laboratory validation study, peer reviews of the method and the validation study data, additional QC performance criteria and MDL data, and user experiences. In the development and subsequent multi-laboratory validation of this method, EPA evaluated method performance characteristics, such as selectivity, calibration, bias, precision, quantitation and detection limits. The Agency is aware that this method is being used in some states in their regulatory programs and by other groups for some projects with good success. For example, in a study of data comparability between two laboratories on samples collected from the Passaic River in New Jersey, in which 151 PCB congeners were identified and measured, accuracy, as measured by analysis of an NIST SRM, was 15% or better. Recoveries of the PCB congeners ranged from 90% to 124% and averaged 105%; precision ranged from 4.2 to 23% (Passaic River 2010). This type of data shows that recoveries and precision for this method are within the performance achievable with other approved methods.

EPA received comments from thirty-five individuals or organizations on this method. Of these commenters, five (three states, one laboratory, and one laboratory organization) supported the approval of this method. Some states indicated that they are already requiring this method for use in permits and for other purposes. On the other hand, industry and industry groups/associations were critical of the method for various reasons. Commenters opposing the method provided a detailed critique of the method, the inter-laboratory study, the peer reviews and the other supporting documentation. Among the criticisms of the inter-laboratory study, commenters argued that: (1) EPA did not produce documentation supporting changes to the method approved by EPA for the interlaboratory study, (2) the raw data for wastewater and biosolids was poor and is not fit for use in a comprehensive interlaboratory study, (3) EPA cited certain guidelines such as ASTM but deviated from those guidelines (*e.g.,* used only one Youden pair per matrix), (4) the peer reviewers' qualifications were questioned, (5) the addendum and the pooled MDLs/MLs were not subjected to peer review, (6) MDL/ML are flawed, the process to calculate MDLs/MLs for congeners that co-elute was flawed, the MDL/ML ignored the ubiquitous problem of background contamination, and (7) the validation study did not include all matrices in the method (soil and sediment excluded). In addition, some commenters also suggested that EPA should first promulgate new detection and quantitation procedures. Further, commenters raised questions about possible adverse effects of this new method on compliance monitoring as well as concerns about data reporting and costs.

EPA is still evaluating the large number of public comments and intends to make a determination on the approval of this method at a later date. In the meantime, the Agency has decided to go forward with the promulgation of the other proposed analytical methods to expedite their implementation by the regulated community and laboratories. This decision does not negate the merits of this method for the determination of PCB congeners in regulatory programs or for other purposes when analyses are performed by an experienced laboratory.

C. EPA Is Not Adding ASTM Methods D7574–09 and D7485–09

In today's rule, EPA is not adding two proposed ASTM methods, ASTM D7574–09 ''Standard Test Method for Determination of Bisphenol A (BPA),'' and ASTM D7485–09 ''Standard Test Method for Determination of NP, OP, NP1EO, and NP2EO.'' These two methods involve liquid chromatography and tandem mass spectrometry (LC/MS/MS). The methods have been tested by a single laboratory in several environmental waters, and may be useful for many applications. However, EPA has decided to postpone approval of these two methods for general use until completion of a full inter-laboratory validation study designed to fully characterize the performance of these methods across multiple laboratories and matrices.

D. Revisions and Clarifications to EPA Method 200.7

EPA Method 200.5 ''Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma—Atomic Emission Spectrometry'' employs a plasma torch viewed in the axial orientation to measure chemical elements (metals). As stated earlier in today's rule, EPA is adding Method 200.5 for some metals in Table IB. Both Methods 200.5 and 200.7 are acceptable methods under Part 136 and both methods employ ICP/AES technology. However, Method 200.5 includes performance data for the axial configuration that is not in Method 200.7 because the axial technology torch

results were not available when Method 200.7 was developed. For some parameters listed in Table IB, the axial orientation using ICP/AES technology results in greater sensitivity and lower detection limits than the radial orientation. Thus, today's approval of Method 200.5 and the additional flexibility to modify Method 200.7 to use the axial orientation discussed in the proposal will allow laboratories to use either axial instruments or radial instruments to measure metals in water samples with Method 200.7. In response to EPA's proposal to allow the use of the axial orientation of the torch with EPA Method 200.7, commenters expressed support for this added flexibility. Thus, today's rule clarifies that the use of the axial orientation of the torch to measure metals is an acceptable modification to Method 200.7. EPA has added new text at Part 136.6(b)(5) to allow the use of the axial orientation of the torch for Method 200.7 as an acceptable method modification that does not require an ATP application.

EPA further notes that there was a typographical error in Section II.J of the proposed rule which stated that the version of EPA Method 200.7 (which the Agency proposed to remove; with Appendix C, see section IIIM below) has been superseded by Revision 5.4 of Method 200.7. Today's final rule reflects that the correct reference is Revision 4.4 of EPA Method 200.7. In today's rule, EPA has added Method 200.7 Revision 4.4 as an additional approved method for the measurement of titanium. As some commenters pointed out, EPA Method 200.7 covers this parameter and exclusion of this method for the measurement of titanium in Table IB was an oversight.

In addition, EPA has removed EPA Method 200.7 from Table IB for the measurement of mercury. The addition of EPA Method 200.7 to the list of approved methods for mercury in Table IB was an error. Although this pollutant is on the list of analytes in EPA Method 200.7, mercury may be lost to the atmosphere through the use of the approved total recoverable metals digestion procedures (*e.g.,* EPA Method 200.2, or the digestion procedures listed in EPA Method 200.7) that must be applied to the wastewater samples of interest under the Clean Water Act program. Such losses can lead to poor recovery in the samples compared to the sample preparation procedures included in other mercury methods approved at 40 CFR part 136. Therefore, EPA Method 200.7 has not been included in Table IB for mercury.

E. Revisions and Corrections to Certain Citations in Tables IA, IB, IC, ID, and IG

EPA proposed some additions to Table IB which include some new Standard Methods or new versions of approved Standard Methods. Today's rule revises the applicability of some methods and makes some corrections to the method citations. Specifically, EPA removed SM 3120 and SM 3125 for the measurement of mercury because mercury is not on the list of analytes for these methods. In addition, EPA corrected the citation of SM 3113 to SM 3113B–2004 in the final rule and has added SM 3113B–2004 for the measurement of cadmium, chromium, iron, lead, and silver, because these analytes are covered by the method and they exhibit acceptable analytical performance. These omissions were an oversight.

EPA also deleted from Table ID an EPA GC/MS method, Method 525.1, for the measurement of ametryn, diazinon, disulfoton, prometon, and trifluoralin. These analytes are not listed within the scope of this method and their inclusion in the proposal was an error.

EPA has corrected a number of typographical errors in the tables and footnotes, correcting spelling and method availability information, method title names, and document identification numbers. A complete list of these changes has been included in a memo to the docket.

F. Continued Approval of Method 1664 Rev. A

EPA proposed to replace Method 1664 Rev. A for the measurement of oil and grease with a revised version (Method 1664 Rev. B). This new version of the method describes modifications that are allowed and modifications that are not allowed when using this method for compliance with Clean Water Act regulations. Comments were generally supportive of the revised method but some commenters recommended that Method 1664 Rev. A not be withdrawn immediately because many permits currently specify the use of this method. In response to these comments, EPA will continue to allow the use of Method 1664 Rev. A for current permits because this method is not significantly different from the revised version of the method. However, EPA strongly encourages the use of the revised method (Method 1664 Rev. B) in the future. EPA may revisit this decision in a future rulemaking.

G. Revision to Footnote 63 of Table IB at 40 CFR 136.3

EPA received comments that the Hach Method 10360, described in footnote 63 of Table IB, is a dissolved oxygen procedure, and as such, should only be listed as a procedure for dissolved oxygen, and not for BOD and CBOD. EPA disagrees with these commenters because the method on its face is clearly applicable to dissolved oxygen measurements in conjunction with BOD and CBOD analyses, as described in the method. As a result, in today's final rule, EPA added language to the end of this footnote to clarify that Part 136 allows the use of Hach Method 10360 for measurement of dissolved oxygen in conjunction with the methods approved for measurement of biochemical demand (BOD) and carbonaceous biochemical oxygen demand (CBOD).

H. Revision to Footnote 4 of Table IC at 40 CFR 136.3

EPA received comments on the proposed approval of Method 624 for the definitive determination of acrolein and acrylonitrile. Commenters agreed with the addition of these two analytes, but one of these commenters expressed concern about a blanket approval without requiring a demonstration of adequate performance and appropriate sample introduction techniques. This commenter recommended that performance criteria and information about appropriate sample introduction techniques be added to footnote 4 of Table IC. EPA agrees with this commenter's suggestions because this requirement would ensure that the laboratory has the ability to measure these analytes at the levels necessary to comply with any associated regulations. In response to these concerns, in today's rule, the Agency revised the footnote to add a statement requiring documentation of the ability to quantitatively measure these analytes and advising analysts that other sample introduction techniques may be required to achieve adequate performance.

I. Revisions to Table II Language

EPA proposed to revise the text at 136.3(e) to allow any party to modify sample preservation and holding times after submitting documentation to its permitting or other authority that supports use of an alternative approach. Commenters expressed concern that this change would present a burden both to permitting authorities to review and approve changes, and for laboratories that work in different states because each state could have different requirements. In response to public comments, EPA has removed the proposed language at 136.3(e) that would have allowed such modifications based on documentation and procedures

determined by individual permitting authorities. Instead, such modifications must continue to be requested via a limited use ATP application to the Regional Alternate Test Procedure Coordinator or permitting authority, as appropriate. Thus, approval of any changes in sample preservation procedures, container materials, and maximum allowable holding time will remain unchanged and continue to be the responsibility of EPA through its Alternate Test Procedure program. EPA clarified language regarding the limited use application process procedure. Additionally, in today's rule, EPA added a clarifying sentence at the end of the current language to emphasize that an analyst cannot modify any sample preservation or holding time requirements in an approved method unless the requirements in Section 136.3(e) are met.

EPA also revised footnote 4 to Table II to delete the parenthetical statement specifying that samples analyzed for fecal coliforms may be held up to six hours prior to commencing analysis. That statement in footnote 4 is inconsistent with the requirement for an eight-hour holding time, as pointed out by a commenter.

In response to comments, EPA included a new entry in Table II for the alkylated phenols (parameters 114 to 118 in Table IC) that was inadvertently omitted from the proposal. Similarly, when EPA moved EPA Methods 1650 and 1653 to Table IC, EPA inadvertently omitted to add the parameters adsorbable organic halides (AOX) and chlorinated phenolics to Table II. The Table II information for containers, preservation, and holding times for these three new entries are taken from the approved methods.

J. Approval of Alternate Test Procedures for Limited Use at 40 CFR 136.5

EPA proposed changes to 40 CFR 136.4 and 136.5 that establish the procedures for obtaining approval for use of a nationwide or limited use ATP. The proposed revisions established separate sections outlining the procedures for obtaining EPA review and approval for nationwide use of an ATP (§§ 136.4), and the procedures for obtaining approval for limited use of an ATP (§§ 136.5). The proposal also included language to clarify that limited use approvals do not require the same level of supporting data that would be required for nationwide approvals and that limited use approvals are not intended to be used as a means to avoid the full examination of comparability that is required for an application for approval of an alternative test procedure for nationwide use.

Today's rule finalizes these sections as proposed with one exception. EPA received comments that the proposed language under § 136.5 does not require that comparability data be submitted when seeking a Regional limited use ATP approval. EPA agrees that comparability data is an essential component of the ATP approval process and had inadvertently omitted this language. As a result, the Agency added language in today's final rule that requires an applicant to provide comparability data specific to the limited use for the performance of the proposed alternative test procedure relative to the performance of the reference method.

K. Revisions to Language at § 136.6

EPA proposed to revise the section on method modification provisions at 40 CFR 136.6 to provide more examples of allowed and prohibited method modifications. Acceptable reasons for an analyst to modify a method include analytical practices that lower detection limits, improve precision, reduce interferences, lower laboratory costs, and promote environmental stewardship by reducing generation of laboratory wastes. Acceptable modifications may use existing or emerging analytical technologies that achieve these ends provided that they do not depart substantially from the underlying chemical principles in methods currently approved in 40 CFR part 136. Analysts may use the examples in this section to help assess whether the modifications require an ATP and if not, to document that their modification is acceptable. The additional examples provide further guidance to laboratories and permittees on allowable method modifications that do not require an application through the ATP program. Proposal comments generally expressed support for allowing the flexibility to make certain changes to methods and for the specific examples of allowable changes included in the proposal. In addition, some commenters suggested revisions to clarify EPA's intent in Sections (b)(4) and (b)(5) of 40 CFR 136.6. EPA reviewed the suggestions and agrees with commenters that the revisions will provide additional clarity. In addition, as discussed in Section III.D of this preamble, EPA added the use of axially viewed torch as an allowable modification to Method 200.7. Today's rule includes the following revisions to the regulatory text:

(a) Adds language to Section (b)(3) to clarify that modifications to sample collection, preservation, and holding time do not fall within the scope of 136.6,

(b) Revises the language at (b)(4)(T) be more specific with respect to the use of gas diffusion across a hydrophobic semi-permeable membrane to separate the analyte of interest from the sample matrix in place of manual or automated distillation for the analysis of certain analytes,

(c) Revises the equation for Relative Standard Error (RSE) in (b)(4)(J) to make it consistent with the description in other EPA methods, and

(d) Adds the use of an axially viewed torch with Method 200.7 as an allowable modification.

L. Revisions to New Quality Assurance and Quality Control Language

For today's rule, EPA added some introductory language to this section to clarify the new requirements. EPA added this language to provide some additional clarity as to when the new requirements are applicable and, thus, must be incorporated into the laboratory's documented standard operating procedures. Additional discussion of the revisions is provided under section IV.C below.

M. Withdrawal of Appendices at 40 CFR Part 136

EPA proposed to incorporate by reference in Table IB all of the methods printed in 40 CFR part 136 Appendices A and C, and to remove most of the information in Appendix D. The methods in Appendix A are EPA Method Numbers 601 through 613, 624, 625, 1613B, 1624B, and 1625B. Appendix C contains EPA Method 200.7, ''Determination of Metals and Trace Elements in Water and Wastes by Inductively Coupled Plasma—Atomic Emission Spectrometry''. However, Federal regulations at 1 CFR part 51.7(c)(1) prohibit the incorporation by reference of material previously published in the **Federal Register**. Thus, EPA is not withdrawing Appendices A or C. Because EPA Method 200.7 has been revised, EPA is replacing the current version of this method in Appendix C with Rev. 4.4 of Method 200.7. All of these methods are readily accessible from a variety of sources, including EPA's CWA methods Web site *http://water.epa.gov/scitech/methods/cwa/index.cfm*.

The rule also removes most of the data from Appendix D for all EPA methods that are no longer approved, and retains only the Precision and Recovery Statements for EPA Method 279.2 for thallium and EPA Method 289.2 for zinc, and corrects

typographical errors in the Appendix. The current version of Appendix D will be available online at the CWA methods Web site for historical purposes.

N. Revisions at 40 CFR Part 430 (Pulp, Paper, and Paperboard Point Source Category)

EPA also proposed to remove Appendix A at 40 CFR part 430 and to incorporate by reference the methods in this Appendix. Appendix A contains two methods, EPA Method 1650 for adsorbable organic halides or AOX, and EPA Method 1653 for chlorinated phenolics. As explained above, we cannot incorporate by reference this material, so Appendix A remains unchanged in the Code of Federal Regulations. These methods are also readily available from a variety of sources, including EPA's CWA methods Web site *http://water.epa.gov/scitech/methods/cwa/index.cfm*. EPA is also adding these two methods to Table IC for general use.

O. Revisions at 40 CFR Part 435 (Oil and Gas Extraction Point Source Category)

The rule makes several changes to Part 435, Oil and Gas Extraction Point Source Category. First, EPA is moving the methods and associated quality assurance requirements from 40 CFR part 435, Subpart A (Offshore Subcategory) to an EPA document (''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004), and incorporating by reference this document in the revised regulation at 40 CFR part 435. This approach organizes the analytical methods for the Offshore Subcategory into one document and allows for easier access to the methods for this category. The following table lists the methods EPA moved from part 435 to the cited document, EPA–821–R–11–004.

EPA METHOD NUMBERS FOR OIL AND GAS EXTRACTION POINT SOURCE CATEGORY ANALYTICAL METHODS AND PRIOR CFR REFERENCES

Analytical/Test method	EPA Method No.	Date first promulgated	Previous CFR references
Static Sheen Test	1617	1993	Subpart A, Appendix 1.
Drilling Fluids Toxicity Test	1619	1993	Subpart A, Appendix 2.
Procedure for Mixing Base Fluids With Sediments	1646	2001	Subpart A, Appendix 3.
Protocol for the Determination of Degradation of Non-Aqueous Base Fluids in a Marine Closed Bottle Biodegradation Test System: Modified ISO 11734:1995.	1647	2001	Subpart A, Appendix 4.
Determination of Crude Oil Contamination in Non-Aqueous Drilling Fluids by Gas Chromatography/Mass Spectrometry (GC/MS).	1655	2001	Subpart A, Appendix 5.
Reverse Phase Extraction (RPE) Method for Detection of Oil Contamination in Non-Aqueous Drilling Fluids (NAF).	1670	2001	Subpart A, Appendix 6.
Determination of the Amount of Non-Aqueous Drilling Fluid (NAF) Base Fluid from Drill Cuttings by a Retort Chamber (Derived from API Recommended Practice 13B–2).	1674	2001	Subpart A, Appendix 7.

As noticed in the proposed rule, EPA is also incorporating additional quality assurance procedures in the marine anaerobic biodegradation method (Appendix 4 of Subpart A of part 435) and is correcting some erroneous references and omissions in the method for identification of crude oil contamination (Appendix 5 of Subpart A of part 435) into the new document (EPA–821–R–11–004).

EPA promulgated the use of the marine anaerobic biodegradation method (closed bottle test, ISO 11734:1995 as clarified by Appendix 4 to Subpart A of part 435) as an Appendix to the rule in 2001 because it most closely modeled the ability of a drilling fluid to biodegrade anaerobically in marine environments (January 22, 2001; 66 FR 6864). Subsequent to this promulgation, EPA incorporated additional quality assurance procedures for the marine anaerobic biodegradation method in the NPDES permit for the Western Gulf of Mexico (''Final NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico,'' GMG290000, Appendix B). The additional quality assurance instructions in the GMG290000 more clearly describe the sample preparation and compliance determination steps. Specifically, these additional quality assurance procedures clarify that users must only use headspace gas to determine compliance with the Part 435 effluent guidelines. EPA worked with the same industry consortium that assisted EPA in the development of the analytical methods used in the effluent guidelines for the Oil and Gas Extraction point source category (40 CFR part 435) to develop these additional quality assurance measures. Thus, the quality assurance procedures are generally applicable to this industry.

Additionally, as noticed in the proposed rule, EPA is correcting some erroneous references and omissions in the method for identification of crude oil contamination (Appendix 5 of Subpart A of Part 435), as follows:

a. Adding a schematic flow for qualitative identification of crude oil, which was erroneously omitted in Appendix 5 to Subpart A of part 435,

b. Correcting erroneous citations in sections 9.5, 9.6, 11.3, and 11.3.1 of Appendix 5, and

c. Adding a missing ''<'' (less than) sign for identification of crude oil contamination in the asphaltene crude discussion at Section 11.5.4.2. The asphaltene discussion now reads as follows: ''Asphaltene crude oils with API gravity < 20 may not produce chromatographic peaks strong enough to show contamination at levels of the calibration. Extracted ion peaks should be easier to see than increased intensities for the C8 to C13 peaks. If a sample of asphaltene crude from the formation is available, a calibration standard shall be prepared.''

EPA received three comments on the proposed changes. One commenter was concerned that the EPA document (EPA–821–R–11–004) would not have the same legal status as publishing the methods in the CFR. EPA disagrees with this comment. The incorporation by reference of this document has the same legal standing as publishing the text of the methods in the CFR. EPA has a long standing practice of publishing test methods using incorporation by reference and the cited test methods are

as legally enforceable as those published in full in the CFR. EPA is consolidating these methods into one document to allow for easier access to these methods. The incorporation by reference of this document also allows for better formatting of the methods and eliminates the redundant publication of these methods each year in the Code of Federal Regulations. Two other commenters had some recommendations for additional revisions to the EPA document (EPA–821–R–09–013). EPA has not adopted these suggestions, given the absence of an opportunity for the public generally to comment on them. EPA will, however, consider these comments and may propose additional revisions in a future rulemaking. As noticed in the proposed rulemaking, the final rule consolidates the oil and gas test methods into a single document and references this document in the effluent guidelines (40 CFR part 435). Like any other changes to an EPA-approved method, any changes to the methods in the EPA document (EPA–821–R–11–004) will require a rulemaking.

IV. Summary of EPA's Response to Comments

The Agency received comments from 117 different individuals or organizations on the September 23, 2010 proposal (75 FR 58024). Commenters represented a variety of different interests, including analytical laboratories, water utilities, instrument manufacturers, State and local governments, trade associations, and industry. A summary of major public comments on the proposed rule and the Agency's responses is presented in this section. The public docket for this rule includes all of the comments received and the Agency's responses.

A. Approval of Standard Methods

EPA proposed to revise how to identify EPA-approved Part 136 methods that are published by the Standard Methods Committee (*i.e.,* Standard Methods). EPA proposed two changes. First, EPA proposed to change the way it identifies an EPA-approved version of a Standard Method in Part 136. Second, EPA proposed to identify only the most recently EPA-approved version of a Standard Method in Part 136. In the past, EPA listed multiple versions of these methods from the 18th, 19th, 20th editions of the printed compendiums, or from the on-line editions published by the Standard Methods Committee, in one or more columns in the Part 136.3 tables. In some cases, EPA approved more than one version of a Standard Method for a particular analyte in Part 136. Approval of several versions of the same Standard Method for an analyte has led to inconsistencies in how laboratories conduct these analyses, especially in quality assurance/quality control (QA/QC) practices. For this reason, EPA proposed to list only the most recently EPA-approved version of a Standard Method (regardless of the printed or on-line edition) in Part 136, with few exceptions, to identify the method with the year of Standard Methods approval or adoption designated by the last four digits in the method number (*e.g.,* Standard Method 3113B–2004). This approach clearly identifies the version of the standard method approved under Part 136 and no longer ties it to a particular compendium printing or edition of Standard Methods. For example, the exact method, Standard Method 3113B–2004 appears in the 18th, 19th, and 20th edition of Standard Methods. Because this method is the same in all of these editions, a laboratory may refer to any of these editions when using Standard Method 3113B–2004 to measure the analytes listed in Table IB that are approved for this method. Thus, EPA's proposed approach to identify Part 136 approved standard methods does not rely on the particular edition of a compendium but rather on the latest Standard Methods approved version (by indicating the year of approval).

EPA received numerous comments concerning the proposed changes to specify the method with the year of publication, rather than specifying the editions of Standard Methods in which the method is printed, and to list in Part 136 only the most recent EPA-approved version of a Standard Method if Standard Methods has multiple versions of a method for a pollutant. Some commenters expressed concern about other economic impacts related to laboratory start-up tests, and the need for training and revised standard operating procedures (SOPs) associated with the use of the most recently approved method. In response, EPA maintains that the economic impacts of start-up tests or the need for revised SOPs are part of the necessary expenses to maintain a laboratory producing data of known and acceptable quality and these costs are not unusual. Training new staff or training current staff on new procedures is also a cost that any laboratory must consider as part of doing business.

EPA is aware that Standard Methods and other voluntary consensus organizations such as ASTM and AOAC periodically revise existing methods and publish them on-line and/or as a compendium. In addition to EPA-developed methods, the Agency approves certain methods developed by these and other organizations as required under the National Technology Transfer and Advancement Act (NTTAA) and lists them in Part 136 periodically. Often, after EPA approves a Standard Method for use in Part 136, Standard Methods releases or adopts a revised version of that method. Generally, these revised Standard Methods involve the use of new technologies or improvements to previously approved methods. By referencing the year of adoption by Standard Methods, EPA's proposed change in its method citations was intended to clarify which version of a Standard Method is approved by EPA in Part 136. The on-line site for Standard Methods allows electronic release of new methods and revisions to existing methods prior to the publication of the compendium edition. Currently, Standard Methods is on a 5–7 year cycle for publication of the compendium and is set to release its 22nd edition soon. In some cases, an older version of a method approved by the Standard Methods Committee may appear on the on-line or compendium version of Standard Methods. The date of adoption is on the first page of the compendium or on-line method.

Commenters are correct in pointing out that, in the event that they elect to use an EPA-approved Standard Method for compliance purposes, they would be required to use the most recently EPA-approved version of a Standard Method. EPA is not requiring any EPA-approved Standard Method in today's rule. Dischargers may use any approved Part 136 method for compliance monitoring unless the method is specified in its discharge permit by the permitting authority, or the method is not sufficiently sensitive to comply with the permit limit. Also, if the discharger elects to use an EPA-approved Standard Method and does not have the most recent EPA-approved version, EPA finds the costs would not be significant. The discharger/laboratory would need to purchase the on-line version for the individual method and would not need to absorb the cost of a full subscription to the on-line service. On-line versions of a single method generally cost $69. Relative to the costs that laboratories charge to run such an analysis (generally many times over), this cost is negligible. Therefore, EPA does not agree with commenters that they will have to purchase an on-line subscription to Standard Methods nor does it conclude that this change will

present a significant financial burden to laboratories.

Another concern raised was that any changes in Standard Methods in the future would be automatically approved without EPA review. This assertion is incorrect. Any new or revised Standard Methods would be proposed in the **Federal Register** for public comment before inclusion in Part 136 as required under the Clean Water Act.

Some commenters also expressed concern that this change may affect the approval status of existing alternate test procedures that were evaluated by EPA relative to older Standard Methods. With respect to this concern, the Agency is not withdrawing any approved ATPs. EPA's withdrawal of its earlier approved versions of Standard Methods is not intended to affect the acceptance of any vendor-developed methods based on older Standard Methods that EPA previously determined to be acceptable versions, because the changes in Standard Methods are mostly editorial (*e.g.,* clarifications, increased flexibility) and not procedural changes.

In making this change in today's rule, EPA also considered that beginning with the publication of the 20th edition of Standard Methods, the Standard Methods Committee included the quality control (QC) procedures which are similar to the QC procedures that have been included by EPA in methods published in Part 136 over the last two decades for use in compliance monitoring programs under the Clean Water Act and the Safe Drinking Water Act. These procedures are specified in Part 1000 of the Standard Methods compendium and include the ''essential'' quality control checks that EPA has added at 40 CFR 136.7 as part of this final rule.

B. Preservation and Holding Time Requirements for EPA Method 624

In response to the proposed use of EPA Method 624 as a definitive measurement method for acrolein and acrylonitrile, EPA received comments on the preservation and holding time requirements for these two pollutants. Commenters noted that the preservation and holding time requirements in Part 136 Table II for these two analytes currently differ from the requirements for other Method 624 analytes. Historically, these two analytes have had different preservation and requirements than the analytes currently listed in EPA Method 624. The current requirements in Table II date to 1984 and specify that samples for acrolein and acrylonitrile must be preserved at a pH in the range of 4 to 5. This pH range is based on concerns about degradation of these two analytes in strongly acidic samples (*e.g.,* pH < 2). Footnote 10 to Table II currently states that pH adjustment is not required if acrolein will not be measured, but that samples for acrolein receiving no pH adjustment at all must be analyzed within 3 days of sampling. In contrast, samples to be analyzed by EPA Method 624 for purgeable halocarbons are not preserved by adjusting the pH, and samples to be analyzed for the purgeable aromatic hydrocarbons (benzene, ethylbenzene and toluene) are preserved at a pH of 2. Thus, in the case where a permittee wants to use EPA Method 624 to measure acrolein or acrylonitrile in addition to other analytes included in Method 624, the sampler has to take an additional sample, preserve the sample for acrolein and acrylonitrile to pH 4 to 5, and then perform separate analyses. Commenters stated that EPA does not have a basis for requiring a different preservation and holding times for these two analytes and submitted data that support their assertion that sample preservation be allowed at either a pH of 7 or a pH of 2. EPA has reviewed the data, but the Agency has concluded that these data are not sufficient or compelling to change the current preservation and holding time requirements for these analytes because the data are anecdotal rather than the result of a well-planned and properly documented stability study. As a result, EPA's final rule retains the current sample preservation and holding time requirements for acrolein and acrylonitrile.

C. Quality Assurance and Quality Control Requirements

EPA proposed to specify minimal essential quality control requirements at Part 136.7 for use in conducting analyses to comply with CWA monitoring requirements. The purpose of this requirement is to ensure that laboratories conducting CWA compliance monitoring use suitable QA/QC procedures. These QA/QC procedures were included in a memorandum to EPA's Regional Quality Assurance Managers (May 7, 2009 memorandum from Richard Reding) and have been posted on EPA's Web page since 2009. These requirements do not apply in the case of the use of Part 136 approved methods that contain (or reference) their own QA/QC procedures, or to any non-compliance analyses. Most analytical methods currently listed in Part 136 contain QA/QC procedures, and permittees/laboratories using those methods are not affected by the new requirement. However, there are a few older methods approved for use in Part 136 from the 1970s that contain no QA/QC requirements. Examples of Part 136 methods that lack QA/QC are Method 283.2 for titanium and Method 289.2 for zinc, both furnace atomic absorption methods issued in 1978. As explained previously, an additional issue identified in the May 7, 2009 memorandum is that approved methods from consensus organizations such as Standard Methods contain the QA/QC requirements in a different section of their methods compendium (*e.g.,* Standard Methods consolidates general QA/QC requirements for all methods in Part 1000 of their methods compendium). Thus, EPA wants to clarify that it expects permittees/laboratories using Part 136 approved methods developed by consensus organizations for reporting compliance under the CWA to also comply with the QA/QC requirements listed in the appropriate sections in that consensus organization's compendium.

In addition to following QA/QC requirements from consensus organizations for Part 136 methods without QA/QC procedures, the analyst has the option to follow the QA/QC published in another EPA-approved method for that parameter that contains such QA/QC.

As discussed in Section II.I of this preamble, EPA is reiterating the requirement to include QA/QC in any chemical method used for CWA compliance purposes. For those few Part 136 methods that lack QA/QC requirements, EPA is adding quality control requirements at § 136.7. EPA received numerous comments on this aspect of the proposed rule. Although some commenters expressed support for EPA's intent to ensure the quality of data by adding the new QC language, many commenters noted problems with the specific language, including that many of the QC elements do not apply to common parameters (*e.g.,* MDLs cannot be calculated for pH or BOD, and surrogates and internal standards have no counterparts in microbiological methods). Other commenters expressed concern that the new language was either duplicative or contradicted language in existing EPA-approved methods, or presented conflicts with various state or national accreditation programs. Other commenters objected to the perceived costs associated with this new requirement and suggested that the QC checks simply will not occur, regardless of the new Part 136.7 requirement. A few commenters suggested improvements to the proposed language, should EPA decide to proceed with this new section. One commenter stated that the section was

not needed, since EPA should not be approving methods at 40 CFR part 136 that do not already contain appropriate QA/QC. EPA addresses these issues below.

With respect to the issue of applicability of the QC elements, EPA agrees with commenters who stated that some QC elements listed in § 136.7 may not apply to common parameters (*e.g.,* matrix spike and matrix spike duplicates do not apply to pH measurements). For any of the Part 136 methods that include (or reference) appropriate QC elements for these parameters, these new QA/QC requirements are not applicable. As a result, in today's final rule, EPA has added introductory language in § 136.7 to clarify how laboratories should comply with this new requirement when one or more of the twelve essential quality control elements is not applicable to a method. This new introductory language states that in cases where one or more of the twelve QC elements do not apply to a given method, the laboratory may provide a written rationale for not including those elements in their standard operating procedures (SOP) for that analysis. This may be something as simple as stating that the given QC element does not apply to that analysis or is not possible to perform (as the example above for pH measurements). In addition, the final rule states that the twelve QC elements, as applicable, must be included in a laboratory's SOP for conducting an analysis with an approved method only when there are no QA/QC procedures in the Part 136 method. Again, as discussed above, this QA/QC requirement at Part 136 does not apply to approved methods containing (or referencing) QA/QC procedures.

In response to the comment that the language is either duplicative or contradicted in existing approved methods or accreditation programs, EPA has added this new section to the regulations at Part 136.7 to address concerns that certain approved methods do not contain QA/QC procedures. In those cases where an approved method incorporates these QC procedures (as applicable to that method), the laboratory can follow the method as written without creating any duplication or conflict. As mentioned in Section IV.A of this preamble, Standard Methods incorporated new QC requirements starting with the 20th edition of Standard Methods similar to the QC requirements included in EPA methods for the last two decades. Thus, most Standard Methods that are also approved methods in Part 136 already contain QA/QC requirements, as applicable. Similarly, EPA does not anticipate conflicts with laboratory accreditation programs because these programs generally follow the QC requirements in the method or as otherwise specified in regulatory programs. The purpose of this new section is to ensure that analyses conducted for compliance monitoring with CWA regulatory programs contain appropriate QA/QC and the Agency's view is that this is already occurring in most laboratories (with a few exceptions as discussed above). This new requirement is added to clarify that laboratories must implement proper QA/QC, as needed, for all CWA compliance related analyses to provide quality data that will withstand regulatory and legal challenges.

In response to the comment that this new requirement will be costly, proper QA/QC is essential for obtaining results of known and acceptable quality. In the long run, it could be much more costly to use data which lacks proper QC in demonstrating or enforcing discharge requirements. In the short run, laboratories would only incur costs associated with this new requirement when the method lacks QA/QC and when they have not included QA/QC as part of their SOPs. EPA estimates that this would not have a significant impact on laboratories because the vast majority of Part 136 methods already include or reference QA/QC requirements. Further, most laboratories already implement the QC checks prescribed by the newer methods and are already documenting these QC checks in the laboratory SOPs. Some of the QC checks are a one-time or infrequent expense (*e.g.,* demonstration of capability and determination of a method detection limit), while other checks are routine (*e.g.,* running a method blank). Typically, laboratories include QC as part of the overall analysis costs, and these costs generally add 10–20% to the analysis cost initially for an analyst demonstration of capability, and less (5–10%) after the initial cost for routine QC (*e.g.,* running a blank with every batch of samples). For a typical analysis of a metal using furnace atomic absorption, at a cost of $35–50 per sample, the QC costs would be typically 5–10% of the total costs, and are generally included in the laboratory pricing schedule. Thus, EPA expects that any costs associated with this aspect of today's rule will be minimal and limited to a few older methods that some laboratories may still elect to use rather than the many other methods that contain QA/QC requirements. EPA considers these QC checks to be an essential part of an overall approach to producing data of known quality and defensibility when a particular method is used to measure pollutants for compliance monitoring purposes. Ignoring these QC checks, as a commenter suggested, is inconsistent with EPA's NPDES permit requirements. Thus, 40 CFR 122.41(e) of EPA's NPDES permitting regulations provides that the permittee ''shall at all times properly operate and maintain all facilities and systems of treatment and control * * * Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures * * *.'' In most cases, these procedures are already a part of the quality control practices of most laboratories and will not create an additional burden. However, in codifying QC requirements, EPA provides clarification that these procedures are mandatory, as applicable, and not merely optional.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This rule is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under EO 12866 and EO 13563.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This rule does not impose any information collection, reporting, or recordkeeping requirements. This rule merely adds new and revised versions of testing procedures, and sample preservation requirements.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities for methods under the Clean Water Act, small entity

is defined as: (1) A small business that meets RFA default definitions (based on SBA size standards) found in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action approves new and revised versions of testing procedures. Generally, these changes will have a positive impact on small entities by increasing method flexibility, thereby allowing entities to reduce costs by choosing more cost-effective methods. Although EPA expects that in some cases the analytical costs could increase slightly due to additional QC requirements for a few old EPA-approved methods that lack QA/QC, EPA has determined that most laboratories that analyze samples for EPA compliance monitoring have already instituted QC requirements as part of their laboratory practices and this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments, or the private sector.

EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Generally, this action will have a positive impact by increasing method flexibility, thereby allowing method users to reduce costs by choosing more cost effective methods. In some cases, analytical costs may increase slightly due to changes in methods, but these increases are neither significant, nor unique to small governments. This rule merely approves new and revised versions of testing procedures, and new sample collection, preservation, and holding time requirements.

Thus, today's rule is not subject to the requirements of Section 203 of UMRA.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, Aug. 10, 1999). This rule merely approves new and revised versions of testing procedures, and new sample collection, preservation, and holding time requirements. The costs to State and local governments will be minimal. In fact, governments may see a cost savings because the rule adds flexibility for laboratories and permittees to choose between additional approved test methods and it also provides additional flexibility to modify existing test methods. Thus, laboratories and permittees will not make as many requests for approval of alternative test methods or method modifications, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications, as specified in Executive Order 13175, (65 FR 67249, Nov. 9, 2000). It will not have substantial direct effects on Tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. This rule merely approves new and revised versions of testing procedures, and new sample collection, preservation, and holding time requirements. The costs to tribal governments will be minimal. In fact, tribal governments may see a cost savings because the rule adds flexibility for laboratories and permittees to choose between additional approved test methods and it also provides additional flexibility to modify existing test methods. Thus, laboratories and permittees will not make as many requests for approval of alternative test methods or method modifications. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Indian tribes, EPA specifically solicited comment on the proposed rule from tribal officials. EPA did not receive any comments from Indian tribes.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule approves new and revised versions of testing procedures, and new sample collection, preservation, and holding time requirements.

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

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

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule approves the use of technical standards developed by the Standard Methods Committee, and ASTM International for use in compliance monitoring where the Agency has determined that those standards meet the needs of Clean Water Act programs. EPA is not adding two of the proposed ASTM methods to this final rule because these methods have not undergone full inter-laboratory validation as recommended in current Agency guidance (see Section III.C of this preamble). All other proposed voluntary consensus standards are approved in today's rule.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

This final rule provides additional compliance methods for use by any facility or laboratory with no disproportionate impact on minority or low-income populations because it merely approves new and revised versions of testing procedures to measure pollutants in water.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective June 18, 2012.

List of Subjects

40 CFR Part 136

Environmental protection, Test procedures, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference, Reporting and recordkeeping requirements.

40 CFR Part 423

Environmental protection, Steam Electric Power Generating Point Source Category, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 430

Environmental protection, Pulp, Paper, and Paperboard Point Source Category, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 435

Environmental protection, Oil and Gas Extraction Point Source Category, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: April 17, 2012.

Lisa P. Jackson,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

■ 1. The authority citation for Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

■ 2. Section 136.1 is amended by revising paragraph (a) to read as follows:

§ 136.1 Applicability.

(a) The procedures prescribed herein shall, except as noted in §§ 136.4, 136.5, and 136.6, be used to perform the measurements indicated whenever the waste constituent specified is required to be measured for:

(1) An application submitted to the Administrator, or to a State having an approved NPDES program for a permit under section 402 of the Clean Water Act of 1977, as amended (CWA), and/or to reports required to be submitted under NPDES permits or other requests for quantitative or qualitative effluent data under parts 122 to 125 of title 40; and

(2) Reports required to be submitted by dischargers under the NPDES established by parts 124 and 125 of this chapter; and

(3) Certifications issued by States pursuant to section 401 of the CWA, as amended.

* * * * *

■ 3. Section 136.3 is amended:

■ a. By revising paragraph (a) introductory text and Tables IA, IB, IC, ID, IG, and IH;

■ b. By revising paragraph (b);

■ c. By revising paragraph (e) introductory text;

■ d. By revising Table II to paragraph (e).

These revisions and additions read as follows:

§ 136.3 Identification of test procedures.

(a) Parameters or pollutants, for which methods are approved, are listed together with test procedure descriptions and references in Tables IA, IB, IC, ID, IE, IF, IG, and IH. The methods listed in Tables IA, IB, IC, ID, IE, IF, IG, and IH are incorporated by reference, see paragraph (b) of this section, with the exception of EPA Methods 200.7, 601–613, 624, 625, 1613, 1624, and 1625. The full texts of Methods 601–613, 624, 625, 1613, 1624, and 1625 are printed in appendix A of this part 136, and the full text of Method 200.7 is printed in appendix C of this part 136. The full text for determining the method detection limit when using the test procedures is given in appendix B of this part 136. The full text of Method 200.7 is printed in appendix C of this part 136. In the event of a conflict between the reporting requirements of 40 CFR Parts 122 and 125 and any reporting requirements associated with the methods listed in these tables, the provisions of 40 CFR Parts 122 and 125 are controlling and will determine a permittee's reporting requirements. The full text of the referenced test procedures are incorporated by reference into Tables IA, IB, IC, ID, IE, IF, IG, and IH. The discharge parameter values for which reports are required must be determined by one of the standard analytical test procedures incorporated by reference and described in Tables IA, IB, IC, ID, IE, IF, IG, and IH or by any alternate test procedure which has been approved by the Administrator under the provisions of paragraph (d) of this section and §§ 136.4 and 136.5. Under certain circumstances paragraph (c) of this section, § 136.5(a) through (d) or 40 CFR 401.13, other additional or alternate test procedures may be used.

TABLE IA—LIST OF APPROVED BIOLOGICAL METHODS FOR WASTEWATER AND SEWAGE SLUDGE

Parameter and units	Method [1]	EPA	Standard methods	AOAC, ASTM, USGS	Other
Bacteria:					
1. Coliform (fecal), number per 100 mL or number per gram dry weight.	Most Probable Number (MPN), 5 tube, 3 dilution, or	p. 132 [3] ..... 1680 [11,15]. 1681 [11,20].	9221 C E–2006.		
	Membrane filter (MF) [2], single step	p. 124 [3]	9222 D–1997	B–0050–85 [4].	
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 132 [3]	9221 C E–2006.		
	MF [2], single step [5]	p. 124 [3]	9222 D–1997.		
3. Coliform (total), number per 100 mL.	MPN, 5 tube, 3 dilution, or.	p. 114 [3]	9221 B–2006.		
	MF [2], single step or two step.	p. 108 [3]	9222 B–1997	B–0025–85 [4]	
4. Coliform (total), in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or	p. 114 [3]	9221 B–2006		
	MF [2] with enrichment [5]	p. 111 [3]	9222 (B + B.5c) – 1997		
5. *E. coli,* number per 100 mL [21].	MPN [6,8,16] multiple tube, or.	.....	9221B.1–2006/9221F–2006 [12,14].		
	multiple tube/multiple well, or	.....	9223 B–2004 [13]	991.15 [10]	Colilert® [13,18] Colilert-18® [13,17,18]
	MF [2,6,7,8] single step ...	1603 [22]	.....	.....	mColiBlue-24® [19]
6. Fecal streptococci, number per 100 mL.	MPN, 5 tube 3 dilution, or	p. 139 [3]	9230 B–2007.		
	MF [2], or	p. 136 [3]	9230 C–2007	B–0055–85 [4]	
	Plate count	p. 143 [3].			
7. Enterococci, number per 100 mL [22].	MPN [6,8], multiple tube/multiple well, or	.....	.....	D6503–99 [9]	Enterolert® [13,24]
	MF [2,6,7,8] single step or	1600 [25]	9230 C–2007		
	Plate count	p. 143 [3].			
8. *Salmonella,* number per gram dry weight [11].	MPN multiple tube	1682 [23].			
Aquatic Toxicity:					
9. Toxicity, acute, fresh water organisms, LC_{50}, percent effluent.	*Ceriodaphnia dubia* acute.	2002.0. [26]			
	Daphnia puplex and *Daphnia magna* acute.	2021.0. [26]			
	Fathead Minnow, *Pimephales promelas,* and Bannerfin shiner, *Cyprinella leedsi,* acute.	2000.0. [26]			
	Rainbow Trout, *Oncorhynchus mykiss,* and brook trout, *Salvelinus fontinalis,* acute.	2019.0. [26]			
10. Toxicity, acute, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, LC_{50}, percent effluent.	Mysid, *Mysidopsis bahia,* acute.	2007.0. [26]			

TABLE IA—LIST OF APPROVED BIOLOGICAL METHODS FOR WASTEWATER AND SEWAGE SLUDGE—Continued

Parameter and units	Method [1]	EPA	Standard methods	AOAC, ASTM, USGS	Other
	Sheepshead Minnow, *Cyprinodon variegatus,* acute.	2004.0 [26]			
	Silverside, *Menidia beryllina, Menidia menidia,* and *Menidia peninsulae,* acute.	2006.0 [26]			
11. Toxicity, chronic, fresh water organisms, NOEC or IC_{25}, percent effluent.	Fathead minnow, *Pimephales promelas,* larval survival and growth.	1000.0.[27]			
	Fathead minnow, *Pimephales promelas,* embryo-larval survival and teratogenicity.	1001.0.[27]			
	Daphnia, *Ceriodaphnia dubia,* survival and reproduction.	1002.0.[27]			
	Green alga, *Selenastrum capricornutum,* growth.	1003.0.[27]			
12. Toxicity, chronic, estuarine and marine organisms of the Atlantic Ocean and Gulf of Mexico, NOEC or IC_{25}, percent effluent.	Sheepshead minnow, *Cyprinodon variegatus,* larval survival and growth.	1004.0.[28]			
	Sheepshead minnow, *Cyprinodon variegatus,* embryo-larval survival and teratogenicity.	1005.0.[28]			
	Inland silverside, *Menidia beryllina,* larval survival and growth.	1006.0.[28]			
	Mysid, *Mysidopsis bahia,* survival, growth, and fecundity.	1007.0.[28]			
	Sea urchin, *Arbacia punctulata,* fertilization.	1008.0.[28]			

Table IA notes:

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] Microbiological Methods for Monitoring the Environment, Water, and Wastes, EPA/600/8–78/017. 1978. US EPA.

[4] U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. USGS.

[5] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[6] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[7] When the MF method has been used previously to test waters with high turbidity, large numbers of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[8] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[9] Annual Book of ASTM Standards–Water and Environmental Technology, Section 11.02. 2000, 1999, 1996. ASTM International.

[10] Official Methods of Analysis of AOAC International. 16th Edition, 4th Revision, 1998. AOAC International.

[11] Recommended for enumeration of target organism in sewage sludge.

[12] The multiple-tube fermentation test is used in 9221B.1–2006. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[13] These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme β-glucuronidase produced by *E. coli.*

[14] After prior enrichment in a presumptive medium for total coliform using 9221B.1–2006, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F–2006. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 µg/mL of MUG may be used.

[15] Method 1680: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation Using Lauryl-Tryptose Broth (LTB) and EC Medium, EPA–821–R–10–003. April 2010. U.S. EPA.

[16] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray®, Quanti-Tray®/2000, and the MPN calculated from the table provided by the manufacturer.

[17] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35 °C rather than the 24 h required for the Colilert® test and is recommended for marine water samples.

[18] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories, Inc.

[19] A description of the mColiBlue24® test, is available from Hach Company.

[20] Method 1681: Fecal Coliforms in Sewage Sludge (Biosolids) by Multiple-Tube Fermentation using A–1 Medium, EPA–821–R–06–013. July 2006. U.S. EPA.

[21] Recommended for enumeration of target organism in wastewater effluent.

[22] Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC), EPA–821–R–09–007. December 2009. U.S. EPA.

[23] Method 1682: *Salmonella* in Sewage Sludge (Biosolids) by Modified Semisolid Rappaport-Vassiliadis (MSRV) Medium, EPA–821–R–06–014. July 2006. U.S. EPA.

[24] A description of the Enterolert® test may be obtained from IDEXX Laboratories Inc.

[25] Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D–Glucoside Agar (mEI), EPA–821–R–09–016. December 2009. U.S. EPA.

[26] Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. EPA–821–R–02–012. Fifth Edition, October 2002. U.S. EPA.

[27] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. EPA–821–R–02–013. Fourth Edition, October 2002. U.S. EPA.

[28] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. EPA–821–R–02–014. Third Edition, October 2002. U.S. EPA.

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
1. Acidity, as $CaCO_3$, mg/L.	Electrometric endpoint or phenolphthalein endpoint.	.....	2310 B–1997	D1067–06	I–1020–85.[2]
2. Alkalinity, as $CaCO_3$, mg/L.	Electrometric or Colorimetric titration to pH 4.5, Manual.	.....	2320 B–1997	D1067–06	973.43 [3], I–1030–85.[2]
	Automatic	310.2 (Rev. 1974)[1] ..	.....	.....	I–2030–85.[2]
3. Aluminum—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36]	.....	3111 D–1999 or 3111 E–1999.	.....	I–3051–85.[2]
	AA furnace	.....	3113 B–2004.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	Direct Current Plasma (DCP) [36].	.....	.....	D4190–08	See footnote.[34]
	Colorimetric (Eriochrome cyanine R).	.....	3500–Al B–2001.		
4. Ammonia (as N), mg/L.	Manual distillation [6] or gas diffusion (pH > 11), followed by any of the following:	350.1, Rev. 2.0 (1993).	4500–NH_3 B–1997 ..	.....	973.49[3].
	Nesslerization	.....	.....	D1426–08 (A)	973.49[3], I–3520–85.[2]
	Titration	.....	4500–NH_3 C–1997.		
	Electrode	.....	4500–NH_3 D–1997 or E–1997.	D1426–08 (B).	
	Manual phenate, salicylate, or other substituted phenols in Berthelot reaction based methods.	.....	4500–NH_3 F–1997 ...	.....	See footnote.[60]
	Automated phenate, salicylate, or other substituted phenols in Berthelot reaction based methods.	350.1[30], Rev. 2.0 (1993).	4500–NH_3 G–1997 4500–NH_3 H–1997.	.....	I–4523–85.[2]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	Automated electrode	Ion Chromatography	.....	D6919–09	See footnote.[7]
5. Antimony—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36].	.....	3111 B–1999.		
	AA furnace	.....	3113 B–2004.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
6. Arsenic–Total,[4] mg/L.	Digestion,[4] followed by any of the following:	206.5 (Issued 1978) [1].			
	AA gaseous hydride	.....	3114 B–2009 or 3114 C–2009	D2972–08 (B)	I–3062–85.[2]
	AA furnace	.....	3113 B–2004	D2972–08 (C)	I–4063–98.[49]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4020–05.[70]
	Colorimetric (SDDC)	.....	3500–As B–1997	D2972–08 (A)	I–3060–85.[2]
7. Barium–Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration [36].	.....	3111 D–1999	.....	I–3084–85.[2]
	AA furnace	.....	3113 B–2004	D4382–02(07).	
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	.....	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP [36]	.....	.....	.....	See footnote.[34]
8. Beryllium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 D–1999 or 3111 E–1999	D3645–08 (A)	I–3095–85.[2]
	AA furnace	.....	3113 B–2004	D3645–08 (B).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP	.....	.....	D4190–08	See footnote.[34]
	Colorimetric (aluminon).	.....	See footnote [61].		
9. Biochemical oxygen demand (BOD5), mg/L.	Dissolved Oxygen Depletion.	.....	5210 B–2001	.....	973.44[3], p. 17.[9], I–1578–78,[8] See footnote.[10,63]
10. Boron—Total,[37] mg/L.	Colorimetric (curcumin) ..	.....	4500–B B –2000	.....	I–3112–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP	.....	.....	D4190–08	See footnote.[34]
11. Bromide, mg/L	Electrode	.....	.....	D1246–05	I–1125–85.[2]
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000, C–2000, D–2000.	D4327–03	993.30.[3]
	CIE/UV	.....	4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
12. Cadmium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	AA direct aspiration [36].	.....	3111 B–1999 ..... or 3111 C–1999	D3557–02(07) (A or B).	974.27,[3] p. 37.[9], I–3135–85 [2] or I–3136–85.[2]
	AA furnace	.....	3113 B–2004	D3557–02(07) (D)	I–4138–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–1472–85 [2] or I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP[36]	.....	.....	D4190–08	See footnote.[34]
	Voltametry[11]	.....	.....	D3557–02(07) (C).	
	Colorimetric (Dithizone).	.....	3500–Cd-D–1990.		
13. Calcium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999	D511–08(B)	I–3152–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	.....	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
	DCP	.....	.....	.....	See footnote.[34]
	Titrimetric (EDTA) ...	.....	3500–Ca B–1997	D511–08 (A).	
	Ion Chromatography	.....	.....	D6919–09.	
14. Carbonaceous biochemical oxygen demand ($CBOD_5$), mg/L[12].	Dissolved Oxygen Depletion with nitrification inhibitor.	.....	5210 B–2001	.....	See footnote.[35,63]
15. Chemical oxygen demand (COD), mg/L.	Titrimetric	410.3 (Rev. 1978)[1] ..	5220 B–1997 ..... or C–1997	D1252–06 (A)	973.46,[3] p. 17,[9] I–3560–85.[2]
	Spectrophotometric, manual or automatic.	410.4, Rev. 2.0 (1993).	5220 D–1997	D1252–06 (B)	See footnotes.[13,14] I–3561–85.[2]
16. Chloride, mg/L	Titrimetric: (silver nitrate)	.....	4500–Cl^- B–1997 ...	D512–04 (B)	I–1183–85.[2]
	(Mercuric nitrate)	.....	4500–Cl^- C–1997 ...	D512–04 (A)	973.51,[3] I–1184–85.[2]
	Colorimetric: manual	.....	.....	.....	I–1187–85.[2]
	Automated (Ferricyanide)	.....	4500–Cl^- E–1997 ...	.....	I–2187–85.[2]
	Potentiometric Titration ..	.....	4500–Cl^- D–1997.		
	Ion Selective Electrode ..	.....	.....	D512–04 (C).	
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or 4110 C–2000	D4327–03	993.30[3] , I–2057–90.[51]
	CIE/UV	.....	4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
17. Chlorine–Total residual, mg/L.	Amperometric direct	.....	4500–Cl D–2000	D1253–08.	
	Amperometric direct (low level).	.....	4500–Cl E–2000.		
	Iodometric direct	.....	4500–Cl B–2000.		
	Back titration ether end–point[15].	.....	4500–Cl C–2000.		
	DPD–FAS	.....	4500–Cl F–2000.		
	Spectrophotometric, DPD	.....	4500–Cl G–2000.		
	Electrode	.....	.....	.....	See footnote.[16]
17A. Chlorine–Free Available, mg/L.	Amperometric direct	.....	4500–Cl D–2000	D1253–08.	
	Amperometric direct (low level).	.....	4500–Cl E–2000.		
	DPD–FAS	.....	4500–Cl F–2000.		
	Spectrophotometric, DPD	.....	4500–Cl G–2000.		
18. Chromium VI dissolved, mg/L.	0.45-micron Filtration followed by any of the following:				
	AA chelation–extraction.	.....	3111 C–1999	.....	I–1232–85.[2]
	Ion Chromatography	218.6, Rev. 3.3 (1994).	3500–Cr C–2009	D5257–03	993.23.
	Colorimetric (Diphenyl–carbazide).	.....	3500–Cr B–2009	D1687–02(07) (A)	I–1230–85.[2]
19. Chromium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	AA direct aspiration [36].	.....	3111 B–1999	D1687–02(07) (B)	974.27,[3] I–3236–85.[2]
	AA chelation–extraction.	.....	3111 C–1999.		
	AA furnace	.....	3113 B–2004	D1687–02(07) (C)	I–3233–93.[46]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003),[68] 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4020–05.[70]
	DCP [36]	.....	.....	D4190–08	See footnote.[34]
	Colorimetric (Diphenyl–carbazide).	.....	3500–Cr B–2009.		
20. Cobalt—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999 or 3111 C–1999.	D3558–08 (A or B) ..	p. 37,[9] I–3239–85.[2]
	AA furnace	.....	3113 B–2004	D3558–08 (C)	I–4243–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4020–05.[70]
	DCP	.....	.....	D4190–08	See footnote.[34]
21. Color, platinum cobalt units or dominant wavelength, hue, luminance purity.	Colorimetric (ADMI)	.....	.....	.....	See footnote.[18]
	(Platinum cobalt) ..... Spectrophotometric.	.....	2120 B–2001	.....	I–1250–85.[2]
22. Copper—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36].	.....	3111 B–1999 or 3111 C–1999	D1688–07 (A or B) ..	974.27,[3] p. 37,[9] I–3270–85 [2] or I–3271–85.[2]
	AA furnace	.....	3113 B–2004	D1688–07 (C)	I–4274–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4020–05.[70]
	DCP [36]	.....	.....	D4190–08	See footnote.[34]
	Colorimetric (Neocuproine).	.....	3500–Cu B–1999.		
	(Bathocuproine)	.....	3500–Cu C–1999	.....	See footnote.[19]
23. Cyanide—Total, mg/L.	Automated UV digestion/distillation and Colorimetry.	.....	.....	.....	Kelada–01.[55]
	Segmented Flow Injection, In-Line Ultraviolet Digestion, followed by gas diffusion amperometry.	.....	.....	D7511–09.	
	Manual distillation with $MgCl_2$, followed by any of the following:	335.4, Rev. 1.0 (1993) [57].	4500–CN^- B–1999 or C–1999.	D2036–09(A), D7284–08.	10–204–00–1–X.[56]
	Flow Injection, gas diffusion amperometry.	.....	.....	D2036–09(A) D7284–08.	
	Titrimetric	.....	4500–CN^- D–1999	D2036–09(A)	p. 22.[9]
	Spectrophotometric, manual.	.....	4500–CN^- E–1999	D2036–09(A)	I–3300–85.[2]
	Semi-Automated [20] ..	335.4, Rev. 1.0 (1993) [57].	.....	.....	10–204–00–1–X,[56] I–4302–85.[2]
	Ion Chromatography	.....	.....	D2036–09(A).	

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	Ion Selective Electrode.	.....	4500–CN⁻ F–1999	D2036–09(A).	
24. Cyanide–Available, mg/L.	Cyanide Amenable to Chlorination (CATC); Manual distillation with $MgCl_2$, followed by Titrimetric or Spectrophotometric.	.....	4500–CN⁻ G–1999	D2036–09(B).	
	Flow injection and ligand exchange, followed by gas diffusion amperometry [59].	.....	.....	D6888–09	OIA–1677–09.[44]
	Automated Distillation and Colorimetry (no UV digestion).	.....	.....	.....	Kelada–01.[55]
24.A Cyanide-Free, mg/L.	Flow Injection, followed by gas diffusion amperometry.	.....	.....	D7237–10	OIA–1677–09.[44]
	Manual micro-diffusion and colorimetry.	.....	.....	D4282–02.	
25. Fluoride—Total, mg/L.	Manual distillation,[6] followed by any of the following:	.....	4500–F⁻ B–1997.		
	Electrode, manual ...	.....	4500–F⁻ C–1997	D1179–04 (B).	
	Electrode, automated.	.....	.....	.....	I–4327–85.[2]
	Colorimetric, (SPADNS).	.....	4500–F⁻ D–1997	D1179–04 (A).	
	Automated complexone.	.....	4500–F⁻ E–1997.		
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30.[3]
	CIE/UV	.....	4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
26. Gold—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999.		
	AA furnace	231.2 (Issued 1978)[1]	3113 B–2004.		
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
	DCP	.....	.....	.....	See footnote.[34]
27. Hardness—Total, as $CaCO_3$, mg/L.	Automated colorimetric ...	130.1 (Issued 1971)[1].			
	Titrimetric (EDTA)	.....	2340 C–1997	D1126–02(07)	973.52B,[3] I–1338–85.[2]
	Ca plus Mg as their carbonates, by inductively coupled plasma or AA direct aspiration. (See Parameters 13 and 33)..	.....	2340 B–1997.		
28. Hydrogen ion (pH), pH units.	Electrometric measurement.	.....	4500–H⁺ B–2000	D1293–99 (A or B) ..	973.41,[3] I–1586–85.[2]
	Automated electrode	150.2 (Dec. 1982)[1] ..	.....	.....	See footnote,[21] I–2587–85.[2]
29. Iridium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999.		
	AA furnace	235.2 (Issued 1978)[1].			
	ICP/MS	.....	3125 B–2009.		
30. Iron—Total,[4] mg/L	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36].	.....	3111 B–1999 or 3111 C–1999	D1068–05 (A or B) ..	974.27,[3] I–3381–85.[2]
	AA furnace	.....	3113 B–2004	D1068–05 (C).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	DCP [36]			D4190–08	See footnote.[34]
	Colorimetric (Phenanthroline).		3500–Fe-1997	D1068–05 (D)	See footnote.[22]
31. Kjeldahl Nitrogen [5]—Total, (as N), mg/L.	Manual digestion [20] and distillation or gas diffusion, followed by any of the following:		4500–N_{org} B–1997 or C–1997 and 4500–NH_3 B–1997.	D3590–02(06) (A)	I–4515–91.[45]
	Titration		4500–NH_3 C–1997		973.48.[3]
	Nesslerization			D1426–08 (A).	
	Electrode		4500–NH_3 D–1997 or E–1997.	D1426–08 (B).	
	Semi-automated phenate.	350.1 Rev 2.0 1993	4500–NH_3 G–1997. 4500–NH_3 H–1997.		
	Manual phenate, salicylate, or other substituted phenols in Berthelot reaction based methods.		4500–NH_3 F–1997		See footnote.[60]
	Automated Methods for TKN that do not require manual distillation				
	Automated phenate, salicylate, or other substituted phenols in Berthelot reaction based methods colorimetric (auto digestion and distillation).	351.1 (Rev. 1978)[1]			I–4551–78.[8]
	Semi-automated block digestor colorimetric (distillation not required).	351.2, Rev. 2.0 (1993).	4500–N_{org} D–1997	D3590–02(06) (B)	I–4515–91.[45]
	Block digester, followed by Auto distillation and Titration.				See footnote.[39]
	Block digester, followed by Auto distillation and Nesslerization.				See footnote.[40]
	Block Digester, followed by Flow injection gas diffusion (distillation not required).				See footnote.[41]
32. Lead—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration [36].		3111 B–1999 or 3111 C–1999.	D3559–08 (A or B)	974.27,[3] I–3399–85.[2]
	AA furnace		3113 B–2004	D3559–08 (D)	I–4403–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP [36]			D4190–08	See footnote.[34]
	Voltametry[11]			D3559–08 (C).	
	Colorimetric (Dithizone).		3500–Pb B–1997.		
33. Magnesium—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration		3111 B–1999	D511–08 (B)	974.27,[3] I–3447–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
	DCP				See footnote.[34]
	Gravimetric.				
	Ion Chromatography			D6919–09.	
34. Manganese—Total,[4] mg/L.	Digestion [4] followed by any of the following:				

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	AA direct aspiration [36].	.....	3111 B–1999	D858–07 (A or B)	974.27,[3] I–3454–85.[2]
	AA furnace	.....	3113 B–2004	D858–07 (C).	
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP [36]	.....	.....	D4190–08	See footnote.[34]
	Colorimetric (Persulfate).	.....	3500–Mn B–1999	.....	920.203.[3]
	(Periodate)	.....	.....	.....	See footnote.[23]
35. Mercury—Total,[4] mg/L.	Cold vapor, Manual	245.1, Rev. 3.0 (1994).	3112 B–2009	D3223–02(07)	977.22,[3] I–3462–85.[2]
	Cold vapor, Automated ..	245.2 (Issued 1974)[1].			
	Cold vapor atomic fluorescence spectrometry (CVAFS).	245.7 Rev. 2.0 (2005)[17].	.....	.....	I–4464–01.[71]
	Purge and Trap CVAFS	1631E[43].			
36. Molybdenum—Total,[4] mg/L.	Digestion,[4] followed by any of the following:				
	AA direct aspiration	.....	3111 D–1999	.....	I–3490–85.[2]
	AA furnace	.....	3113 B–2004	.....	I–3492–96.[47]
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4471–97.[50]
	DCP	.....	.....	.....	See footnote.[34]
37. Nickel—Total,[4] mg/L.	Digestion [4] followed by any of the following:				
	AA direct aspiration [36].	.....	3111 B–1999 or 3111 C–1999	D1886–08 (A or B) ..	I–3499–85.[2]
	AA furnace	.....	3113 B–2004	D1886–08 (C)	I–4503–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES [36]	200.5, Rev 4.2 (2003) [68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14,[3] I–4020–05.[70]
	DCP [36]	.....	.....	D4190–08	See footnote.[34]
38. Nitrate (as N), mg/L.	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30.[3]
	CIE/UV	.....	4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
	Ion Selective Electrode.	.....	4500–NO_3^- D–2000.		
	Colorimetric (Brucine sulfate).	352.1 (Issued 1971)[1]	.....	.....	973.50,[3] 419D[1,7], p. 28.[9]
	Nitrate-nitrite N minus Nitrite N (See parameters 39 and 40).	.....	.....	.....	See footnote.[62]
39. Nitrate-nitrite (as N), mg/L.	Cadmium reduction, Manual.	.....	4500–NO_3^- E–2000	D3867–04 (B).	
	Cadmium reduction, Automated.	353.2, Rev. 2.0 (1993).	4500–NO_3^- F–2000	D3867–04 (A)	I–2545–90.[51]
	Automated hydrazine.	.....	4500–NO_3^- H–2000.		
	Reduction/Colorimetric.	.....	.....	.....	See footnote.[62]
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30.[3]
	CIE/UV	.....	4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
40. Nitrite (as N), mg/L	Spectrophotometric: Manual.	.....	4500–NO_2^- B–2000	.....	See footnote.[25]
	Automated (Diazotization).	.....	.....	.....	I–4540–85[2], See footnote.[62]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	Automated (*bypass cadmium reduction).	353.2, Rev. 2.0 (1993).	4500–NO_3^- F–2000	D3867–04 (A)	I–4545–85.[2]
	Manual (*bypass cadmium reduction).		4500–NO_3^- E–2000	D3867–04 (B).	
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30.[3]
	CIE/UV		4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
41. Oil and grease—Total recoverable, mg/L.	Hexane extractable material (HEM): n–Hexane extraction and gravimetry.	1664 Rev. A; 1664 Rev. B[42].	5520 B–2001[38].		
	Silica gel treated HEM (SGT–HEM): Silica gel treatment and gravimetry.	1664 Rev. A; 1664 Rev. B[42].	5520 B–2001[38] and 5520 F–2001[38].		
42. Organic carbon—Total (TOC), mg/L.	Combustion		5310 B–2000	D7573–09	973.47[3], p. 14.[24]
	Heated persulfate or UV persulfate oxidation.		5310 C 2000 5310 D 2000.	D4839–03	973.47[3], p. 14.[24]
43. Organic nitrogen (as N), mg/L.	Total Kjeldahl N (Parameter 31) minus ammonia N (Parameter 4).				
44. Ortho-phosphate (as P), mg/L.		Ascorbic acid method:			
	Automated	365.1, Rev. 2.0 (1993).	4500–P F–1999 or G–1999.		973.56[3], I–4601–85.[2]
	Manual single reagent.		4500–P E–1999	D515–88(A)	973.55.[3]
	Manual two reagent	365.3 (Issued 1978)[1].			
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30.[3]
	CIE/UV		4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
45. Osmium—Total[4], mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration,		3111 D–1999.		
	AA furnace	252.2 (Issued 1978)[1].			
46. Oxygen, dissolved, mg/L.	Winkler (Azide modification).		4500–O B–2001, C–2001, D–2001, E–2001, F–2001.	D888–09 (A)	973.45B[3], I–1575–78.[8]
	Electrode		4500–O G–2001	D888–09 (B)	I–1576–78.[8]
	Luminescence Based Sensor.			D888–09 (C)	See footnote[63] See footnote.[64]
47. Palladium—Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration		3111 B–1999.		
	AA furnace	253.2[1](Issued 1978).			
	ICP/MS		3125 B–2009.		
	DCP				See footnote.[34]
48. Phenols, mg/L	Manual distillation[26], followed by any of the following:	420.1[1](Rev. 1978)	5530 B–2005	D1783–01.	
	Colorimetric (4AAP) manual.	420.1[1](Rev. 1978)	5530 D–2005[27]	D1783–01 (A or B).	
	Automated colorimetric (4AAP).	420.4 Rev. 1.0 (1993).			
49. Phosphorus (elemental), mg/L.	Gas–liquid chromatography.				See footnote.[28]
50. Phosphorus—Total, mg/L.	Digestion[20], followed by any of the following:		4500–P B(5)-1999		973.55.[3]
	Manual	365.3[1](Issued 1978)	4500–P E–1999	D515–88 (A).	
	Automated ascorbic acid reduction.	365.1 Rev. 2.0 (1993).	4500–P F–1999, G–1999, H–1999.		973.56[3], I–4600–85.[2]
	ICP/AES[4, 36]	200.7, Rev. 4.4 (1994).	3120 B–1999		I–4471–97.[50]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	Semi–automated block digestor (TKP digestion).	365.4[1] (Issued 1974)	.....	D515–88 (B)	I–4610–91.[48]
51. Platinum—Total,[4] mg/L.	Digestion[4] followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999.		
	AA furnace	255.2 (Issued 1978)[1].			
	ICP/MS	.....	3125 B–2009.		
	DCP	.....	.....	.....	See footnote.[34]
52. Potassium—Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999	.....	973.53[3], I–3630–85.[2]
	ICP/AES	200.7, Rev. 4.4 (1994).	3120 B–1999.		
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
	Flame photometric ..	.....	3500–K B–1997.		
	Electrode	.....	3500–K C–1997.		
	Ion Chromatography	.....	.....	D6919–09.	
53. Residue—Total, mg/L.	Gravimetric, 103–105°	.....	2540 B–1997	.....	I–3750–85.[2]
54. Residue—filterable, mg/L.	Gravimetric, 180°	.....	2540 C–1997	D5907–03	I–1750–85.[2]
55. Residue—non–filterable (TSS), mg/L.	Gravimetric, 103–105° post washing of residue.	.....	2540 D–1997	D5907–03	I–3765–85.[2]
56. Residue—settleable, mg/L.	Volumetric, (Imhoff cone), or gravimetric.	.....	2540 F–1997.		
57. Residue—Volatile, mg/L.	Gravimetric, 550°	160.4 (Issued 1971)[1]	2540–E–1997	.....	I–3753–85.[2]
58. Rhodium—Total,[4] mg/L.	Digestion[4] followed by any of the following:				
	AA direct aspiration, or.	.....	3111 B–1999.		
	AA furnace	265.2 (Issued 1978)[1].			
	ICP/MS	.....	3125 B–2009.		
59. Ruthenium—Total,[4] mg/L.	Digestion[4] followed by any of the following:				
	AA direct aspiration, or.	.....	3111 B–1999.		
	AA furnace	267.2[1].			
	ICP/MS	.....	3125 B–2009.		
60. Selenium—Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA furnace	.....	3113 B–2004	D3859–08 (B)	I–4668–98.[49]
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES[36]	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14[3], I–4020–05.[70]
	AA gaseous hydride	.....	3114 B–2009, or 3111 C–2009.	D3859–08 (A)	I–3667–85.[2]
61. Silica—Dissolved,[37] mg/L.	0.45-micron filtration followed by any of the following:				
	Colorimetric, Manual	.....	4500–SiO_2 C–1997 ..	D859–05	I–1700–85.[2]
	Automated (Molybdosilicate).	.....	4500–SiO_2 E–1997 or F–1997.	.....	I–2700–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	.....	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
62. Silver—Total,[4, 31] mg/L.	Digestion[4, 29], followed by any of the following:				
	AA direct aspiration	.....	3111 B–1999 or 3111 C–1999	.....	974.27[3], p. 37[9], I–3720–85.[2]
	AA furnace	.....	3113 B–2004	.....	I–4724–89.[51]
	STGFAA	200.9, Rev. 2.2 (1994).			

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	ICP/AES	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14[3], I–4471–97.[50]
	DCP				See footnote.[34]
63. Sodium—Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration		3111 B–1999		973.54[3], I–3735–85.[2]
	ICP/AES	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999		I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
	DCP				See footnote.[34]
	Flame photometric		3500–Na B–1997.		
	Ion Chromatography			D6919–09.	
64. Specific conductance, micromhos/cm at 25°C.	Wheatstone bridge	120.1[1](Rev. 1982)	2510 B–1997	D1125–95(99) (A)	973.40[3], I–2781–85.[2]
65. Sulfate (as SO_4), mg/L.	Automated colorimetric	375.2, Rev. 2.0 (1993).	4500–SO_4[2] F–1997 or G–1997.		
	Gravimetric		4500–SO_4[2] C–1997 or D–1997.		925.54.[3]
	Turbidimetric		4500–SO_4[2] E–1997.	D516–07.	
	Ion Chromatography	300.0, Rev 2.1 (1993) and 300.1–1, Rev 1.0 (1997).	4110 B–2000 or C–2000.	D4327–03	993.30[3], I–4020–05.[70]
	CIE/UV		4140 B–1997	D6508–00(05)	D6508, Rev. 2.[54]
66. Sulfide (as S), mg/L.	Sample Pretreatment		4500–S^{2-} B, C–2000.		
	Titrimetric (iodine)		4500–S^{2-} F–2000		I–3840–85.[2]
	Colorimetric (methylene blue).		4500–S^{2-} D–2000.		
	Ion Selective Electrode.		4500–S^{2-} G–2000	D4658–08.	
67. Sulfite (as SO_3), mg/L.	Titrimetric (iodine-iodate)		4500–SO_3^{2-} B–2000.		
68. Surfactants, mg/L	Colorimetric (methylene blue).		5540 C–2000	D2330–02.	
69. Temperature, °C	Thermometric		2550 B–2000		See footnote.[32]
70. Thallium–Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration		3111 B–1999.		
	AA furnace	279.2[1](Issued 1978)	3113 B–2004.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.7, Rev. 4.4 (1994); 200.5 Rev. 4.2 (2003)[68].	3120 B–1999	D1976–07.	
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14[3], I–4471–97.[50]
71. Tin–Total,[4] mg/L	Digestion[4], followed by any of the following:.				
	AA direct aspiration		3111 B–1999		I–3850–78.[8]
	AA furnace		3113 B–2004.		
	STGFAA	200.9, Rev. 2.2 (1994).			
	ICP/AES	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).			
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]
72. Titanium–Total,[4] mg/L.	Digestion[4] followed by any of the following:				
	AA direct aspiration		3111 D–1999.		
	AA furnace	283.2[1](Issued 1978).			
	ICP/AES	200.7, Rev. 4.4 (1994).			
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14.[3]

TABLE IB—LIST OF APPROVED INORGANIC TEST PROCEDURES—Continued

Parameter	Methodology [58]	EPA [52]	Standard methods	ASTM	USGS/AOAC/Other
	DCP				See footnote.[34]
73. Turbidity, NTU[53]	Nephelometric	180.1, Rev. 2.0 (1993).	2130 B–2001	D1889–00	I–3860–85.[2] See footnote.[65] See footnote.[66] See footnote.[67]
74. Vanadium–Total,[4] mg/L.	Digestion[4], followed by any of the following:				
	AA direct aspiration		3111 D–1999.		
	AA furnace		3113 B–2004	D3373–03(07).	
	ICP/AES	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14[3], I–4020–05.[70]
	DCP			D4190–08	See footnote.[34]
	Colorimetric (Gallic Acid).		3500–V B–1997.		
75. Zinc–Total[4], mg/L	Digestion[4], followed by any of the following:				
	AA direct aspiration[36].		3111 B–1999 or 3111 C–1999.	D1691–02(07) (A or B).	974.27[3], p. 37[9], I–3900–85.[2]
	AA furnace	289.2[1](Issued 1978).			
	ICP/AES[36]	200.5, Rev 4.2 (2003)[68]; 200.7, Rev. 4.4 (1994).	3120 B–1999	D1976–07	I–4471–97.[50]
	ICP/MS	200.8, Rev. 5.4 (1994).	3125 B–2009	D5673–05	993.14[3], I–4020–05.[70]
	DCP[36]			D4190–08	See footnote.[34]
	Colorimetric (Zincon)		3500 Zn B–1997		See footnote.[33]
76. Acid Mine Drainage.		1627[69].			

Table IB Notes:

[1] Methods for Chemical Analysis of Water and Wastes, EPA–600/4–79–020. Revised March 1983 and 1979, where applicable. U.S. EPA.

[2] Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resource Investigations of the U.S. Geological Survey, Book 5, Chapter A1., unless otherwise stated. 1989. USGS.

[3] Official Methods of Analysis of the Association of Official Analytical Chemists, Methods Manual, Sixteenth Edition, 4th Revision, 1998. AOAC International.

[4] For the determination of total metals (which are equivalent to total recoverable metals) the sample is not filtered before processing. A digestion procedure is required to solubilize analytes in suspended material and to break down organic-metal complexes (to convert the analyte to a detectable form for colorimetric analysis). For non–platform graphite furnace atomic absorption determinations a digestion using nitric acid (as specified in Section 4.1.3 of Methods for the Chemical Analysis of Water and Wastes) is required prior to analysis. The procedure used should subject the sample to gentle, acid refluxing and at no time should the sample be taken to dryness. For direct aspiration flame atomic absorption determinations (FLAA) a combination acid (nitric and hydrochloric acids) digestion is preferred prior to analysis. The approved total recoverable digestion is described as Method 200.2 in Supplement I of ''Methods for the Determination of Metals in Environmental Samples'' EPA/600R–94/111, May, 1994, and is reproduced in EPA Methods 200.7, 200.8, and 200.9 from the same Supplement. However, when using the gaseous hydride technique or for the determination of certain elements such as antimony, arsenic, selenium, silver, and tin by non–EPA graphite furnace atomic absorption methods, mercury by cold vapor atomic absorption, the noble metals and titanium by FLAA, a specific or modified sample digestion procedure may be required and in all cases the referenced method write–up should be consulted for specific instruction and/or cautions. For analyses using inductively coupled plasma-atomic emission spectrometry (ICP–AES), the direct current plasma (DCP) technique or the EPA spectrochemical techniques (platform furnace AA, ICP–AES, and ICP–MS) use EPA Method 200.2 or an approved alternate procedure (*e.g.,* CEM microwave digestion, which may be used with certain analytes as indicated in Table IB); the total recoverable digestion procedures in EPA Methods 200.7, 200.8, and 200.9 may be used for those respective methods. Regardless of the digestion procedure, the results of the analysis after digestion procedure are reported as ''total'' metals.

[5] Copper sulfate or other catalysts that have been found suitable may be used in place of mercuric sulfate.

[6] Manual distillation is not required if comparability data on representative effluent samples are on file to show that this preliminary distillation step is not necessary: however, manual distillation will be required to resolve any controversies. In general, the analytical method should be consulted regarding the need for distillation. If the method is not clear, the laboratory may compare a minimum of 9 different sample matrices to evaluate the need for distillation. For each matrix, a matrix spike and matrix spike duplicate are analyzed both with and without the distillation step. (A total of 36 samples, assuming 9 matrices). If results are comparable, the laboratory may dispense with the distillation step for future analysis. Comparable is defined as < 20% RPD for all tested matrices). Alternatively the two populations of spike recovery percentages may be compared using a recognized statistical test.

[7] Industrial Method Number 379–75 WE Ammonia, Automated Electrode Method, Technicon Auto Analyzer II. February 19, 1976. Bran & Luebbe Analyzing Technologies Inc.

[8] The approved method is that cited in Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1979. USGS.

[9] American National Standard on Photographic Processing Effluents. April 2, 1975. American National Standards Institute.

[10] In-Situ Method 1003–8–2009, Biochemical Oxygen Demand (BOD) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[11] The use of normal and differential pulse voltage ramps to increase sensitivity and resolution is acceptable.

[12] Carbonaceous biochemical oxygen demand ($CBOD_5$) must not be confused with the traditional BOD_5 test method which measures ''total BOD.'' The addition of the nitrification inhibitor is not a procedural option, but must be included to report the $CBOD_5$ parameter. A discharger whose permit requires reporting the traditional BOD_5 may not use a nitrification inhibitor in the procedure for reporting the results. Only when a discharger's permit specifically states $CBOD_5$ is required can the permittee report data using a nitrification inhibitor.

[13] OIC Chemical Oxygen Demand Method. 1978. Oceanography International Corporation.

[14] Method 8000, Chemical Oxygen Demand, Hach Handbook of Water Analysis, 1979. Hach Company.

[15] The back titration method will be used to resolve controversy.

[16] Orion Research Instruction Manual, Residual Chlorine Electrode Model 97–70. 1977. Orion Research Incorporated. The calibration graph for the Orion residual chlorine method must be derived using a reagent blank and three standard solutions, containing 0.2, 1.0, and 5.0 mL 0.00281 N potassium iodate/100 mL solution, respectively.

[17] Method 245.7, Mercury in Water by Cold Vapor Atomic Fluorescence Spectrometry, EPA–821–R–05–001. Revision 2.0, February 2005. US EPA.

[18] National Council of the Paper Industry for Air and Stream Improvement (NCASI) Technical Bulletin 253, December 1971.

[19] Method 8506, Biocinchoninate Method for Copper, Hach Handbook of Water Analysis. 1979. Hach Company.

[20] When using a method with block digestion, this treatment is not required.

[21] Industrial Method Number 378–75WA, Hydrogen ion (pH) Automated Electrode Method, Bran & Luebbe (Technicon) Autoanalyzer II. October 1976. Bran & Luebbe Analyzing Technologies.

[22] Method 8008, 1,10–Phenanthroline Method using FerroVer Iron Reagent for Water. 1980. Hach Company.

[23] Method 8034, Periodate Oxidation Method for Manganese, Hach Handbook of Wastewater Analysis. 1979. Hach Company.

[24] Methods for Analysis of Organic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A3, (1972 Revised 1987) p. 14. 1987. USGS.

[25] Method 8507, Nitrogen, Nitrite-Low Range, Diazotization Method for Water and Wastewater. 1979. Hach Company.

[26] Just prior to distillation, adjust the sulfuric-acid-preserved sample to pH 4 with 1 + 9 NaOH.

[27] The colorimetric reaction must be conducted at a pH of 10.0 ± 0.2.

[28] Addison, R.F., and R.G. Ackman. 1970. Direct Determination of Elemental Phosphorus by Gas–Liquid Chromatography, *Journal of Chromatography*, 47(3):421–426.

[29] Approved methods for the analysis of silver in industrial wastewaters at concentrations of 1 mg/L and above are inadequate where silver exists as an inorganic halide. Silver halides such as the bromide and chloride are relatively insoluble in reagents such as nitric acid but are readily soluble in an aqueous buffer of sodium thiosulfate and sodium hydroxide to pH of 12. Therefore, for levels of silver above 1 mg/L, 20 mL of sample should be diluted to 100 mL by adding 40 mL each of 2 M $Na_2S_2O_3$ and NaOH. Standards should be prepared in the same manner. For levels of silver below 1 mg/L the approved method is satisfactory.

[30] The use of EDTA decreases method sensitivity. Analysts may omit EDTA or replace with another suitable complexing reagent provided that all method specified quality control acceptance criteria are met.

[31] For samples known or suspected to contain high levels of silver (*e.g.,* in excess of 4 mg/L), cyanogen iodide should be used to keep the silver in solution for analysis. Prepare a cyanogen iodide solution by adding 4.0 mL of concentrated NH_4OH, 6.5 g of KCN, and 5.0 mL of a 1.0 N solution of I2 to 50 mL of reagent water in a volumetric flask and dilute to 100.0 mL. After digestion of the sample, adjust the pH of the digestate to >7 to prevent the formation of HCN under acidic conditions. Add 1 mL of the cyanogen iodide solution to the sample digestate and adjust the volume to 100 mL with reagent water (NOT acid). If cyanogen iodide is added to sample digestates, then silver standards must be prepared that contain cyanogen iodide as well. Prepare working standards by diluting a small volume of a silver stock solution with water and adjusting the pH≤7 with NH_4OH. Add 1 mL of the cyanogen iodide solution and let stand 1 hour. Transfer to a 100-mL volumetric flask and dilute to volume with water.

[32] ''Water Temperature–Influential Factors, Field Measurement and Data Presentation,'' Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 1, Chapter D1. 1975. USGS.

[33] Method 8009, Zincon Method for Zinc, Hach Handbook of Water Analysis, 1979. Hach Company.

[34] Method AES0029, Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes. 1986–Revised 1991. Thermo Jarrell Ash Corporation.

[35] In-Situ Method 1004–8–2009, Carbonaceous Biochemical Oxygen Demand (CBOD) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[36] Microwave-assisted digestion may be employed for this metal, when analyzed by this methodology. Closed Vessel Microwave Digestion of Wastewater Samples for Determination of Metals. April 16, 1992. CEM Corporation

[37] When determining boron and silica, only plastic, PTFE, or quartz laboratory ware may be used from start until completion of analysis.

[38] Only use n-hexane (n-Hexane—85% minimum purity, 99.0% min. saturated C6 isomers, residue less than 1 mg/L) extraction solvent when determining Oil and Grease parameters—Hexane Extractable Material (HEM), or Silica Gel Treated HEM (analogous to EPA Methods 1664 Rev. A and 1664 Rev. B). Use of other extraction solvents is prohibited.

[39] Method PAI–DK01, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Titrimetric Detection. Revised December 22, 1994. OI Analytical.

[40] Method PAI–DK02, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Colorimetric Detection. Revised December 22, 1994. OI Analytical.

[41] Method PAI–DK03, Nitrogen, Total Kjeldahl, Block Digestion, Automated FIA Gas Diffusion. Revised December 22, 1994. OI Analytical.

[42] Method 1664 Rev. B is the revised version of EPA Method 1664 Rev. A. U.S. EPA. February 1999, Revision A. Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT–HEM; Non-polar Material) by Extraction and Gravimetry. EPA–821–R–98–002. U.S. EPA. February 2010, Revision B. Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT–HEM; Non-polar Material) by Extraction and Gravimetry. EPA–821–R–10–001.

[43] Method 1631, Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry, EPA–821–R–02–019. Revision E. August 2002, U.S. EPA. The application of clean techniques described in EPA's Method 1669: *Sampling Ambient Water for Trace Metals at EPA Water Quality Criteria Levels,* EPA–821–R–96–011, are recommended to preclude contamination at low-level, trace metal determinations.

[44] Method OIA–1677–09, Available Cyanide by Ligand Exchange and Flow Injection Analysis (FIA). 2010. OI Analytical.

[45] Open File Report 00–170, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Ammonium Plus Organic Nitrogen by a Kjeldahl Digestion Method and an Automated Photometric Finish that Includes Digest Cleanup by Gas Diffusion. 2000. USGS.

[46] Open File Report 93–449, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Chromium in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1993. USGS.

[47] Open File Report 97–198, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Molybdenum by Graphite Furnace Atomic Absorption Spectrophotometry. 1997.. USGS.

[48] Open File Report 92–146, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Total Phosphorus by Kjeldahl Digestion Method and an Automated Colorimetric Finish That Includes Dialysis. 1992. USGS.

[49] Open File Report 98–639, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Arsenic and Selenium in Water and Sediment by Graphite Furnace-Atomic Absorption Spectrometry. 1999. USGS.

[50] Open File Report 98–165, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Elements in Whole-water Digests Using Inductively Coupled Plasma-Optical Emission Spectrometry and Inductively Coupled Plasma-Mass Spectrometry. 1998. USGS.

[51] Open File Report 93–125, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993.. USGS.

[52] Unless otherwise indicated, all EPA methods, excluding EPA Method 300.1–1, are published in U.S. EPA. May 1994. Methods for the Determination of Metals in Environmental Samples, Supplement I, EPA/600/R–94/111; or U.S. EPA. August 1993. Methods for the Determination of Inorganic Substances in Environmental Samples, EPA/600/R–93/100. EPA Method 300.1 is US EPA. Revision 1.0, 1997, including errata cover sheet April 27, 1999. Determination of Inorganic Ions in Drinking Water by Ion Chromatography.

[53] Styrene divinyl benzene beads (*e.g.,* AMCO–AEPA–1 or equivalent) and stabilized formazin (*e.g.,* Hach StablCal™ or equivalent) are acceptable substitutes for formazin.

[54] Method D6508, Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte. December 2000. Waters Corp.

[55] Kelada-01, Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate, EPA 821–B–01–009, Revision 1.2, August 2001. US EPA. Note: A 450–W UV lamp may be used in this method instead of the 550–W lamp specified if it provides performance within the quality control (QC) acceptance criteria of the method in a given instrument. Similarly, modified flow cell configurations and flow conditions may be used in the method, provided that the QC acceptance criteria are met.

[56] QuikChem Method 10–204–00–1–X, Digestion and Distillation of Total Cyanide in Drinking and Wastewaters using MICRO DIST and Determination of Cyanide by Flow Injection Analysis. Revision 2.2, March 2005. Lachat Instruments.

[57] When using sulfide removal test procedures described in EPA Method 335.4–1, reconstitute particulate that is filtered with the sample prior to distillation.

[58] Unless otherwise stated, if the language of this table specifies a sample digestion and/or distillation ''followed by'' analysis with a method, approved digestion and/or distillation are required prior to analysis.

[59] Samples analyzed for available cyanide using OI Analytical method OIA–1677–09 or ASTM method D6888–09 that contain particulate matter may be filtered only after the ligand exchange reagents have been added to the samples, because the ligand exchange process converts complexes containing available cyanide to free cyanide, which is not removed by filtration. Analysts are further cautioned to limit the time between the addition of the ligand exchange reagents and sample filtration to no more than 30 minutes to preclude settling of materials in samples.

[60] Analysts should be aware that pH optima and chromophore absorption maxima might differ when phenol is replaced by a substituted phenol as the color reagent in Berthelot Reaction (''phenol-hypochlorite reaction'') colorimetric ammonium determination methods. For example when phenol is used as the color reagent, pH optimum and wavelength of maximum absorbance are about 11.5 and 635 nm, respectively—see, Patton, C.J. and S.R. Crouch. March 1977. Anal. Chem. 49:464–469. These reaction parameters increase to pH > 12.6 and 665 nm when salicylate is used as the color reagent—see, Krom, M.D. April 1980. The Analyst 105:305–316.

[61] If atomic absorption or ICP instrumentation is not available, the aluminon colorimetric method detailed in the 19th Edition of *Standard Methods* may be used. This method has poorer precision and bias than the methods of choice.

[62] Easy (1–Reagent) Nitrate Method, Revision November 12, 2011. Craig Chinchilla.

[63] Hach Method 10360, Luminescence Measurement of Dissolved Oxygen in Water and Wastewater and for Use in the Determination of BOD_5 and $cBOD_5$. Revision 1.2, October 2011. Hach Company. This method may be used to measure dissolved oxygen when performing the methods approved in Table IB for measurement of biochemical oxygen demand (BOD) and carbonaceous biochemical oxygen demand (CBOD).

[64] In-Situ Method 1002–8–2009, Dissolved Oxygen (DO) Measurement by Optical Probe. 2009. In-Situ Incorporated.

[65] Mitchell Method M5331, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Leck Mitchell.

[66] Mitchell Method M5271, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Leck Mitchell.

[67] Orion Method AQ4500, Determination of Turbidity by Nephelometry. Revision 5, March 12, 2009. Thermo Scientific.

[68] EPA Method 200.5, Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry, EPA/600/R–06/115. Revision 4.2, October 2003. US EPA.

[69] Method 1627, Kinetic Test Method for the Prediction of Mine Drainage Quality, EPA–821–R–09–002. December 2011. US EPA.

[70] Techniques and Methods Book 5–B1, Determination of Elements in Natural-Water, Biota, Sediment and Soil Samples Using Collision/Reaction Cell Inductively Coupled Plasma-Mass Spectrometry, Chapter 1, Section B, Methods of the National Water Quality Laboratory, Book 5, Laboratory Analysis, 2006. USGS.

[71] Water-Resources Investigations Report 01–4132, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organic Plus Inorganic Mercury in Filtered and Unfiltered Natural Water With Cold Vapor-Atomic Fluorescence Spectrometry, 2001. USGS.

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
1. Acenaphthene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98)	
2. Acenaphthylene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
3. Acrolein	GC	603.			
	GC/MS	624 [4], 1624B.			
4. Acrylonitrile	GC	603.			
	GC/MS	624 [4], 1624B.			
5. Anthracene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440B–2000	D4657–92 (98).	
6. Benzene	GC	602	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
7. Benzidine	Spectro-photo-metric.				See footnote [3], p.1.
	GC/MS	625 [5], 1625B	6410 B–2000.		
	HPLC	605.			
8. Benzo(a)anthracene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
9. Benzo(a)pyrene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
10. Benzo(b)fluoranthene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
11. Benzo(g,h,i)perylene	GC	610.			

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
12. Benzo(k)fluoranthene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
13. Benzyl chloride	GC				See footnote [3], p. 130.
	GC/MS				See footnote [6], p. S102.
14. Butyl benzyl phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
15. bis(2-Chloroethoxy) methane	GC	611.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
16. bis(2-Chloroethyl) ether	GC	611.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
17. bis(2-Ethylhexyl) phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
18. Bromodichloromethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
19. Bromoform	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
20. Bromomethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
21. 4-Bromophenyl phenyl ether	GC	611.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
22. Carbon tetrachloride	GC	601	6200 C–1997		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
23. 4-Chloro-3-methyl phenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000.		See footnote [9], p. 27.
24. Chlorobenzene	GC	601, 602	6200 C–1997		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
25. Chloroethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
26. 2-Chloroethylvinyl ether	GC	601.			
	GC/MS	624, 1624B.			
27. Chloroform	GC	601	6200 C–1997		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
28. Chloromethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
29. 2-Chloronaphthalene	GC	612.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
30. 2-Chlorophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
31. 4-Chlorophenyl phenyl ether	GC	611.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
32. Chrysene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
33. Dibenzo(a,h)anthracene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
34. Dibromochloromethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
35. 1,2-Dichlorobenzene	GC	601, 602	6200 C–1997.		

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
	GC/MS	624, 1625B	6200 B–1997		See footnote [9], p. 27.
36. 1,3-Dichlorobenzene	GC	601, 602	6200 C–1997.		
	GC/MS	624, 1625B	6200 B–1997		See footnote [9], p. 27.
37. 1,4-Dichlorobenzene	GC	601, 602	6200 C–1997.		
	GC/MS	624, 1625B	6200 B–1997		See footnote [9], p. 27.
38. 3,3'-Dichlorobenzidine	GC/MS	625, 1625B	6410 B–2000.		
	HPLC	605.			
39. Dichlorodifluoromethane	GC	601.			
	GC/MS		6200 C–1997.		
40. 1,1-Dichloroethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
41. 1,2-Dichloroethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
42. 1,1-Dichloroethene	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
43. trans-1,2-Dichloroethene	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
44. 2,4-Dichlorophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
45. 1,2-Dichloropropane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
46. cis-1,3-Dichloropropene	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
47. trans-1,3-Dichloropropene	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
48. Diethyl phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
49. 2,4-Dimethylphenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
50. Dimethyl phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
51. Di-n-butyl phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
52. Di-n-octyl phthalate	GC	606.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
53. 2, 4-Dinitrophenol	GC	604	6420 B–2000		See footnote [9], p. 27.
	GC/MS	625, 1625B	6410 B–2000.		
54. 2,4-Dinitrotoluene	GC	609.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
55. 2,6-Dinitrotoluene	GC	609.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
56. Epichlorohydrin	GC				See footnote [3], p. 130.
	GC/MS				See footnote [6], p. S102.
57. Ethylbenzene	GC	602	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
58. Fluoranthene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
59. Fluorene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
60. 1,2,3,4,6,7,8-Heptachloro-dibenzofuran	GC/MS	1613B.			
61. 1,2,3,4,7,8,9-Heptachloro-dibenzofuran	GC/MS	1613B.			
62. 1,2,3,4,6,7,8- Heptachloro-dibenzo-p-dioxin	GC/MS	1613B.			
63. Hexachlorobenzene	GC	612.			

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
64. Hexachlorobutadiene	GC	612.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
65. Hexachlorocyclopentadiene	GC	612.			
	GC/MS	625 [5], 1625B	6410 B–2000		See footnote [9], p. 27.
66. 1,2,3,4,7,8-Hexachloro-dibenzofuran	GC/MS	1613B.			
67. 1,2,3,6,7,8-Hexachloro-dibenzofuran	GC/MS	1613B.			
68. 1,2,3,7,8,9-Hexachloro-dibenzofuran	GC/MS	1613B.			
69. 2,3,4,6,7,8-Hexachloro-dibenzofuran	GC/MS	1613B.			
70. 1,2,3,4,7,8-Hexachloro-dibenzo-p-dioxin	GC/MS	1613B.			
71. 1,2,3,6,7,8-Hexachloro-dibenzo-p-dioxin	GC/MS	1613B.			
72. 1,2,3,7,8,9-Hexachloro-dibenzo-p-dioxin	GC/MS	1613B.			
73. Hexachloroethane	GC	612.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
74. Indeno(1,2,3-c,d) pyrene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
75. Isophorone	GC	609.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
76. Methylene chloride	GC	601	6200 C–1997.		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
77. 2-Methyl-4,6-dinitrophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000.		See footnote [9], p. 27.
78. Naphthalene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000.		See footnote [9], p. 27
	HPLC	610	6440 B–2000.		
79. Nitrobenzene	GC	609.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC			D4657–92 (98).	
80. 2-Nitrophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
81. 4-Nitrophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
82. N-Nitrosodimethylamine	GC	607.			
	GC/MS	625 [5], 1625B	6410 B–2000		See footnote [9], p. 27.
83. N-Nitrosodi-n-propylamine	GC	607.			
	GC/MS	625 [5], 1625B	6410 B–2000		See footnote [9], p. 27.
84. N-Nitrosodiphenylamine	GC	607.			
	GC/MS	625 [5], 1625B	6410 B–2000		See footnote [9], p. 27.
85. Octachlorodibenzofuran	GC/MS	1613B. [10]			
86. Octachlorodibenzo-p-dioxin	GC/MS	1613B. [10]			
87. 2,2'-Oxybis(2-chloro-propane) [also known as bis(2-Chloroisopropyl) ether].	GC	611.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
88. PCB–1016	GC	608			See footnote [3], p. 43; See footnote. [8]
	GC/MS	625	6410 B–2000.		
89. PCB–1221	GC	608			See footnote [3], p. 43; See footnote. [8]
	GC/MS	625	6410 B–2000.		
90. PCB–1232	GC	608			See footnote [3], p. 43; See footnote. [8]

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
	GC/MS	625	6410 B–2000.		
91. PCB–1242	GC	608			See footnote [3], p. 43; See footnote. [8]
	GC/MS	625	6410 B–2000.		
92. PCB–1248	GC	608.			
	GC/MS	625	6410 B–2000.		
93. PCB–1254	GC	608			See footnote [3], p. 43; See footnote. [8]
	GC/MS	625	6410 B–2000.		
94. PCB–1260	GC	608			See footnote [3], p. 43; See footnote. [8]
	GC/MS	625	6410 B–2000.		
95. 1,2,3,7,8-Pentachloro-dibenzofuran	GC/MS	1613B.			
96. 2,3,4,7,8-Pentachloro-dibenzofuran	GC/MS	1613B.			
97. 1,2,3,7,8,-Pentachloro-dibenzo-p-dioxin	GC/MS	1613B.			
98. Pentachlorophenol	GC	604	6420 B–2000		See footnote [3], p. 140.
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
99. Phenanthrene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
100. Phenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
101. Pyrene	GC	610.			
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
	HPLC	610	6440 B–2000	D4657–92 (98).	
102. 2,3,7,8-Tetrachloro-dibenzofuran	GC/MS	1613B.[10]			
103. 2,3,7,8-Tetrachloro-dibenzo-p-dioxin	GC/MS	613, 625 [5a], 1613B.			
104. 1,1,2,2-Tetrachloroethane	GC	601	6200 C–1997		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
105. Tetrachloroethene	GC	601	6200 C–1997		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
106. Toluene	GC	602	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
107. 1,2,4-Trichlorobenzene	GC	612			See footnote [3], p. 130.
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
108. 1,1,1-Trichloroethane	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
109. 1,1,2-Trichloroethane	GC	601	6200 C–1997.		See footnote [3], p. 130.
	GC/MS	624, 1624B	6200 B–1997.		
110. Trichloroethene	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
111. Trichlorofluoromethane	GC	601	6200 C–1997.		
	GC/MS	624	6200 B–1997.		
112. 2,4,6-Trichlorophenol	GC	604	6420 B–2000.		
	GC/MS	625, 1625B	6410 B–2000		See footnote [9], p. 27.
113. Vinyl chloride	GC	601	6200 C–1997.		
	GC/MS	624, 1624B	6200 B–1997.		
114. Nonylphenol	GC/MS			D7065–06.	
115. Bisphenol A (BPA)	GC/MS			D7065–06.	
116. p-tert-Octylphenol (OP)	GC/MS			D7065–06.	
117. Nonylphenol Monoethoxylate (NP1EO)	GC/MS			D7065–06.	
118. Nonylphenol Diethoxylate (NP2EO)	GC/MS			D7065–06.	
119. Adsorbable Organic Halides (AOX)	Adsorption and Coulometric Titration.	1650.[11]			

TABLE IC—LIST OF APPROVED TEST PROCEDURES FOR NON-PESTICIDE ORGANIC COMPOUNDS—Continued

Parameter [1]	Method	EPA [2,7]	Standard methods	ASTM	Other
120. Chlorinated Phenolics	In Situ Acetylation and GC/MS.	1653.[11]			

Table IC notes:

[1] All parameters are expressed in micrograms per liter (μg/L) except for Method 1613B, in which the parameters are expressed in picograms per liter (pg/L).

[2] The full text of Methods 601–613, 624, 625, 1613B, 1624B, and 1625B are provided at Appendix A, Test Procedures for Analysis of Organic Pollutants, of this Part 136. The standardized test procedure to be used to determine the method detection limit (MDL) for these test procedures is given at Appendix B, Definition and Procedure for the Determination of the Method Detection Limit, of this Part 136.

[3] Methods for Benzidine: Chlorinated Organic Compounds, Pentachlorophenol and Pesticides in Water and Wastewater. September 1978. U.S. EPA.

[4] Method 624 may be used for quantitative determination of acrolein and acrylonitrile, provided that the laboratory has documentation to substantiate the ability to detect and quantify these analytes at levels necessary to comply with any associated regulations. In addition, the use of sample introduction techniques other than simple purge-and-trap may be required. QC acceptance criteria from Method 603 should be used when analyzing samples for acrolein and acrylonitrile in the absence of such criteria in Method 624.

[5] Method 625 may be extended to include benzidine, hexachlorocyclopentadiene, N-nitrosodimethylamine, N-nitrosodi-n-propylamine, and N-nitrosodiphenylamine. However, when they are known to be present, Methods 605, 607, and 612, or Method 1625B, are preferred methods for these compounds.

[5a] Method 625, screening only.

[6] Selected Analytical Methods Approved and Cited by the United States Environmental Protection Agency, Supplement to the 15th Edition of *Standard Methods for the Examination of Water and Wastewater.* 1981. American Public Health Association (APHA).

[7] Each analyst must make an initial, one-time demonstration of their ability to generate acceptable precision and accuracy with Methods 601–603, 624, 625, 1624B, and 1625B in accordance with procedures each in Section 8.2 of each of these Methods. Additionally, each laboratory, on an on-going basis must spike and analyze 10% (5% for Methods 624 and 625 and 100% for methods 1624B and 1625B) of all samples to monitor and evaluate laboratory data quality in accordance with Sections 8.3 and 8.4 of these methods. When the recovery of any parameter falls outside the warning limits, the analytical results for that parameter in the unspiked sample are suspect. The results should be reported, but cannot be used to demonstrate regulatory compliance. These quality control requirements also apply to the Standard Methods, ASTM Methods, and other methods cited.

[8] Organochlorine Pesticides and PCBs in Wastewater Using Empore™ Disk. Revised October 28, 1994. 3M Corporation.

[9] Method O–3116–87 is in Open File Report 93–125, Methods of Analysis by U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993. USGS.

[10] Analysts may use Fluid Management Systems, Inc. Power-Prep system in place of manual cleanup provided the analyst meets the requirements of Method 1613B (as specified in Section 9 of the method) and permitting authorities. Method 1613, Revision B, Tetra- through Octa-Chlorinated Dioxins and Furans by Isotope Dilution HRGC/HRMS. Revision B, 1994. U.S. EPA. The full text of this method is provided in Appendix A to 40 CFR Part 136 and at *http://water.epa.gov/scitech/methods/cwa/index.cfm*

[11] Method 1650, Adsorbable Organic Halides by Adsorption and Coulometric Titration. Revision C, 1997. U.S. EPA. Method 1653, Chlorinated Phenolics in Wastewater by In Situ Acetylation and GCMS. Revision A, 1997. U.S. EPA. The full text for both of these methods is provided at Appendix A in Part 430, The Pulp, Paper, and Paperboard Point Source Category.

TABLE ID—LIST OF APPROVED TEST PROCEDURES FOR PESTICIDES [1]

Parameter	Method	EPA [2,7,10]	Standard methods	ASTM	Other
1. Aldrin	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96 (02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
2. Ametryn	GC	507, 619			See footnote [3], p. 83; See footnote [9], O–3106–93; See footnote [6], p. S68.
	GC/MS	525.2			See footnote [14], O–1121–91.
3. Aminocarb	TLC				See footnote [3], p. 94; See footnote [6], p. S60.
	HPLC	632.			
4. Atraton	GC	619			See footnote [3], p. 83; See footnote [6], p. S68.
5. Atrazine	GC	507, 619			See footnote [3], p. 83; See footnote [6], p. S68; See footnote [9], O–3106–93.
	HPLC/MS				See footnote [12], O–2060–01.
	GC/MS	525.1, 525.2			See footnote [11], O–1126–95.
6. Azinphos methyl	GC	614, 622, 1657			See footnote [3], p. 25; See footnote [6], p. S51.
	GC-MS				See footnote [11], O–1126–95.
7. Barban	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
8. α-BHC	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [8], 3M0222.
	GC/MS	625 [5]	6410 B–2000		See footnote [11], O–1126–95.

TABLE ID—LIST OF APPROVED TEST PROCEDURES FOR PESTICIDES [1]—Continued

Parameter	Method	EPA [2,7,10]	Standard methods	ASTM	Other
9. β–BHC	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
10. δ-BHC	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
11. γ-BHC (Lindane)	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625 [5]	6410 B–2000		See footnote [11], O–1126–95.
12. Captan	GC	617	6630 B–2000	D3086–90, D5812–96(02).	See footnote [3], p. 7.
13. Carbaryl	TLC				See footnote [3], p. 94, See footnote [6], p. S60.
	HPLC	531.1, 632.			
	HPLC/MS	553			See footnote [12], O–2060–01.
	GC/MS				See footnote [11], O–1126–95.
14. Carbophenothion	GC	617	6630 B–2000		See footnote [4], page 27; See footnote [6], p. S73.
15. Chlordane	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
16. Chloropropham	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
17. 2,4-D	GC	615	6640 B–2001		See footnote [3], p. 115; See footnote [4], O–3105 –83.
	HPLC/MS				See footnote [12], O–2060–01.
18. 4,4'-DDD	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3105–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
19. 4,4'-DDE	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000		See footnote [11], O–1126–95.
20. 4,4'-DDT	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
21. Demeton-O	GC	614, 622			See footnote [3], p. 25; See footnote [6], p. S51.
22. Demeton-S	GC	614, 622			See footnote [3], p. 25; See footnote [6], p. S51.
23. Diazinon	GC	507, 614, 622, 1657			See footnote [3], p. 25; See footnote [4], O–3104–83; See footnote [6], p. S51.
	GC/MS	525.2			See footnote [11], O–1126–95.
24. Dicamba	GC	615			See footnote [3], p. 115.
	HPLC/MS				See footnote [12], O–2060–01.
25. Dichlofenthion	GC	622.1			See footnote [4], page 27; See footnote [6], p. S73.
26. Dichloran	GC	608.2, 617	6630 B–2000		See footnote [3], p. 7;
27. Dicofol	GC	617			See footnote [4], O–3104–83.
28. Dieldrin	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000		See footnote [11], O–1126–95.
29. Dioxathion	GC	614.1, 1657			See footnote [4], page 27; See footnote [6], p. S73.
30. Disulfoton	GC	507, 614, 622, 1657			See footnote [3], p. 25; See footnote [6] p. S51.
	GC/MS	525.2			See footnote [11], O–1126–95.
31. Diuron	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS	553			See footnote [12], O–2060–01.

TABLE ID—LIST OF APPROVED TEST PROCEDURES FOR PESTICIDES [1]—Continued

Parameter	Method	EPA [2,7,10]	Standard methods	ASTM	Other
32. Endosulfan I	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M022).
	GC/MS	625 [5]	6410 B–2000		See footnote [13], O–2002–01.
33. Endosulfan II	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [8], 3M0222.
	GC/MS	625 [5]	6410 B–2000		See footnote [13], O–2002–01.
34. Endosulfan Sulfate	GC	608, 617	6630 C–2000		See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000		
35. Endrin	GC	505, 508, 608, 617, 1656	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	525.1, 525.2, 625 [5]	6410 B–2000.		
36. Endrin aldehyde	GC	608, 617	6630 C–2000		See footnote [8], 3M0222.
	GC/MS	625.			
37. Ethion	GC	614, 614.1,1657			See footnote [4], page 27; See footnote [6], p. S73.
	GC/MS				See footnote [13], O–2002–01.
38. Fenuron	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS				See footnote [12], O–2060–01.
39. Fenuron-TCA	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
40. Heptachlor	GC	505, 508, 608, 617, 1656	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [8], 3M0222.
	GC/MS	525.1, 525.2, 625	6410 B–2000.		
41. Heptachlor epoxide	GC	608, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83; See footnote [6], p. S73; See footnote [8], 3M0222.
	GC/MS	625	6410 B–2000.		
42. Isodrin	GC	617	6630 B–2000 & C–2000.		See footnote [4], O–3104–83; See footnote [6], p. S73.
43. Linuron	GC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS	553			See footnote [12], O–2060–01.
	GC/MS				See footnote [11], O–1126–95.
44. Malathion	GC	614, 1657	6630 B–2000		See footnote [3], p. 25; See footnote [6], p. S51.
	GC/MS				See footnote [11], O–1126–95.
45. Methiocarb	TLC				See footnote [3], p. 94; See footnote [6], p. S60.
	HPLC	632.			
	HPLC/MS				See footnote [12], O–2060–01.
46. Methoxychlor	GC	505, 508, 608.2, 617, 1656.	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104 –83; See footnote [8], 3M0222.
	GC/MS	525.1, 525.2			See footnote [11], O–1126–95.
47. Mexacarbate	TLC				See footnote [3], p. 94; See footnote [6], p.S60.
	HPLC	632.			
48. Mirex	GC	617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [4], O–3104–83.
49. Monuron	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
50. Monuron-TCA	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
51. Neburon	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS				See footnote [12], O–2060–01.
52. Parathion methyl	GC	614, 622, 1657	6630 B–2000		See footnote [4], page 27; See footnote [3], p. 25.

TABLE ID—LIST OF APPROVED TEST PROCEDURES FOR PESTICIDES [1]—Continued

Parameter	Method	EPA [2,7,10]	Standard methods	ASTM	Other
	GC/MS				See footnote [11], O–1126–95.
53. Parathion ethyl	GC	614	6630 B–2000		See footnote [4], page 27; See footnote [3], p. 25.
	GC/MS				See footnote [11], O–1126–95.
54. PCNB	GC	608.1, 617	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7.
55. Perthane	GC	617		D3086–90, D5812–96(02).	See footnote [4], O–3104–83.
56. Prometon	GC	507, 619			See footnote [3], p. 83; See footnote [6], p. S68; See footnote [9], O–3106–93.
	GC/MS	525.2			See footnote [11], O–1126–95.
57. Prometryn	GC	507, 619			See footnote [3], p. 83; See footnote [6], p. S68; See footnote [9],O–3106–93.
	GC/MS	525.1, 525.2			See footnote [13], O–2002–01.
58. Propazine	GC	507, 619, 1656			See footnote [3], p. 83; See footnote [6], p. S68; See footnote [9], O–3106–93.
	GC/MS	525.1, 525.2.			
59. Propham	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS				See footnote [12], O–2060–01.
60. Propoxur	TLC				See footnote [3], p. 94; See footnote [6], p. S60.
	HPLC	632.			
61. Secbumeton	TLC				See footnote [3], p. 83; See footnote [6], p. S68.
	GC	619.			
62. Siduron	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
	HPLC/MS				See footnote [12], O–2060–01.
63. Simazine	GC	505, 507, 619, 1656			See footnote [3], p. 83; See footnote [6], p. S68; See footnote [9], O–3106–93.
	GC/MS	525.1, 525.2			See footnote [11], O–1126–95.
64. Strobane	GC	617	6630 B–2000 & C–2000.		See footnote [3], p. 7.
65. Swep	TLC				See footnote [3], p. 104; See footnote [6], p. S64.
	HPLC	632.			
66. 2,4,5-T	GC	615	6640 B–2001		See footnote [3], p. 115; See footnote [4], O–3105–83.
67. 2,4,5-TP (Silvex)	GC	615	6640 B–2001		See footnote [3], p. 115; See footnote [4], O–3105–83.
68. Terbuthylazine	GC	619, 1656			See footnote [3], p. 83; See footnote [6], p. S68.
	GC/MS				See footnote [13], O–2002–01.
69. Toxaphene	GC	505, 508, 608, 617, 1656	6630 B–2000 & C–2000.	D3086–90, D5812–96(02).	See footnote [3], p. 7; See footnote [8]; See footnote [4], O–3105–83.
	GC/MS	525.1, 525.2, 625	6410 B–2000.		
70. Trifluralin	GC	508, 617, 627, 1656	6630 B–2000		See footnote [3], p. 7; See footnote [9], O–3106–93.
	GC/MS	525.2			See footnote [11], O–1126–95.

Table ID notes:

[1] Pesticides are listed in this table by common name for the convenience of the reader. Additional pesticides may be found under Table IC, where entries are listed by chemical name.

[2] The standardized test procedure to be used to determine the method detection limit (MDL) for these test procedures is given at Appendix B, Definition and Procedure for the Determination of the Method Detection Limit, of this Part 136.

[3] Methods for Benzidine, Chlorinated Organic Compounds, Pentachlorophenol and Pesticides in Water and Wastewater. September 1978. U.S. EPA. This EPA publication includes thin-layer chromatography (TLC) methods.

[4] Methods for the Determination of Organic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A3. 1987. USGS.

[5] The method may be extended to include α-BHC, γ-BHC, endosulfan I, endosulfan II, and endrin. However, when they are known to exist, Method 608 is the preferred method.

[6] Selected Analytical Methods Approved and Cited by the United States Environmental Protection Agency, Supplement to the 15th Edition of *Standard Methods for the Examination of Water and Wastewater.* 1981. American Public Health Association (APHA).

[7] Each analyst must make an initial, one-time, demonstration of their ability to generate acceptable precision and accuracy with Methods 608 and 625 in accordance with procedures given in Section 8.2 of each of these methods. Additionally, each laboratory, on an on-going basis, must spike and analyze 10% of all samples analyzed with Method 608 or 5% of all samples analyzed with Method 625 to monitor and evaluate laboratory data quality in accordance with Sections 8.3 and 8.4 of these methods. When the recovery of any parameter falls outside the warning limits, the analytical results for that parameter in the unspiked sample are suspect. The results should be reported, but cannot be used to demonstrate regulatory compliance. These quality control requirements also apply to the Standard Methods, ASTM Methods, and other methods cited.

[8] Organochlorine Pesticides and PCBs in Wastewater Using Empore™ Disk. Revised October 28, 1994. 3M Corporation.

[9] Method O–3106–93 is in Open File Report 94–37, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Triazine and Other Nitrogen-Containing Compounds by Gas Chromatography With Nitrogen Phosphorus Detectors. 1994. USGS.

[10] EPA Methods 608.1, 608.2, 614, 614.1, 615, 617, 619, 622, 622.1, 627, and 632 are found in Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, EPA 821–R–92–002, April 1992, U.S. EPA. The full text of Methods 608 and 625 are provided at Appendix A, Test Procedures for Analysis of Organic Pollutants, of this Part 136. EPA Methods 505, 507, 508, 525.1, 531.1 and 553 are in Methods for the Determination of Nonconventional Pesticides in Municipal and Industrial Wastewater, Volume II, EPA 821–R–93–010B, 1993, U.S. EPA. EPA Method 525.2 is in Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction and Capillary Column Gas Chromatography/Mass Spectrometry, Revision 2.0, 1995, U.S. EPA. EPA methods 1656 and 1657 are in Methods For The Determination of Nonconventional Pesticides In Municipal and Industrial Wastewater, Volume I, EPA 821–R–93–010A, 1993, U.S. EPA.

[11] Method O–1126–95 is in Open-File Report 95–181, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of pesticides in water by C–18 solid-phase extraction and capillary-column gas chromatography/mass spectrometry with selected-ion monitoring. 1995. USGS.

[12] Method O–2060–01 is in Water-Resources Investigations Report 01–4134, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Pesticides in Water by Graphitized Carbon-Based Solid-Phase Extraction and High-Performance Liquid Chromatography/Mass Spectrometry. 2001. USGS.

[13] Method O–2002–01 is in Water-Resources Investigations Report 01–4098, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of moderate-use pesticides in water by C–18 solid-phase extraction and capillary-column gas chromatography/mass spectrometry. 2001. USGS.

[14] Method O–1121–91 is in Open-File Report 91–519, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of organonitrogen herbicides in water by solid-phase extraction and capillary-column gas chromatography/mass spectrometry with selected-ion monitoring. 1992. USGS.

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TABLE IG—TEST METHODS FOR PESTICIDE ACTIVE INGREDIENTS (40 CFR PART 455)

EPA survey code	Pesticide name	CAS No.	EPA analytical method No.(s) [3]
8	Triadimefon	43121–43–3	507/633/525.1/525.2/1656
12	Dichlorvos	62–73–7	1657/507/622/525.1/525.2
16	2,4-D; 2,4-D Salts and Esters [2,4-Dichloro-phenoxy-acetic acid].	94–75–7	1658/515.1/615/515.2/555
17	2,4-DB; 2,4-DB Salts and Esters [2,4-Dichlorophenoxybutyric acid].	94–82–6	1658/515.1/615/515.2/555
22	Mevinphos	7786–34–7	1657/507/622/525.1/525.2
25	Cyanazine	21725–46–2	629/507
26	Propachlor	1918–16–7	1656/508/608.1/525.1/525.2
27	MCPA; MCPA Salts and Esters [2-Methyl-4-chlorophenoxyacetic acid].	94–74–6	1658/615/555
30	Dichlorprop; Dichlorprop Salts and Esters [2-(2,4-Dichlorophenoxy) propionic acid].	120–36–5	1658/515.1/615/515.2/555
31	MCPP; MCPP Salts and Esters [2-(2-Methyl-4-chlorophenoxy) propionic acid].	93–65–2	1658/615/555
35	TCMTB [2-(Thiocyanomethylthio) benzo-thiazole]	21564–17–0	637
39	Pronamide	23950–58–5	525.1/525.2/507/633.1
41	Propanil	709–98–8	632.1/1656
45	Metribuzin	21087–64–9	507/633/525.1/525.2/1656
52	Acephate	30560–19–1	1656/1657
53	Acifluorfen	50594–66–6	515.1/515.2/555
54	Alachlor	15972–60–8	505/507/645/525.1/525.2/1656
55	Aldicarb	116–06–3	531.1
58	Ametryn	834–12–8	507/619/525.2
60	Atrazine	1912–24–9	505/507/619/525.1/525.2/1656
62	Benomyl	17804–35–2	631
68	Bromacil; Bromacil Salts and Esters	314–40–9	507/633/525.1/525.2/1656
69	Bromoxynil	1689–84–5	1625/1661
69	Bromoxynil octanoate	1689–99–2	1656
70	Butachlor	23184–66–9	507/645/525.1/525.2/1656
73	Captafol	2425–06–1	1656
75	Carbaryl [Sevin]	63–25–2	531.1/632/553
76	Carbofuran	1563–66–2	531.1/632
80	Chloroneb	2675–77–6	1656/508/608.1/525.1/525.2
82	Chlorothalonil	1897–45–6	508/608.2/525.1/525.2/1656
84	Stirofos	961–11–5	1657/507/622/525.1/525.2
86	Chlorpyrifos	2921–88–2	1657/508/622
90	Fenvalerate	51630–58–1	1660
103	Diazinon	333–41–5	1657/507/614/622/525.2
107	Parathion methyl	298–00–0	1657/614/622
110	DCPA [Dimethyl 2,3,5,6-tetrachloro-terephthalate]	1861–32–1	508/608.2/525.1/525.2/515.1 [2]/515.2 [2]/1656

TABLE IG—TEST METHODS FOR PESTICIDE ACTIVE INGREDIENTS (40 CFR PART 455)—Continued

EPA survey code	Pesticide name	CAS No.	EPA analytical method No.(s) [3]
112	Dinoseb	88–85–7	1658/515.1/615/515.2/555
113	Dioxathion	78–34–2	1657/614.1
118	Nabonate [Disodium cyanodithio-imidocarbonate]	138–93–2	630.1
119	Diuron	330–54–1	632/553
123	Endothall	145–73–3	548/548.1
124	Endrin	72–20–8	1656/505/508/608/617/525.1/525.2
125	Ethalfluralin	55283–68–6	1656/627 See footnote 1
126	Ethion	563–12–2	1657/614/614.1
127	Ethoprop	13194–48–4	1657/507/622/525.1/525.2
132	Fenarimol	60168–88–9	507/633.1/525.1/525.2/1656
133	Fenthion	55–38–9	1657/622
138	Glyphosate [N-(Phosphonomethyl) glycine]	1071–83–6	547
140	Heptachlor	76–44–8	1656/505/508/608/617/525.1/525.2
144	Isopropalin	33820–53–0	1656/627
148	Linuron	330–55–2	553/632
150	Malathion	121–75–5	1657/614
154	Methamidophos	10265–92–6	1657
156	Methomyl	16752–77–5	531.1/632
158	Methoxychlor	72–43–5	1656/505/508/608.2/617/525.1/525.2
172	Nabam	142–59–6	630/630.1
173	Naled	300–76–5	1657/622
175	Norflurazon	27314–13–2	507/645/525.1/525.2/1656
178	Benfluralin	1861–40–1	1656/627 See footnote 1
182	Fensulfothion	115–90–2	1657/622
183	Disulfoton	298–04–4	1657/507/614/622/525.2
185	Phosmet	732–11–6	1657/622.1
186	Azinphos Methyl	86–50–0	1657/614/622
192	Organo-tin pesticides	12379–54–3	Ind-01/200.7/200.9
197	Bolstar	35400–43–2	1657/622
203	Parathion	56–38–2	1657/614
204	Pendimethalin	40487–42–1	1656
205	Pentachloronitrobenzene	82–68–8	1656/608.1/617
206	Pentachlorophenol	87–86–5	625/1625/515.2/555/515.1/525.1/525.2
208	Permethrin	52645–53–1	608.2/508/525.1/525.2/1656/1660
212	Phorate	298–02–2	1657/622
218	Busan 85 [Potassium dimethyldithiocarbamate]	128–03–0	630/630.1
219	Busan 40 [Potassium N-hydroxymethyl-N-methyldithiocarbamate].	51026–28–9	630/630.1
220	KN Methyl [Potassium N-methyl-dithiocarbamate]	137–41–7	630/630.1
223	Prometon	1610–18–0	507/619/525.2
224	Prometryn	7287–19–6	507/619/525.1/525.2
226	Propazine	139–40–2	507/619/525.1/525.2/1656
230	Pyrethrin I	121–21–1	1660
232	Pyrethrin II	121–29–9	1660
236	DEF [S,S,S-Tributyl phosphorotrithioate]	78–48–8	1657
239	Simazine	122–34–9	505/507/619/525.1/525.2/1656
241	Carbam-S [Sodium dimethyldithio-carbamate]	128–04–1	630/630.1
243	Vapam [Sodium methyldithiocarbamate]	137–42–8	630/630.1
252	Tebuthiuron	34014–18–1	507/525.1/525.2
254	Terbacil	5902–51–2	507/633/525.1/525.2/1656
255	Terbufos	13071–79–9	1657/507/614.1/525.1/525.2
256	Terbuthylazine	5915–41–3	619/1656
257	Terbutryn	886–50–0	507/619/525.1/525.2
259	Dazomet	533–74–4	630/630.1/1659
262	Toxaphene	8001–35–2	1656/505/508/608/617/525.1/525.2
263	Merphos [Tributyl phosphorotrithioate]	150–50–5	1657/507/525.1/525.2/622
264	Trifluralin [1]	1582–09–8	1656/508/617/627/525.2
268	Ziram [Zinc dimethyldithiocarbamate]	137–30–4	630/630.1

Table 1G notes:

[1] Monitor and report as total Trifluralin.

[2] Applicable to the analysis of DCPA degradates.

[3] EPA Methods 608.1 through 645, 1645 through 1661, and Ind-01 are available in Methods For The Determination of Nonconventional Pesticides In Municipal and Industrial Wastewater, Volume I, EPA 821–R–93–010A, Revision I, August 1993, U.S. EPA. EPA Methods 200.9 and 505 through 555 are available in Methods For The Determination of Nonconventional Pesticides In Municipal and Industrial Wastewater, Volume II, EPA 821–R–93–010B, August 1993, U.S. EPA. The full text of Methods 608, 625 and 1625 are provided at Appendix A of this Part 136. The full text of Method 200.7 is provided at Appendix C of this Part 136.

TABLE IH—LIST OF APPROVED MICROBIOLOGICAL METHODS FOR AMBIENT WATER

Parameter and units	Method [1]	EPA	Standard methods	AOAC, ASTM, USGS	Other
Bacteria:					
1. Coliform (fecal), number per 100 mL or number per gram dry weight.	Most Probable Number (MPN), 5 tube, 3 dilution, or.	p. 132 [3]	9221 C E–2006.		
	Membrane filter (MF) [2], single step.	p. 124 [3]	9222 D–1997	B–0050–85 [4]	
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or.	p. 132 [3]	9221 C E–2006.		
	MF [2], single step [5]	p. 124 [3]	9222 D–1997.		
3. Coliform (total), number per 100 mL.	MPN, 5 tube, 3 dilution, or.	p. 114 [3]	9221 B–2006.		
	MF [2], single step or two step.	p. 108 [3]	9222 B–1997	B–0025–85 [4]	
4. Coliform (total), in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or.	p. 114 [3]	9221 B–2006.		
	MF [2] with enrichment ...	p. 111 [3]	9222 (B+B.5c)–1997.		
5. *E. coli,* number per 100 mL.	MPN [6,8,14], multiple tube, or.	.....	9221 B.1–2006/9221 F–2006 [11,13].		
	Multiple tube/multiple well, or.	.....	9223 B–2004 [12]	991.15 [10]	Colilert®[12,16], Colilert-18®[12,15,16].
	MF [2,5,6,7,8], two step, or	1103.1 [19] ...	9222 B–1997/9222 G–1997 [18], 9213 D–2007.	D5392–93 [9].	
	Single step	1603 [20], 1604 [21].	.....	.....	mColiBlue-24®[17].
6. Fecal streptococci, number per 100 mL.	MPN, 5 tube, 3 dilution, or.	p. 139 [3]	9230 B–2007.		
	MF [2], or	p. 136 [3]	9230 C–2007	B–0055–85 [4].	
	Plate count	p. 143 [3].			
7. Enterococci, number per 100 mL.	MPN [6,8], multiple tube/multiple well, or.	.....	.....	D6503–99 [9]	Enterolert®[12,22].
	MF [2,5,6,7,8] two step, or	1106.1 [23] ...	9230 C–2007	D5259–92 [9].	
	Single step, or	1600 [24]	9230 C–2007.		
	Plate count	p. 143 [3].			
Protozoa:					
8. *Cryptosporidium* ..	Filtration/IMS/FA	1622 [25], 1623 [26].			
9. *Giardia*	Filtration/IMS/FA	1623 [26]			

Table 1H notes:

[1] The method must be specified when results are reported.

[2] A 0.45-μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] Microbiological Methods for Monitoring the Environment, Water, and Wastes. EPA/600/8–78/017. 1978. US EPA.

[4] U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. USGS.

[5] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[6] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[7] When the MF method has not been used previously to test waters with high turbidity, large numbers of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[8] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[9] Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. 2000, 1999, 1996. ASTM International.

[10] Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. 1995. AOAC International.

[11] The multiple-tube fermentation test is used in 9221B.1–2006. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[12] These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme β-glucuronidase produced by *E. coli.*

[13] After prior enrichment in a presumptive medium for total coliform using 9221B.1–2006, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F–2006. Commercially available EC–MUG media or EC media supplemented in the laboratory with 50 μg/mL of MUG may be used.

[14] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray®/2000, and the MPN calculated from the table provided by the manufacturer.

[15] Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 h of incubation at 35 °C, rather than the 24 h required for the Colilert® test, and is recommended for marine water samples.

[16] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray®/2000 may be obtained from IDEXX Laboratories Inc.

[17] A description of the mColiBlue24® test may be obtained from Hach Company.

[18] Subject total coliform positive samples determined by 9222B–1997 or other membrane filter procedure to 9222G–1997 using NA–MUG media.

[19] Method 1103.1: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using membrane-Thermotolerant *Escherichia coli* Agar (mTEC), EPA–821–R–10–002. March 2010. US EPA.

[20] Method 1603: *Escherichia coli* (*E. coli*) in Water by Membrane Filtration Using Modified membrane-Thermotolerant *Escherichia coli* Agar (Modified mTEC), EPA–821–R–09–007. December 2009. US EPA.

[21] Preparation and use of MI agar with a standard membrane filter procedure is set forth in the article, Brenner et al. 1993. New Medium for the Simultaneous Detection of Total Coliform and *Escherichia coli* in Water. Appl. Environ. Microbiol. 59:3534–3544 and in Method 1604: Total Coliforms and *Escherichia coli* (*E. coli*) in Water by Membrane Filtration by Using a Simultaneous Detection Technique (MI Medium), EPA 821–R–02–024, September 2002, US EPA.

[22] A description of the Enterolert® test may be obtained from IDEXX Laboratories Inc.

[23] Method 1106.1: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus-Esculin Iron Agar (mE–EIA), EPA–821–R–09–015. December 2009. US EPA.

[24] Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI), EPA–821–R–09–016. December 2009. US EPA.

[25] Method 1622 uses a filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of *Cryptosporidium.* Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA, EPA–821–R–05–001. December 2005. US EPA.

[26] Method 1623 uses a filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of *Cryptosporidium* and *Giardia* oocysts and cysts. Method 1623. *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA. EPA–821–R–05–002. December 2005. US EPA.

(b) The documents required in this section are incorporated by reference into this section with approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed in paragraph (b) of this section. Documents may be inspected at EPA's Water Docket, EPA West, 1301 Constitution Avenue NW., Room B102, Washington, DC (Telephone: 202–566–2426); or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. These test procedures are incorporated as they exist on the day of approval and a notice of any change in these test procedures will be published in the **Federal Register**. The full texts of the methods from the following references which are cited in Tables IA, IB, IC, ID, IE, IF, IG and IH are incorporated by reference into this regulation and may be obtained from the source identified. All costs cited are subject to change and must be verified from the indicated source.

(1) Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati OH (US EPA). Available at *http://water.epa.gov/scitech/methods/cwa/index.cfm* or from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161

(i) Microbiological Methods for Monitoring the Environment, Water, and Wastes. 1978. EPA/600/8–78/017, Pub. No. PB–290329/A.S.

(A) Part III Analytical Methodology, Section B Total Coliform Methods, page 108. Table IA, Note 3; Table IH, Note 3.

(B) Part III Analytical Methodology, Section B Total Coliform Methods, 2.6.2 Two-Step Enrichment Procedure, page 111. Table IA, Note 3; Table IH, Note 3.

(C) Part III Analytical Methodology, Section B Total Coliform Methods, 4 Most Probable Number (MPN) Method, page 114. Table IA, Note 3; Table IH, Note 3.

(D) Part III Analytical Methodology, Section C Fecal Coliform Methods, 2 Direct Membrane Filter (MF) Method, page 124. Table IA, Note 3; Table IH, Note 3.

(E) Part III, Analytical Methodology, Section C Fecal Coliform Methods, 5 Most Probable Number (MPN) Method, page 132. Table IA, Note 3; Table IH, Note 3.

(F) Part III Analytical Methodology, Section D Fecal Streptococci, 2 Membrane Filter (MF) Method, page 136. Table IA, Note 3; Table IH, Note 3.

(G) Part III Analytical Methodology, Section D Fecal Streptococci, 4 Most Probable Number Method, page 139. Table IA, Note 3; Table IH, Note 3.

(H) Part III Analytical Methodology, Section D Fecal Streptococci, 5 Pour Plate Method, page 143. Table IA, Note 3; Table IH, Note 3.

(ii) [Reserved]

(2) Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati OH (US EPA). Available at *http://water.epa.gov/scitech/methods/cwa/index.cfm*.

(i) Method 300.1 (including Errata Cover Sheet, April 27, 1999), Determination of Inorganic Ions in Drinking Water by Ion Chromatography, Revision 1.0, 1997. Table IB, Note 52.

(ii) Method 551, Determination of Chlorination Disinfection Byproducts and Chlorinated Solvents in Drinking Water by Liquid-Liquid Extraction and Gas Chromatography With Electron-Capture Detection. 1990. Table IF.

(3) National Exposure Risk Laboratory-Cincinnati, U.S. Environmental Protection Agency, Cincinnati OH (US EPA). Available from *http://water.epa.gov/scitech/methods/cwa/index.cfm* or from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. Telephone: 800–553–6847.

(i) Methods for the Determination of Inorganic Substances in Environmental Samples. August 1993. EPA/600/R–93/100, Pub. No. PB 94120821. Table IB, Note 52.

(A) Method 180.1, Determination of Turbidity by Nephelometry. Revision 2.0. Table IB, Note 52.

(B) Method 300.0, Determination of Inorganic Anions by Ion Chromatography. Revision 2.1. Table IB, Note 52.

(C) Method 335.4, Determination of Total Cyanide by Semi-Automated Colorimetry. Revision 1.0. Table IB, Notes 52 and 57.

(D) Method 350.1, Determination of Ammonium Nitrogen by Semi-Automated Colorimetry. Revision 2.0. Table IB, Notes 30 and 52.

(E) Method 351.2, Determination of Total Kjeldahl Nitrogen by Semi-Automated Colorimetry. Revision 2.0. Table IB, Note 52.

(F) Method 353.2, Determination of Nitrate-Nitrite Automated Colorimetry. Revision 2.0. Table IB, Note 52.

(G) Method 365.1, Determination of Phosphorus by Automated Colorimetry. Revision 2.0. Table IB, Note 52.

(H) Method 375.2, Determination of Sulfate by Automated Colorimetry. Revision 2.0. Table IB, Note 52.

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(viii) ASTM D516–07, Standard Test Method for Sulfate Ion in Water, September 2007. Table IB.

(ix) ASTM D858–07, Standard Test Methods for Manganese in Water. August 2007. Table IB.

(x) ASTM D859–05, Standard Test Method for Silica in Water. February 2005. Table IB.

(xi) ASTM D888–09, Standard Test Methods for Dissolved Oxygen in Water. December 2009. Table IB.

(xii) ASTM D1067–06, Standard Test Methods for Acidity or Alkalinity of Water. January 2007. Table IB.

(xiii) ASTM D1068–05[E1], Standard Test Methods for Iron in Water. July 2005. Table IB.

(xiv) ASTM D1125–95 (Reapproved 1999), Standard Test Methods for Electrical Conductivity and Resistivity of Water. December 1995. Table IB.

(xv) ASTM D1126–02 (Reapproved 2007)[E1], Standard Test Method for Hardness in Water. August 2007. Table IB.

(xvi) ASTM D1179–04, Standard Test Methods for Fluoride Ion in Water. July 2004. Table IB.

(xvii) ASTM D1246–05, Standard Test Method for Bromide Ion in Water. February 2005. Table IB.

(xviii) ASTM D1252–06, Standard Test Methods for Chemical Oxygen Demand (Dichromate Oxygen Demand) of Water. February 2006. Table IB.

(xix) ASTM D1253–08, Standard Test Method for Residual Chlorine in Water. October 2008. Table IB.

(xx) ASTM D1293–99, Standard Test Methods for pH of Water. March 2000. Table IB.

(xxi) ASTM D1426–08, Standard Test Methods for Ammonia Nitrogen in Water. September 2008. Table IB.

(xxii) ASTM D1687–02 (Reapproved 2007)[E1], Standard Test Methods for Chromium in Water. August 2007. Table IB.

(xxiii) ASTM D1688–07, Standard Test Methods for Copper in Water. August 2007. Table IB.

(xxiv) ASTM D1691–02 (Reapproved 2007)[E1], Standard Test Methods for Zinc in Water. August 2007. Table IB.

(xxv) ASTM D1783–01 (Reapproved 2007), Standard Test Methods for Phenolic Compounds in Water. January 2008). Table IB.

(xxvi) ASTM D1886–08, Standard Test Methods for Nickel in Water. October 2008. Table IB.

(xxvii) ASTM D1889–00, Standard Test Method for Turbidity of Water. October 2000. Table IB.

(xxviii) ASTM D1890–96, Standard Test Method for Beta Particle Radioactivity of Water. April 1996. Table IE.

(xxix) ASTM D1943–96, Standard Test Method for Alpha Particle Radioactivity of Water. April 1996. Table IE.

(xxx) ASTM D1976–07, Standard Test Method for Elements in Water by Inductively-Coupled Argon Plasma Atomic Emission Spectroscopy. August 2007. Table IB.

(xxxi) ASTM D2036–09, Standard Test Methods for Cyanides in Water. October 2009. Table IB.

(xxxii) ASTM D2330–02, Standard Test Method for Methylene Blue Active Substances. August 2002. Table IB.

(xxxiii) ASTM D2460–97, Standard Test Method for Alpha-Particle-Emitting Isotopes of Radium in Water. October 1997. Table IE.

(xxxiv) ASTM D2972–08, Standard Tests Method for Arsenic in Water. October 2008. Table IB.

(xxxv) ASTM D3223–02 (Reapproved 2007)[E1], Standard Test Method for Total Mercury in Water. August 2007. Table IB.

(xxxvi) ASTM D3371–95, Standard Test Method for Nitriles in Aqueous Solution by Gas-Liquid Chromatography, February 1996. Table IF.

(xxxvii) ASTM D3373–03 (Reapproved 2007)[E1], Standard Test Method for Vanadium in Water. September 2007. Table IB.

(xxxviii) ASTM D3454–97, Standard Test Method for Radium-226 in Water. February 1998. Table IE.

(xxxix) ASTM D3557–02 (Reapproved 2007)[E1], Standard Test Method for Cadmium in Water. September 2007. Table IB.

(xl) ASTM D3558–08, Standard Test Method for Cobalt in Water. November 2008. Table IB.

(xli) ASTM D3559–08, Standard Test Methods for Lead in Water. October 2008. Table IB.

(xlii) ASTM D3590–02 (Reapproved 2006), Standard Test Methods for Total Kjeldahl Nitrogen in Water. February 2007. Table IB.

(xliii) ASTM D3645–08, Standard Test Methods for Beryllium in Water. October 2008. Table IB.

(xliv) ASTM D3695–95, Standard Test Method for Volatile Alcohols in Water by Direct Aqueous-Injection Gas Chromatography. April 1995. Table IF.

(xlv) ASTM D3859–08, Standard Test Methods for Selenium in Water. October 2008. Table IB.

(xlvi) ASTM D3867–04, Standard Test Method for Nitrite-Nitrate in Water. July 2004. Table IB.

(xlvii) ASTM D4190–08, Standard Test Method for Elements in Water by Direct-Current Plasma Atomic Emission Spectroscopy. October 2008. Table IB.

(xlviii) ASTM D4282–02, Standard Test Method for Determination of Free Cyanide in Water and Wastewater by Microdiffusion. August 2002. Table IB.

(xlix) ASTM D4327–03, Standard Test Method for Anions in Water by Chemically Suppressed Ion Chromatography. January 2003. Table IB.

(l) ASTM D4382–02 (Reapproved 2007)[E1], Standard Test Method for Barium in Water, Atomic Absorption Spectrophotometry, Graphite Furnace. September 2007. Table IB.

(li) ASTM D4657–92 (Reapproved 1998), Standard Test Method for Polynuclear Aromatic Hydrocarbons in Water. January 1993. Table IC.

(lii) ASTM D4658–08, Standard Test Method for Sulfide Ion in Water. August 2008. Table IB.

(liii) ASTM D4763–88 (Reapproved 2001), Standard Practice for Identification of Chemicals in Water by Fluorescence Spectroscopy. September 1988. Table IF.

(liv) ASTM D4839–03, Standard Test Method for Total Carbon and Organic Carbon in Water by Ultraviolet, or Persulfate Oxidation, or Both, and Infrared Detection. January 2003. Table IB.

(lv) ASTM D5257–03, Standard Test Method for Dissolved Hexavalent Chromium in Water by Ion Chromatography. January 2003. Table IB.

(lvi) ASTM D5259–92, Standard Test Method for Isolation and Enumeration of Enterococci from Water by the Membrane Filter Procedure. October 1992. Table IH, Note 9.

(lvii) ASTM D5392–93, Standard Test Method for Isolation and Enumeration of *Escherichia coli* in Water by the Two-Step Membrane Filter Procedure. September 1993. Table IH, Note 9.

(lviii) ASTM D5673–05, Standard Test Method for Elements in Water by Inductively Coupled Plasma—Mass Spectrometry. July 2005. Table IB.

(lix) ASTM D5907–03, Standard Test Method for Filterable and Nonfilterable Matter in Water. July 2003. Table IB.

(lx) ASTM D6503–99, Standard Test Method for Enterococci in Water Using Enterolert. April 2000. Table IA Note 9, Table IH, Note 9.

(lxi) ASTM. D6508–00 (Reapproved 2005)[E2], Standard Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte. April 2005. Table IB.

(lxii) ASTM. D6888–09, Standard Test Method for Available Cyanide with Ligand Displacement and Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection. October 2009. Table IB, Note 59.

(lxiii) ASTM. D6919–09, Standard Test Method for Determination of Dissolved Alkali and Alkaline Earth Cations and Ammonium in Water and Wastewater by Ion Chromatography. May 2009. Table IB.

(lxiv) ASTM. D7065–06, Standard Test Method for Determination of Nonylphenol, Bisphenol A, p-tert-Octylphenol, Nonylphenol Monoethoxylate and Nonylphenol Diethoxylate in Environmental Waters

by Gas Chromatography Mass Spectrometry. January 2007. Table IC.

(lxv) ASTM. D7237–10, Standard Test Method for Free Cyanide with Flow Injection Analysis (FIA) Utilizing Gas Diffusion Separation and Amperometric Detection. June 2010. Table IB.

(lxvi) ASTM. D7284–08, Standard Test Method for Total Cyanide in Water by Micro Distillation followed by Flow Injection Analysis with Gas Diffusion Separation and Amperometric Detection. April 2008). Table IB.

(lxvii) ASTM. D7365–09a, Standard Practice for Sampling, Preservation, and Mitigating Interferences in Water Samples for Analysis of Cyanide. October 2009. Table II, Notes 5 and 6.

(lxviii) ASTM. D7511–09^{E2}, Standard Test Method for Total Cyanide by Segmented Flow Injection Analysis, In-Line Ultraviolet Digestion and Amperometric Detection. March 2009. Table IB.

(lxix) ASTM. D7573–09, Standard Test Method for Total Carbon and Organic Carbon in Water by High Temperature Catalytic Combustion and Infrared Detection. November 2009. Table IB.

(16) Bran & Luebbe Analyzing Technologies, Inc., Elmsford NY 10523.

(i) Industrial Method Number 378–75WA, Hydrogen Ion (pH) Automated Electrode Method, Bran & Luebbe (Technicon) Auto Analyzer II. October 1976. Table IB, Note 21.

(ii) [Reserved]

(17) CEM Corporation, P.O. Box 200, Matthews NC 28106–0200.

(i) Closed Vessel Microwave Digestion of Wastewater Samples for Determination of Metals. April 16, 1992. Table IB, Note 36.

(ii) [Reserved]

(18) Craig R. Chinchilla, 900 Jorie Blvd., Suite 35, Oak Brook IL 60523. Telephone: 630–645–0600.

(i) Nitrate by Discrete Analysis Easy (1-Reagent) Nitrate Method, (Colorimetric, Automated, 1 Reagent). Revision 1, November 12, 2011. Table IB, Note 62.

(ii) [Reserved]

(19) Hach Company, P.O. Box 389, Loveland CO 80537.

(i) Method 8000, Chemical Oxygen Demand. Hach Handbook of Water Analysis. 1979. Table IB, Note 14.

(ii) Method 8008, 1,10-Phenanthroline Method using FerroVer Iron Reagent for Water. 1980. Table IB, Note 22.

(iii) Method 8009, Zincon Method for Zinc. Hach Handbook for Water Analysis. 1979. Table IB, Note 33.

(iv) Method 8034, Periodate Oxidation Method for Manganese. Hach Handbook for Water Analysis. 1979. Table IB, Note 23.

(v) Method 8506, Bicinchoninate Method for Copper. Hach Handbook of Water Analysis. 1979. Table IB, Note 19.

(vi) Method 8507, Nitrogen, Nitrite—Low Range, Diazotization Method for Water and Wastewater. 1979. Table IB, Note 25.

(vii) Hach Method 10360, Luminescence Measurement of Dissolved Oxygen in Water and Wastewater and for Use in the Determination of BOD_5 and $cBOD_5$. Revision 1.2, October 2011. Table IB, Note 63.

(viii) m-ColiBlue24® Method, for total Coliforms and *E. coli*. Revision 2, 1999. Table IA, Note 18; Table IH, Note 17.

(20) IDEXX Laboratories Inc., One Idexx Drive, Westbrook ME 04092.

(i) Colilert® Method. 2002. Table IA, Notes 17 and 18; Table IH, Notes 14, 15 and 16.

(ii) Colilert-18® Method. 2002. Table IA, Notes 17 and 18; Table IH, Notes 14, 15 and 16.

(iii) Enterolert® Method. 2002. Table IA, Note 24; Table IH, Note 12.

(iv) Quanti-Tray® Method. 2002. Table IA, Note 18; Table IH, Notes 14 and 16.

(v) Quanti-Tray®/2000 Method. 2002. Table IA, Note 18; Table IH, Notes 14 and 16.

(21) In-Situ Incorporated, 221 E. Lincoln Ave., Ft. Collins CO 80524. Telephone: 970–498–1500.

(i) In-Situ Inc. Method 1002–8–2009, Dissolved Oxygen Measurement by Optical Probe. 2009. Table IB, Note 64.

(ii) In-Situ Inc. Method 1003–8–2009, Biochemical Oxygen Demand (BOD) Measurement by Optical Probe. 2009. Table IB, Note 10.

(iii) In-Situ Inc. Method 1004–8–2009, Carbonaceous Biochemical Oxygen Demand (CBOD) Measurement by Optical Probe. 2009. Table IB, Note 35.

(22) Journal of Chromatography, Elsevier/North-Holland, Inc., Journal Information Centre, 52 Vanderbilt Avenue, New York NY 10164. (Also available from most public libraries.

(i) Direct Determination of Elemental Phosphorus by Gas-Liquid Chromatography. Addison, R.F. and R.G. Ackman. 47(3): 421–426, 1970. Table IB, Note 28.

(ii) [Reserved]

(23) Lachat Instruments, 6645 W. Mill Road, Milwaukee WI 53218, Telephone: 414–358–4200.

(i) QuikChem Method 10–204–00–1–X, Digestion and Distillation of Total Cyanide in Drinking and Wastewaters using MICRO DIST and Determination of Cyanide by Flow Injection Analysis. Revision 2.2, March 2005. Table IB, Note 56.

(ii) [Reserved]

(24) Leck Mitchell, Ph.D., P.E., 656 Independence Valley Dr., Grand Junction CO 81507. Telephone: 970–244–8661.

(i) Mitchell Method M5271, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Table IB, Note 66.

(ii) Mitchell Method M5331, Determination of Turbidity by Nephelometry. Revision 1.0, July 31, 2008. Table IB, Note 65.

(25) National Council of the Paper Industry for Air and Stream Improvements, Inc. (NCASI), 260 Madison Avenue, New York NY 10016.

(i) NCASI Technical Bulletin No. 253, An Investigation of Improved Procedures for Measurement of Mill Effluent and Receiving Water Color. December 1971. Table IB, Note 18.

(ii) [Reserved]

(26) Oceanography International Corporation, 512 West Loop, P.O. Box 2980, College Station TX 77840.

(i) OIC Chemical Oxygen Demand Method. 1978. Table IB, Note 13.

(ii) [Reserved]

(27) OI Analytical, Box 9010, College Station TX 77820–9010.

(i) Method OIA–1677–09, Available Cyanide by Ligand Exchange and Flow Injection Analysis (FIA). Copyright 2010. Table IB, Note 59.

(ii) Method PAI–DK01, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Titrimetric Detection. Revised December 22, 1994. Table IB, Note 39.

(iii) Method PAI–DK02, Nitrogen, Total Kjeldahl, Block Digestion, Steam Distillation, Colorimetric Detection. Revised December 22, 1994. Table IB, Note 40.

(iv) Method PAI–DK03, Nitrogen, Total Kjeldahl, Block Digestion, Automated FIA Gas Diffusion. Revised December 22, 1994. Table IB, Note 41.

(28) ORION Research Corporation, 840 Memorial Drive, Cambridge, Massachusetts 02138.

(i) ORION Research Instruction Manual, Residual Chlorine Electrode Model 97–70. 1977. Table IB, Note 16.

(ii) [Reserved]

(29) Technicon Industrial Systems, Tarrytown NY 10591.

(i) Industrial Method Number 379–75WE Ammonia, Automated Electrode Method, Technicon Auto Analyzer II. February 19, 1976. Table IB, Note 7.

(ii) [Reserved]

(30) Thermo Jarrell Ash Corporation, 27 Forge Parkway, Franklin MA 02038.

(i) Method AES0029. Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes. 1986, Revised 1991. Table IB, Note 34.

(ii) [Reserved]

(31) Thermo Scientific, 166 Cummings Center, Beverly MA 01915. Telephone: 1–800–225–1480. *www.thermoscientific.com*.

(i) Thermo Scientific Orion Method AQ4500, Determination of Turbidity by Nephelometry. Revision 5, March 12, 2009. Table IB, Note 67.

(ii) [Reserved]

(32) 3M Corporation, 3M Center Building 220–9E–10, St. Paul MN 55144–1000.

(i) Organochlorine Pesticides and PCBs in Wastewater Using Empore™ Disk'' Test Method 3M 0222. Revised October 28, 1994. Table IC, Note 8; Table ID, Note 8.

(ii) [Reserved]

(33) U.S. Geological Survey (USGS), U.S. Department of the Interior, Reston, Virginia. Available from USGS Books and Open-File Reports (OFR) Section, Federal Center, Box 25425, Denver, CO 80225.

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(ii) OFR 91–519, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organonitrogen Herbicides in Water by Solid-Phase Extraction and Capillary-Column Gas Chromatography/Mass Spectrometry With Selected-Ion Monitoring. 1992. Table ID, Note 14.

(iii) OFR 92–146, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Total Phosphorus by a Kjeldahl Digestion Method and an Automated Colorimetric Finish That Includes Dialysis. 1992. Table IB, Note 48.

(iv) OFR 93–125, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments. 1993. Table IB, Note 51; Table IC, Note 9.

(v) OFR 93–449, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Chromium in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1993. Table IB, Note 46.

(vi) OFR 94–37, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Triazine and Other Nitrogen-containing Compounds by Gas Chromatography with Nitrogen Phosphorus Detectors. 1994. Table ID, Note 9.

(vii) OFR 95–181, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Pesticides in Water by C-18 Solid-Phase Extraction and Capillary-Column Gas Chromatography/Mass Spectrometry With Selected-Ion Monitoring. 1995. Table ID, Note 11.

(viii) OFR 97–198, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Molybdenum in Water by Graphite Furnace Atomic Absorption Spectrophotometry. 1997. Table IB, Note 47.

(ix) OFR 98–165, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Elements in Whole-Water Digests Using Inductively Coupled Plasma-Optical Emission Spectrometry and Inductively Coupled Plasma-Mass Spectrometry. 1998. Table IB, Note 50.

(x) OFR 98–639, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Arsenic and Selenium in Water and Sediment by Graphite Furnace—Atomic Absorption Spectrometry. 1999. Table IB, Note 49.

(xi) OFR 00–170, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Ammonium Plus Organic Nitrogen by a Kjeldahl Digestion Method and an Automated Photometric Finish that Includes Digest Cleanup by Gas Diffusion. 2000. Table IB, Note 45.

(xii) Water-Resources Investigation Report 01–4098, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Moderate-Use Pesticides and Selected Degradates in Water by C-18 Solid-Phase Extraction and Gas Chromatography/Mass Spectrometry. 2001. Table ID, Note 13.

(xiii) Water-Resources Investigations Report 01–4132, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Organic Plus Inorganic Mercury in Filtered and Unfiltered Natural Water With Cold Vapor-Atomic Fluorescence Spectrometry. 2001. Table IB, Note 71.

(xiv) Water-Resources Investigation Report 01–4134, Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Pesticides in Water by Graphitized Carbon-Based Solid-Phase Extraction and High-Performance Liquid Chormatography/Mass Spectrometry. 2001. Table ID, Note 12.

(xv) Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, editors, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1979. Table IB, Note 8.

(xvi) Methods for Determination of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A1. 1989. Table IB, Note 2.

(xvii) Methods for the Determination of Organic Substances in Water and Fluvial Sediments. Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A3. 1987. Table IB, Note 24; Table ID, Note 4.

(xviii) Techniques and Methods Book 5–B1, Determination of Elements in Natural-Water, Biota, Sediment and Soil Samples Using Collision/Reaction Cell Inductively Coupled Plasma-Mass Spectrometry. Chapter 1, Section B, Methods of the National Water Quality Laboratory, Book 5, Laboratory Analysis. 2006. Table IB, Note 70.

(xix) U.S. Geological Survey Techniques of Water-Resources Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples. 1989. Table IA, Note 4; Table IH, Note 4.

(xx) Water Temperature—Influential Factors, Field Measurement and Data Presentation, Techniques of Water-Resources Investigations of the U.S. Geological Survey, Book 1, Chapter D1. 1975. Table IB, Note 32.

(34) Waters Corporation, 34 Maple Street, Milford MA 01757, Telephone: 508–482–2131, Fax: 508–482–3625.

(i) Method D6508, Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte. Revision 2, December 2000. Table IB, Note 54.

(ii) [Reserved]

* * * * *

(e) Sample preservation procedures, container materials, and maximum allowable holding times for parameters are cited in Tables IA, IB, IC, ID, IE, IF, IG, and IH are prescribed in Table II. Information in the table takes precedence over information in specific methods or elsewhere. Any person may apply for a change from the prescribed preservation techniques, container materials, and maximum holding times applicable to samples taken from a specific discharge. Applications for such limited use changes may be made by letters to the Regional Alternative Test Procedure (ATP) Program Coordinator or the permitting authority in the Region in which the discharge will occur. Sufficient data should be

provided to assure such changes in sample preservation, containers or holding times do not adversely affect the integrity of the sample. The Regional ATP Coordinator or permitting authority will review the application and then notify the applicant and the appropriate State agency of approval or rejection of the use of the alternate test procedure. A decision to approve or deny any request on deviations from the prescribed Table II requirements will be made within 90 days of receipt of the application by the Regional Administrator. An analyst may not modify any sample preservation and/or holding time requirements of an approved method unless the requirements of this section are met.

TABLE II—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter number/name	Container [1]	Preservation [2,3]	Maximum holding time [4]
Table IA—Bacterial Tests:			
1–5. Coliform, total, fecal, and *E. coli*	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5].	8 hours.[22,23]
6. Fecal streptococci	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5].	8 hours.[22]
7. Enterococci	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5].	8 hours.[22]
8. *Salmonella*	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5].	8 hours.[22]
Table IA—Aquatic Toxicity Tests:			
9–12. Toxicity, acute and chronic	P, FP, G	Cool, ≤6 °C [16]	36 hours.
Table IB—Inorganic Tests:			
1. Acidity	P, FP, G	Cool, ≤6 °C [18]	14 days.
2. Alkalinity	P, FP, G	Cool, ≤6 °C [18]	14 days.
4. Ammonia	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2.	28 days.
9. Biochemical oxygen demand	P, FP, G	Cool, ≤6 °C [18]	48 hours.
10. Boron	P, FP, or Quartz	HNO_3 to pH <2	6 months.
11. Bromide	P, FP, G	None required	28 days.
14. Biochemical oxygen demand, carbonaceous	P, FP G	Cool, ≤6 °C [18]	48 hours.
15. Chemical oxygen demand	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2.	28 days.
16. Chloride	P, FP, G	None required	28 days.
17. Chlorine, total residual	P, G	None required	Analyze within 15 minutes.
21. Color	P, FP, G	Cool, ≤6 °C [18]	48 hours.
23–24. Cyanide, total or available (or CATC) and free.	P, FP, G	Cool, ≤6 °C [18], NaOH to pH >10 [5,6], reducing agent if oxidizer present.	14 days.
25. Fluoride	P	None required	28 days.
27. Hardness	P, FP, G	HNO_3 or H_2SO_4 to pH <2	6 months.
28. Hydrogen ion (pH)	P, FP, G	None required	Analyze within 15 minutes.
31, 43. Kjeldahl and organic N	P, FP, G	Cool, ≤6 °C[18], H_2SO_4 to pH <2.	28 days.
Table IB—Metals: [7]			
18. Chromium VI	P, FP, G	Cool, ≤6 °C[18], pH = 9.3–9.7 [20].	28 days.
35. Mercury (CVAA)	P, FP, G	HNO_3 to pH <2	28 days.
35. Mercury (CVAFS)	FP, G; and FP-lined cap [17]	5 mL/L 12N HCl or 5 mL/L BrCl [17].	90 days.[17]
3, 5–8, 12, 13, 19, 20, 22, 26, 29, 30, 32–34, 36, 37, 45, 47, 51, 52, 58–60, 62, 63, 70–72, 74, 75. Metals, except boron, chromium VI, and mercury.	P, FP, G	HNO_3 to pH <2, or at least 24 hours prior to analysis [19].	6 months.
38. Nitrate	P, FP, G	Cool, ≤6 °C [18]	48 hours.
39. Nitrate-nitrite	P, FP, G	Cool, ≤6 °C[18], H_2SO_4 to pH <2.	28 days.
40. Nitrite	P, FP, G	Cool, ≤6 °C [18]	48 hours.
41. Oil and grease	G	Cool to ≤6 °C[18], HCl or H_2SO_4 to pH <2.	28 days.
42. Organic Carbon	P, FP, G	Cool to ≤6 °C [18], HCl, H_2SO_4, or H_3PO_4 to pH <2.	28 days.
44. Orthophosphate	P, FP, G	Cool, to ≤6 °C [18,24]	Filter within 15 minutes; Analyze within 48 hours.
46. Oxygen, Dissolved Probe	G, Bottle and top	None required	Analyze within 15 minutes.
47. Winkler	G, Bottle and top	Fix on site and store in dark.	8 hours.
48. Phenols	G	Cool, ≤6 °C[18], H_2SO_4 to pH <2.	28 days.
49. Phosphorous (elemental)	G	Cool, ≤6 °C [18]	48 hours.
50. Phosphorous, total	P, FP, G	Cool, ≤6 °C [18], H_2SO_4 to pH <2.	28 days.
53. Residue, total	P, FP, G	Cool, ≤6 °C [18]	7 days.
54. Residue, Filterable	P, FP, G	Cool, ≤6 °C [18]	7 days.

TABLE II—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES—Continued

Parameter number/name	Container [1]	Preservation [2,3]	Maximum holding time [4]
55. Residue, Nonfilterable (TSS)	P, FP, G	Cool, ≤6 °C [18]	7 days.
56. Residue, Settleable	P, FP, G	Cool, ≤6 °C [18]	48 hours.
57. Residue, Volatile	P, FP, G	Cool, ≤6 °C [18]	7 days.
61. Silica	P or Quartz	Cool, ≤6 °C [18]	28 days.
64. Specific conductance	P, FP, G	Cool, ≤6 °C [18]	28 days.
65. Sulfate	P, FP, G	Cool, ≤6 °C [18]	28 days.
66. Sulfide	P, FP, G	Cool, ≤6 °C [18], add zinc acetate plus sodium hydroxide to pH >9.	7 days.
67. Sulfite	P, FP, G	None required	Analyze within 15 minutes.
68. Surfactants	P, FP, G	Cool, ≤6 °C [18]	48 hours.
69. Temperature	P, FP, G	None required	Analyze.
73. Turbidity	P, FP, G	Cool, ≤6 °C [18]	48 hours.
Table IC—Organic Tests: [8]	.		
13, 18–20, 22, 24–28, 34–37, 39–43, 45–47, 56, 76, 104, 105, 108–111, 113. Purgeable Halocarbons.	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$[5].	14 days.
6, 57, 106. Purgeable aromatic hydrocarbons	G, FP-lined septum	Cool, ≤6 °C[18], 0.008% $Na_2S_2O_3$ [5], HCl to pH 2 [9].	14 days.[9]
3, 4. Acrolein and acrylonitrile	G, FP-lined septum	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$, pH to 4–5[10].	14 days.[10]
23, 30, 44, 49, 53, 77, 80, 81, 98, 100, 112. Phenols [11].	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$.	7 days until extraction, 40 days after extraction.
7, 38. Benzidines [11,12]	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$[5].	7 days until extraction.[13]
14, 17, 48, 50–52. Phthalate esters [11]	G, FP-lined cap	Cool, ≤6 °C [18]	7 days until extraction, 40 days after extraction.
82–84. Nitrosamines [11,14]	G, FP-lined cap	Cool, ≤6 °C[18], store in dark, 0.008% $Na_2S_2O_3$[5].	7 days until extraction, 40 days after extraction.
88–94. PCBs [11]	G, FP-lined cap	Cool, ≤6 °C [18]	1 year until extraction, 1 year after extraction.
54, 55, 75, 79. Nitroaromatics and isophorone [11]	G, FP-lined cap	Cool, ≤6 °C [18], store in dark, 0.008% $Na_2S_2O_3$[5].	7 days until extraction, 40 days after extraction.
1, 2, 5, 8–12, 32, 33, 58, 59, 74, 78, 99, 101. Polynuclear aromatic hydrocarbons [11].	G, FP-lined cap	Cool, ≤6 °C [18], store in dark, 0.008% $Na_2S_2O_3$[5].	7 days until extraction, 40 days after extraction.
15, 16, 21, 31, 87. Haloethers [11]	G, FP-lined cap	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$[5].	7 days until extraction, 40 days after extraction.
29, 35–37, 63–65, 107. Chlorinated hydrocarbons [11].	G, FP-lined cap	Cool, ≤6 °C [18]	7 days until extraction, 40 days after extraction.
60–62, 66–72, 85, 86, 95–97, 102, 103. CDDs/CDFs [11].	.		
Aqueous Samples: Field and Lab Preservation	G	Cool, ≤6 °C [18], 0.008% $Na_2S_2O_3$[5], pH <9.	1 year.
Solids and Mixed-Phase Samples: Field Preservation.	G	Cool, ≤6 °C [18]	7 days.
Tissue Samples: Field Preservation	G	Cool, ≤6 °C [18]	24 hours.
Solids, Mixed-Phase, and Tissue Samples: Lab Preservation.	G	Freeze, ≤ −10 °C	1 year.
114–118. Alkylated phenols	G	Cool, <6 °C, H_2SO_4 to pH <2.	28 days until extraction, 40 days after extraction.
119. Adsorbable Organic Halides (AOX)	G	Cool, <6 °C, 0.008% $Na_2S_2O_3$ HNO_3 to pH <2.	Hold *at least* 3 days, but not more than 6 months.
120. Chlorinated Phenolics		Cool, <6 °C, 0.008% $Na_2S_2O_3$ H_2SO_4 to pH <2.	30 days until acetylation, 30 days after acetylation.
Table ID—Pesticides Tests:			
1–70. Pesticides [11]	G, FP-lined cap	Cool, ≤6 °C[18], pH 5–9–[15]	7 days until extraction, 40 days after extraction.
Table IE—Radiological Tests:			
1–5. Alpha, beta, and radium	P, FP, G	HNO_3 to pH <2	6 months.
Table IH—Bacterial Tests:			
1. *E. coli*	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$[5].	8 hours.[22]
2. Enterococci	PA, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5].	8 hours.[22]
Table IH—Protozoan Tests:	.		
8. *Cryptosporidium*	LDPE; field filtration	1–10 °C	96 hours.[21]
9. *Giardia*	LDPE; field filtration	1–10 °C	96 hours.[21]

[1] "P" is for polyethylene; "FP" is fluoropolymer (polytetrafluoroethylene (PTFE); Teflon®), or other fluoropolymer, unless stated otherwise in this Table II; "G" is glass; "PA" is any plastic that is made of a sterilizable material (polypropylene or other autoclavable plastic); "LDPE" is low density polyethylene.

[2] Except where noted in this Table II and the method for the parameter, preserve each grab sample within 15 minutes of collection. For a composite sample collected with an automated sample (*e.g.,* using a 24-hour composite sample; see 40 CFR 122.21(g)(7)(i) or 40 CFR Part 403, Appendix E), refrigerate the sample at ≤ 6 °C during collection unless specified otherwise in this Table II or in the method(s). For a composite sample to be split into separate aliquots for preservation and/or analysis, maintain the sample at ≤ 6 °C, unless specified otherwise in this Table II or in the method(s), until collection, splitting, and preservation is completed. Add the preservative to the sample container prior to sample collection when the preservative will not compromise the integrity of a grab sample, a composite sample, or aliquot split from a composite sample within 15 minutes of collection. If a composite measurement is required but a composite sample would compromise sample integrity, individual grab samples must be collected at prescribed time intervals (*e.g.,* 4 samples over the course of a day, at 6-hour intervals). Grab samples must be analyzed separately and the concentrations averaged. Alternatively, grab samples may be collected in the field and composited in the laboratory if the compositing procedure produces results equivalent to results produced by arithmetic averaging of results of analysis of individual grab samples. For examples of laboratory compositing procedures, see EPA Method 1664 Rev. A (oil and grease) and the procedures at 40 CFR 141.34(f)(14)(iv) and (v) (volatile organics).

[3] When any sample is to be shipped by common carrier or sent via the U.S. Postal Service, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirement of Table II, the Office of Hazardous Materials, Materials Transportation Bureau, Department of Transportation has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater; Nitric acid (HNO_3) in water solutions at concentrations of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions at concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before the start of analysis and still be considered valid. Samples may be held for longer periods only if the permittee or monitoring laboratory has data on file to show that, for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under Sec. 136.3(e). For a grab sample, the holding time begins at the time of collection. For a composite sample collected with an automated sampler (*e.g.,* using a 24-hour composite sampler; see 40 CFR 122.21(g)(7)(i) or 40 CFR part 403, Appendix E), the holding time begins at the time of the end of collection of the composite sample. For a set of grab samples composited in the field or laboratory, the holding time begins at the time of collection of the last grab sample in the set. Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the sample for a shorter time if it knows that a shorter time is necessary to maintain sample stability. See 136.3(e) for details. The date and time of collection of an individual grab sample is the date and time at which the sample is collected. For a set of grab samples to be composited, and that are all collected on the same calendar date, the date of collection is the date on which the samples are collected. For a set of grab samples to be composited, and that are collected across two calendar dates, the date of collection is the dates of the two days; *e.g.,* November 14–15. For a composite sample collected automatically on a given date, the date of collection is the date on which the sample is collected. For a composite sample collected automatically, and that is collected across two calendar dates, the date of collection is the dates of the two days; *e.g.,* November 14–15. For static-renewal toxicity tests, each grab or composite sample may also be used to prepare test solutions for renewal at 24 h, 48 h, and/or 72 h after first use, if stored at 0–6 °C, with minimum head space.

[5] ASTM D7365–09a specifies treatment options for samples containing oxidants (e.g., chlorine). Also, Section 9060A of Standard Methods for the Examination of Water and Wastewater (20th and 21st editions) addresses dechlorination procedures.

[6] Sampling, preservation and mitigating interferences in water samples for analysis of cyanide are described in ASTM D7365–09a. There may be interferences that are not mitigated by the analytical test methods or D7365–09a. Any technique for removal or suppression of interference may be employed, provided the laboratory demonstrates that it more accurately measures cyanide through quality control measures described in the analytical test method. Any removal or suppression technique not described in D7365–09a or the analytical test method must be documented along with supporting data.

[7] For dissolved metals, filter grab samples within 15 minutes of collection and before adding preservatives. For a composite sample collected with an automated sampler (*e.g.,* using a 24-hour composite sampler; see 40 CFR 122.21(g)(7)(i) or 40 CFR Part 403, Appendix E), filter the sample within 15 minutes after completion of collection and before adding preservatives. If it is known or suspected that dissolved sample integrity will be compromised during collection of a composite sample collected automatically over time (*e.g.,* by interchange of a metal between dissolved and suspended forms), collect and filter grab samples to be composited (footnote 2) in place of a composite sample collected automatically.

[8] Guidance applies to samples to be analyzed by GC, LC, or GC/MS for specific compounds.

[9] If the sample is not adjusted to pH 2, then the sample must be analyzed within seven days of sampling.

[10] The pH adjustment is not required if acrolein will not be measured. Samples for acrolein receiving no pH adjustment must be analyzed within 3 days of sampling.

[11] When the extractable analytes of concern fall within a single chemical category, the specified preservative and maximum holding times should be observed for optimum safeguard of sample integrity (*i.e.,* use all necessary preservatives and hold for the shortest time listed). When the analytes of concern fall within two or more chemical categories, the sample may be preserved by cooling to ≤ 6 °C, reducing residual chlorine with 0.008% sodium thiosulfate, storing in the dark, and adjusting the pH to 6–9; samples preserved in this manner may be held for seven days before extraction and for forty days after extraction. Exceptions to this optional preservation and holding time procedure are noted in footnote 5 (regarding the requirement for thiosulfate reduction), and footnotes 12, 13 (regarding the analysis of benzidine).

[12] If 1,2-diphenylhydrazine is likely to be present, adjust the pH of the sample to 4.0 ± 0.2 to prevent rearrangement to benzidine.

[13] Extracts may be stored up to 30 days at < 0 °C.

[14] For the analysis of diphenylnitrosamine, add 0.008% $Na_2S_2O_3$ and adjust pH to 7–10 with NaOH within 24 hours of sampling.

[15] The pH adjustment may be performed upon receipt at the laboratory and may be omitted if the samples are extracted within 72 hours of collection. For the analysis of aldrin, add 0.008% $Na_2S_2O_3$.

[16] Place sufficient ice with the samples in the shipping container to ensure that ice is still present when the samples arrive at the laboratory. However, even if ice is present when the samples arrive, immediately measure the temperature of the samples and confirm that the preservation temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature cannot be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature. Aqueous samples must not be frozen. Hand-delivered samples used on the day of collection do not need to be cooled to 0 to 6 °C prior to test initiation.

[17] Samples collected for the determination of trace level mercury (<100 ng/L) using EPA Method 1631 must be collected in tightly-capped fluoropolymer or glass bottles and preserved with BrCl or HCl solution within 48 hours of sample collection. The time to preservation may be extended to 28 days if a sample is oxidized in the sample bottle. A sample collected for dissolved trace level mercury should be filtered in the laboratory within 24 hours of the time of collection. However, if circumstances preclude overnight shipment, the sample should be filtered in a designated clean area in the field in accordance with procedures given in Method 1669. If sample integrity will not be maintained by shipment to and filtration in the laboratory, the sample must be filtered in a designated clean area in the field within the time period necessary to maintain sample integrity. A sample that has been collected for determination of total or dissolved trace level mercury must be analyzed within 90 days of sample collection.

[18] Aqueous samples must be preserved at ≤ 6 °C, and should not be frozen unless data demonstrating that sample freezing does not adversely impact sample integrity is maintained on file and accepted as valid by the regulatory authority. Also, for purposes of NPDES monitoring, the specification of "≤ °C" is used in place of the "4 °C" and "< 4 °C" sample temperature requirements listed in some methods. It is not necessary to measure the sample temperature to three significant figures (1/100th of 1 degree); rather, three significant figures are specified so that rounding down to 6 °C may not be used to meet the ≤6 °C requirement. The preservation temperature does not apply to samples that are analyzed immediately (less than 15 minutes).

[19] An aqueous sample may be collected and shipped without acid preservation. However, acid must be added at least 24 hours before analysis to dissolve any metals that adsorb to the container walls. If the sample must be analyzed within 24 hours of collection, add the acid immediately (see footnote 2). Soil and sediment samples do not need to be preserved with acid. The allowances in this footnote supersede the preservation and holding time requirements in the approved metals methods.

[20] To achieve the 28-day holding time, use the ammonium sulfate buffer solution specified in EPA Method 218.6. The allowance in this footnote supersedes preservation and holding time requirements in the approved hexavalent chromium methods, unless this supersession would compromise the measurement, in which case requirements in the method must be followed.

[21] Holding time is calculated from time of sample collection to elution for samples shipped to the laboratory in bulk and calculated from the time of sample filtration to elution for samples filtered in the field.

[22] Sample analysis should begin as soon as possible after receipt; sample incubation must be started no later than 8 hours from time of collection.

[23] For fecal coliform samples for sewage sludge (biosolids) only, the holding time is extended to 24 hours for the following sample types using either EPA Method 1680 (LTB–EC) or 1681 (A–1): Class A composted, Class B aerobically digested, and Class B anaerobically digested.

[24] The immediate filtration requirement in orthophosphate measurement is to assess the dissolved or bio-available form of orthophosphorus (*i.e.,* that which passes through a 0.45-micron filter), hence the requirement to filter the sample immediately upon collection (*i.e.,* within 15 minutes of collection).

■ 4. Section 136.4 is revised to read as follows:

§ 136.4 Application for and approval of alternate test procedures for nationwide use.

(a) A written application for review of an alternate test procedure (alternate method) for nationwide use may be made by letter via email or by hard copy in triplicate to the National Alternate Test Procedure (ATP) Program Coordinator (National Coordinator), Office of Science and Technology (4303T), Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Any application for an alternate test procedure (ATP) under this paragraph (a) shall:

(1) Provide the name and address of the responsible person or firm making the application.

(2) Identify the pollutant(s) or parameter(s) for which nationwide approval of an alternate test procedure is being requested.

(3) Provide a detailed description of the proposed alternate test procedure, together with references to published or other studies confirming the general applicability of the alternate test procedure for the analysis of the pollutant(s) or parameter(s) in wastewater discharges from representative and specified industrial or other categories.

(4) Provide comparability data for the performance of the proposed alternative test procedure compared to the performance of the reference method.

(b) The National Coordinator may request additional information and analyses from the applicant in order to determine whether the alternate test procedure satisfies the applicable requirements of this Part.

(c) *Approval for nationwide use.* (1) After a review of the application and any additional analyses requested from the applicant, the National Coordinator will notify the applicant, in writing, of acceptance or rejection of the alternate test procedure for nationwide use in CWA programs. If the application is not approved, the National Coordinator will specify what additional information might lead to a reconsideration of the application, and notify the Regional Alternate Test Procedure Coordinators of such rejection. Based on the National Coordinator's rejection of a proposed alternate test procedure and an assessment of any approvals for limited uses for the unapproved method, the Regional ATP Coordinator or permitting authority may decide to withdraw approval of the method for limited use in the Region.

(2) Where the National Coordinator approved an applicant's request for nationwide use of an alternate test procedure, the National Coordinator will notify the applicant that the National Coordinator will recommend rulemaking to approve the alternate test procedure. The National Coordinator will notify the Regional ATP Coordinator or permitting authorities that they may consider approval of this alternate test procedure for limited use in their Regions based on the information and data provided in the applicant's application. The Regional ATP Coordinator or permitting authority will grant approval on a case-by-case basis prior to use of the alternate test procedure for compliance analyses until the alternate test procedure is approved by publication in a final rule in the **Federal Register**.

(3) EPA will propose to amend 40 CFR Part 136 to include the alternate test procedure in § 136.3. EPA shall make available for review all the factual bases for its proposal, including any performance data submitted by the applicant and any available EPA analysis of those data.

(4) Following public comment, EPA shall publish in the **Federal Register** a final decision on whether to amend 40 CFR Part 136 to include the alternate test procedure as an approved analytical method.

(5) Whenever the National Coordinator has approved an applicant's request for nationwide use of an alternate test procedure, any person may request an approval of the method for limited use under § 136.5 from the EPA Region.

■ 5. Section 136.5 is revised to read as follows:

§ 136.5 Approval of alternate test procedures for limited use.

(a) Any person may request the Regional Alternate Test Procedure (ATP) Coordinator or permitting authority to approve the use of an alternate test procedure in the Region.

(b) When the request for the use of an alternate test procedure concerns use in a State with an NPDES permit program approved pursuant to section 402 of the Act, the requestor shall first submit an application for limited use to the Director of the State agency having responsibility for issuance of NPDES permits within such State (*i.e.,* permitting authority). The Director will forward the application to the Regional ATP Coordinator or permitting authority with a recommendation for or against approval.

(c) Any application for approval of an alternate test procedure for limited use may be made by letter, email or by hard copy. The application shall include the following:

(1) Provide the name and address of the applicant and the applicable ID number of the existing or pending permit and issuing agency for which use of the alternate test procedure is requested, and the discharge serial number.

(2) Identify the pollutant or parameter for which approval of an alternate test procedure is being requested.

(3) Provide justification for using testing procedures other than those specified in Tables IA through IH of § 136.3, or in the NPDES permit.

(4) Provide a detailed description of the proposed alternate test procedure, together with references to published studies of the applicability of the alternate test procedure to the effluents in question.

(5) Provide comparability data for the performance of the proposed alternate test procedure compared to the performance of the reference method.

(d) *Approval for limited use.* (1) After a review of the application by the Alternate Test Procedure Regional ATP Coordinator or permitting authority, the Regional ATP Coordinator or permitting authority notifies the applicant and the appropriate State agency of approval or rejection of the use of the alternate test procedure. The approval may be restricted to use only with respect to a specific discharge or facility (and its laboratory) or, at the discretion of the Regional ATP Coordinator or permitting authority, to all discharger or facilities (and their associated laboratories) specified in the approval for the Region. If the application is not approved, the Regional ATP Coordinator or permitting authority shall specify what additional information might lead to a reconsideration of the application.

(2) The Regional ATP Coordinator or permitting authority will forward a copy of every approval and rejection notification to the National Alternate Test Procedure Coordinator.

■ 6. Section 136.6 is revised to read as follows:

§ 136.6 Method modifications and analytical requirements.

(a) *Definitions of terms used in this section*—(1) *Analyst* means the person or laboratory using a test procedure (analytical method) in this Part.

(2) *Chemistry of the method* means the reagents and reactions used in a test procedure that allow determination of the analyte(s) of interest in an environmental sample.

(3) *Determinative technique* means the way in which an analyte is identified and quantified (*e.g.,* colorimetry, mass spectrometry).

(4) *Equivalent performance* means that the modified method produces results that meet or exceed the QC acceptance criteria of the approved method.

(5) *Method-defined analyte* means an analyte defined solely by the method used to determine the analyte. Such an analyte may be a physical parameter, a parameter that is not a specific chemical, or a parameter that may be comprised of a number of substances. Examples of such analytes include temperature, oil and grease, total suspended solids, total phenolics, turbidity, chemical oxygen demand, and biochemical oxygen demand.

(6) *QC* means ''quality control.''

(b) *Method modifications.* (1) If the underlying chemistry and determinative technique in a modified method are essentially the same as an approved Part 136 method, then the modified method is an equivalent and acceptable alternative to the approved method provided the requirements of this section are met. However, those who develop or use a modification to an approved (Part 136) method must document that the performance of the modified method, in the matrix to which the modified method will be applied, is equivalent to the performance of the approved method. If such a demonstration cannot be made and documented, then the modified method is not an acceptable alternative to the approved method. Supporting documentation must, if applicable, include the routine initial demonstration of capability and ongoing QC including determination of precision and accuracy, detection limits, and matrix spike recoveries. Initial demonstration of capability typically includes analysis of four replicates of a mid-level standard and a method detection limit study. Ongoing quality control typically includes method blanks, mid-level laboratory control samples, and matrix spikes (QC is as specified in the method). The method is considered equivalent if the quality control requirements in the reference method are achieved. The method user's Standard Operating Procedure (SOP) must clearly document the modifications made to the reference method. Examples of allowed method modifications are listed in this section. The user must notify their permitting authority of the intent to use a modified method. Such notification should be of the form ''Method xxx has been modified within the flexibility allowed in 40 CFR 136.6.'' The user may indicate the specific paragraph of § 136.6 allowing the method modification. However, specific details of the modification need not be provided, but must be documented in the Standard Operating Procedure (SOP). If the method user is uncertain whether a method modification is allowed, the Regional ATP Coordinator or permitting authority should be contacted for approval *prior* to implementing the modification. The method user should also complete necessary performance checks to verify that acceptable performance is achieved with the method modification *prior* to analyses of compliance samples.

(2) *Requirements.* The modified method must be sufficiently sensitive and meet or exceed performance of the approved method(s) for the analyte(s) of interest, as documented by meeting the initial and ongoing quality control requirements in the method.

(i) *Requirements for establishing equivalent performance.* If the approved method contains QC tests and QC acceptance criteria, the modified method must use these QC tests and the modified method must meet the QC acceptance criteria with the following conditions:

(A) The analyst may only rely on QC tests and QC acceptance criteria in a method if it includes wastewater matrix QC tests and QC acceptance criteria (*e.g.,* matrix spikes) and both initial (start-up) and ongoing QC tests and QC acceptance criteria.

(B) If the approved method does not contain QC tests and QC acceptance criteria or if the QC tests and QC acceptance criteria in the method do not meet the requirements of this section, then the analyst must employ QC tests published in the ''equivalent'' of a Part 136 method that has such QC, or the essential QC requirements specified at 136.7, as applicable. If the approved method is from a compendium or VCSB and the QA/QC requirements are published in other parts of that organization's compendium rather than within the Part 136 method then that part of the organization's compendium must be used for the QC tests.

(C) In addition, the analyst must perform ongoing QC tests, including assessment of performance of the modified method on the sample matrix (*e.g.,* analysis of a matrix spike/matrix spike duplicate pair for every twenty samples), and analysis of an ongoing precision and recovery sample (*e.g.,* laboratory fortified blank or blank spike) and a blank with each batch of 20 or fewer samples.

(D) If the performance of the modified method in the wastewater matrix or reagent water does not meet or exceed the QC acceptance criteria, the method modification may not be used.

(ii) *Requirements for documentation.* The modified method must be documented in a method write-up or an addendum that describes the modification(s) to the approved method prior to the use of the method for compliance purposes. The write-up or addendum must include a reference number (*e.g.,* method number), revision number, and revision date so that it may be referenced accurately. In addition, the organization that uses the modified method must document the results of QC tests and keep these records, along with a copy of the method write-up or addendum, for review by an auditor.

(3) *Restrictions.* An analyst may not modify an approved Clean Water Act analytical method for a method-defined

analyte. In addition, an analyst may not modify an approved method if the modification would result in measurement of a different form or species of an analyte. Changes in method procedures are not allowed if such changes would alter the defined chemistry (*i.e.,* method principle) of the unmodified method. For example, phenol method 420.1 or 420.4 defines phenolics as ferric iron oxidized compounds that react with 4-aminoantipyrine (4-AAP) at pH 10 after being distilled from acid solution. Because total phenolics represents a group of compounds that all react at different efficiencies with 4-AAP, changing test conditions likely would change the behavior of these different phenolic compounds. An analyst may not modify any sample collection, preservation, or holding time requirements of an approved method. Such modifications to sample collection, preservation, and holding time requirements do not fall within the scope of the flexibility allowed at § 136.6. Method flexibility refers to modifications of the analytical procedures used for identification and measurement of the analyte only and does not apply to sample collection, preservation, or holding time procedures, which may only be modified as specified in § 136.3(e).

(4) *Allowable changes.* Except as noted under paragraph (b)(3) of this section, an analyst may modify an approved test procedure (analytical method) provided that the underlying reactions and principles used in the approved method remain essentially the same, and provided that the requirements of this section are met. If equal or better performance can be obtained with an alternative reagent, then it is allowed. A laboratory wishing to use these modifications must demonstrate acceptable method performance by performing and documenting all applicable initial demonstration of capability and ongoing QC tests and meeting all applicable QC acceptance criteria as described in § 136.7. Some examples of the allowed types of changes, provided the requirements of this section are met include:

(i) Changes between manual method, flow analyzer, and discrete instrumentation.

(ii) Changes in chromatographic columns or temperature programs.

(iii) Changes between automated and manual sample preparation, such as digestions, distillations, and extractions; in-line sample preparation is an acceptable form of automated sample preparation for CWA methods.

(iv) In general, ICP–MS is a sensitive and selective detector for metal analysis; however isobaric interference can cause problems for quantitative determination, as well as identification based on the isotope pattern. Interference reduction technologies, such as collision cells or reaction cells, are designed to reduce the effect of spectroscopic interferences that may bias results for the element of interest. The use of interference reduction technologies is allowed, provided the method performance specifications relevant to ICP–MS measurements are met.

(v) The use of EPA Method 200.2 or the sample preparation steps from EPA Method 1638, including the use of closed-vessel digestion, is allowed for EPA Method 200.8, provided the method performance specifications relevant to the ICP–MS are met.

(vi) Changes in pH adjustment reagents. Changes in compounds used to adjust pH are acceptable as long as they do not produce interference. For example, using a different acid to adjust pH in colorimetric methods.

(vii) Changes in buffer reagents are acceptable provided that the changes do not produce interferences.

(viii) Changes in the order of reagent addition are acceptable provided that the change does not alter the chemistry and does not produce an interference. For example, using the same reagents, but adding them in different order, or preparing them in combined or separate solutions (so they can be added separately), is allowed, provided reagent stability or method performance is equivalent or improved.

(ix) Changes in calibration range (provided that the modified range covers any relevant regulatory limit and the method performance specifications for calibration are met).

(x) Changes in calibration model. (A) Linear calibration models do not adequately fit calibration data with one or two inflection points. For example, vendor-supplied data acquisition and processing software on some instruments may provide quadratic fitting functions to handle such situations. If the calibration data for a particular analytical method routinely display quadratic character, using quadratic fitting functions may be acceptable. In such cases, the minimum number of calibrators for second order fits should be six, and in no case should concentrations be extrapolated for instrument responses that exceed that of the most concentrated calibrator. Examples of methods with nonlinear calibration functions include chloride by SM4500–Cl–E–1997, hardness by EPA Method 130.1, cyanide by ASTM D6888 or OIA1677, Kjeldahl nitrogen by PAI–DK03, and anions by EPA Method 300.0.

(B) As an alternative to using the average response factor, the quality of the calibration may be evaluated using the Relative Standard Error (RSE). The acceptance criterion for the RSE is the same as the acceptance criterion for Relative Standard Deviation (RSD), in the method. RSE is calculated as:

$$\%\,RSE = 100 \times \sqrt{\frac{\sum_{i=1}^{n}\left[\frac{x_i' - x_i}{x_i}\right]^2}{(n-p)}}$$

Where:

x'_i = Calculated concentration at level i

x_i = Actual concentration of the calibration level i

n = Number of calibration points

p = Number of terms in the fitting equation (average = 1, linear = 2, quadratic = 3)

(C) Using the RSE as a metric has the added advantage of allowing the same numerical standard to be applied to the calibration model, regardless of the form of the model. Thus, if a method states that the RSD should be ≤20% for the traditional linear model through the origin, then the RSE acceptance limit can remain ≤20% as well. Similarly, if a method provides an RSD acceptance limit of ≤15%, then that same figure can be used as the acceptance limit for the RSE. The RSE may be used as an alternative to correlation coefficients and coefficients of determination for evaluating calibration curves for any of

the methods at Part 136. If the method includes a numerical criterion for the RSD, then the same numerical value is used for the RSE. Some older methods do not include any criterion for the calibration curve—for these methods, if RSE is used the value should be ≤20%. Note that the use of the RSE is included as an alternative to the use of the correlation coefficient as a measure of the suitability of a calibration curve. It is not necessary to evaluate both the RSE and the correlation coefficient.

(xi) Changes in equipment such as equipment from a vendor different from the one specified in the method.

(xii) The use of micro or midi distillation apparatus in place of macro distillation apparatus.

(xiii) The use of prepackaged reagents.

(xiv) The use of digital titrators and methods where the underlying chemistry used for the determination is similar to that used in the approved method.

(xv) Use of selected ion monitoring (SIM) mode for analytes that cannot be effectively analyzed in full-scan mode and reach the required sensitivity. False positives are more of a concern when using SIM analysis, so at a minimum, one quantitation and two qualifying ions must be monitored for each analyte (unless fewer than three ions with intensity greater than 15% of the base peak are available). The ratio of each of the two qualifying ions to the quantitation ion must be evaluated and should agree with the ratio observed in an authentic standard within ±20 percent. Analyst judgment must be applied to the evaluation of ion ratios because the ratios can be affected by co-eluting compounds present in the sample matrix. The signal-to-noise ratio of the least sensitive ion should be at least 3:1. Retention time in the sample should match within 0.05 minute of an authentic standard analyzed under identical conditions. Matrix interferences can cause minor shifts in retention time and may be evident as shifts in the retention times of the internal standards. The total scan time should be such that a minimum of eight scans are obtained per chromatographic peak.

(xvi) Changes are allowed in purge-and-trap sample volumes or operating conditions. Some examples are:

(A) Changes in purge time and purge-gas flow rate. A change in purge time and purge-gas flow rate is allowed provided that sufficient total purge volume is used to achieve the required minimum detectible concentration and calibration range for all compounds. In general, a purge rate in the range 20–200 mL/min and a total purge volume in the range 240–880 mL are recommended.

(B) Use of nitrogen or helium as a purge gas, provided that the required sensitivities for all compounds are met.

(C) Sample temperature during the purge state. Gentle heating of the sample during purging (*e.g.,* 40 °C) increases purging efficiency of hydrophilic compounds and may improve sample-to-sample repeatability because all samples are purged under precisely the same conditions.

(D) Trap sorbent. Any trap design is acceptable, provided that the data acquired meet all QC criteria.

(E) Changes to the desorb time. Shortening the desorb time (*e.g.,* from 4 minutes to 1 minute) may not affect compound recoveries, and can shorten overall cycle time and significantly reduce the amount of water introduced to the analytical system, thus improving the precision of analysis, especially for water-soluble analytes. A desorb time of four minutes is recommended, however a shorter desorb time may be used, provided that all QC specifications in the method are met.

(F) Use of water management techniques is allowed. Water is always collected on the trap along with the analytes and is a significant interference for analytical systems (GC and GC/MS). Modern water management techniques (*e.g.,* dry purge or condensation points) can remove moisture from the sample stream and improve analytical performance.

(xvii) The following modifications are allowable when performing EPA Method 625: The base/neutral and acid fractions may be added together and analyzed as one extract, provided that the analytes can be reliably identified and quantified in the combined extracts; the pH extraction sequence may be reversed to better separate acid and neutral components; neutral components may be extracted with either acid or base components; a smaller sample volume may be used to minimize matrix interferences provided matrix interferences are demonstrated and documented; alternative surrogate and internal standard concentrations other than those specified in the method are acceptable, provided that method performance is not degraded; an alternative concentration range may be used for the calibration other than the range specified in the method; the solvent for the calibration standards may be changed to match the solvent of the final sample extract.

(xviii) If the characteristics of a wastewater matrix prevent efficient recovery of organic pollutants and prevent the method from meeting QC requirements, the analyst may attempt to resolve the issue by adding salts to the sample, provided that such salts do not react with or introduce the target pollutant into the sample (as evidenced by the analysis of method blanks, laboratory control samples, and spiked samples that also contain such salts), and that all requirements of paragraph (b)(2) of this section are met. Samples having residual chlorine or other halogen must be dechlorinated prior to the addition of such salts.

(xix) If the characteristics of a wastewater matrix result in poor sample dispersion or reagent deposition on equipment and prevent the analyst from meeting QC requirements, the analyst may attempt to resolve the issue by adding a inert surfactant that does not affect the chemistry of the method, such as Brij-35 or sodium dodecyl sulfate (SDS), provided that such surfactant does not react with or introduce the target pollutant into the sample (as evidenced by the analysis of method blanks, laboratory control samples, and spiked samples that also contain such surfactant) and that all requirements of paragraph (b)(1) and (b)(2) of this section are met. Samples having residual chlorine or other halogen must be dechlorinated prior to the addition of such surfactant.

(xx) The use of gas diffusion (using pH change to convert the analyte to gaseous form and/or heat to separate an analyte contained in steam from the sample matrix) across a hydrophobic semi-permeable membrane to separate the analyte of interest from the sample matrix may be used in place of manual or automated distillation in methods for analysis such as ammonia, total cyanide, total Kjeldahl nitrogen, and total phenols. These procedures do not replace the digestion procedures specified in the approved methods and must be used in conjunction with those procedures.

(xxi) Changes in equipment operating parameters such as the monitoring wavelength of a colorimeter or the reaction time and temperature as needed to achieve the chemical reactions defined in the unmodified CWA method. For example, molybdenum blue phosphate methods have two absorbance maxima, one at about 660 nm and another at about 880 nm. The former is about 2.5 times less sensitive than the latter. Wavelength choice provides a cost-effective, dilution-free means to increase sensitivity of molybdenum blue phosphate methods.

(xxii) Interchange of oxidants, such as the use of titanium oxide in UV-assisted automated digestion of TOC and total

phosphorus, as long as complete oxidation can be demonstrated.

(xxii) Use of an axially viewed torch with Method 200.7.

■ 7. Add new § 136.7 to read as follows:

§ 136.7 Quality assurance and quality control.

The permittee/laboratory shall use suitable QA/QC procedures when conducting compliance analyses with any Part 136 chemical method or an alternative method specified by the permitting authority. These QA/QC procedures are generally included in the analytical method or may be part of the methods compendium for approved Part 136 methods from a consensus organization. For example, Standard Methods contains QA/QC procedures in the Part 1000 section of the Standard Methods Compendium. The permittee/laboratory shall follow these QA/QC procedures, as described in the method or methods compendium. If the method lacks QA/QC procedures, the permittee/laboratory has the following options to comply with the QA/QC requirements:

(a) Refer to and follow the QA/QC published in the ''equivalent'' EPA method for that parameter that has such QA/QC procedures;

(b) Refer to the appropriate QA/QC section(s) of an approved Part 136 method from a consensus organization compendium;

(c)(1) Incorporate the following twelve quality control elements, where applicable, into the laboratory's documented standard operating procedure (SOP) for performing compliance analyses when using an approved Part 136 method when the method lacks such QA/QC procedures. One or more of the twelve QC elements may not apply to a given method and may be omitted if a written rationale is provided indicating why the element(s) is/are inappropriate for a specific method.

(i) Demonstration of Capability (DOC);

(ii) Method Detection Limit (MDL);

(iii) Laboratory reagent blank (LRB), also referred to as method blank (MB);

(iv) Laboratory fortified blank (LFB), also referred to as a spiked blank, or laboratory control sample (LCS);

(v) Matrix spike (MS) and matrix spike duplicate (MSD), or laboratory fortified matrix (LFM) and LFM duplicate, may be used for suspected matrix interference problems to assess precision;

(vi) Internal standards (for GC/MS analyses), surrogate standards (for organic analysis) or tracers (for radiochemistry);

(vii) Calibration (initial and continuing), also referred to as initial calibration verification (ICV) and continuing calibration verification (CCV);

(viii) Control charts (or other trend analyses of quality control results);

(ix) Corrective action (root cause analysis);

(x) QC acceptance criteria;

(xi) Definitions of preparation and analytical batches that may drive QC frequencies; and

(xii) Minimum frequency for conducting all QC elements.

(2) These twelve quality control elements must be clearly documented in the written standard operating procedure for each analytical method not containing QA/QC procedures, where applicable.

■ 8. Revise Appendix C to Part 136 to read as follows.

APPENDIX C TO PART 136—DETERMINATION OF METALS AND TRACE ELEMENTS IN WATER AND WASTES BY INDUCTIVELY COUPLED PLASMA–ATOMIC EMISSION SPECTROMETRY METHOD 200.7

1.0 Scope and Application

1.1 Inductively coupled plasma-atomic emission spectrometry (ICP–AES) is used to determine metals and some nonmetals in solution. This method is a consolidation of existing methods for water, wastewater, and solid wastes.[1–4] (For analysis of petroleum products see References 5 and 6, Section 16.0). This method is applicable to the following analytes:

Analyte	Chemical abstract services registry number (CASRN)
Aluminum (Al)	7429–90–5
Antimony (Sb)	7440–36–0
Arsenic (As)	7440–38–2
Barium (Ba)	7440–39–3
Beryllium (Be)	7440–41–7
Boron (B)	7440–42–8
Cadmium (Cd)	7440–43–9
Calcium (Ca)	7440–70–2
Cerium [a] (Cr)	7440–45–1
Chromium (Cr)	7440–47–3
Cobalt (Co)	7440–48–4
Copper (Cu)	7440–50–8
Iron (Fe)	7439–89–6
Lead (Pb)	7439–92–1
Lithium (Li)	7439–93–2
Magnesium (Mg)	7439–95–4
Manganese (Mn)	7439–96–5
Mercury (Hg)	7439–97–6
Molybdenum (Mo)	7439–98–7
Nickel (Ni)	7440–02–0
Phosphorus (P)	7723–14–0
Potassium (K)	7440–09–7
Selenium (Se)	7782–49–2
Silica [b] (SiO_2)	7631–86–9
Silver (Ag)	7440–22–4
Sodium (Na)	7440–23–5
Strontium (Sr)	7440–24–6
Thallium (Tl)	7440–28–0
Tin (Sn)	7440–31–5
Titanium (Ti)	7440–32–6
Vanadium (V)	7440–62–2
Zinc (Zn)	7440–66–6

[a] Cerium has been included as method analyte for correction of potential interelement spectral interference.

[b] This method is *not* suitable for the determination of silica in solids.

1.2 For reference where this method is approved for use in compliance monitoring programs [*e.g.,* Clean Water Act (NPDES) or Safe Drinking Water Act (SDWA)] consult both the appropriate sections of the Code of Federal Regulation (40 CFR Part 136 Table 1B for NPDES, and Part 141 § 141.23 for drinking water), and the latest **Federal Register** announcements.

1.3 ICP–AES can be used to determine dissolved analytes in aqueous samples after suitable filtration and acid preservation. To reduce potential interferences, dissolved solids should be <0.2% (w/v) (Section 4.2).

1.4 With the exception of silver, where this method is approved for the determination of certain metal and metalloid contaminants in drinking water, samples may be analyzed directly by pneumatic nebulization without acid digestion if the sample has been properly preserved with acid and has turbidity of <1 NTU at the time of analysis. This total recoverable determination procedure is referred to as ''direct analysis''. However, in the determination of some primary drinking water metal contaminants, preconcentration of the sample may be required prior to analysis in order to meet drinking water acceptance performance criteria (Sections 11.2.2 through 11.2.7).

1.5 For the determination of total recoverable analytes in aqueous and solid samples a digestion/extraction is required prior to analysis when the elements are not in solution (*e.g.,* soils, sludges, sediments and aqueous samples that may contain particulate and suspended solids). Aqueous samples containing suspended or particulate material 1% (w/v) should be extracted as a solid type sample.

1.6 When determining boron and silica in aqueous samples, only plastic, PTFE or quartz labware should be used from time of sample collection to completion of analysis. For accurate determination of boron in solid samples only quartz or PTFE beakers should be used during acid extraction with immediate transfer of an extract aliquot to a plastic centrifuge tube following dilution of the extract to volume. When possible, borosilicate glass should be avoided to prevent contamination of these analytes.

1.7 Silver is only slightly soluble in the presence of chloride unless there is a sufficient chloride concentration to form the soluble chloride complex. Therefore, low recoveries of silver may occur in samples, fortified sample matrices and even fortified blanks if determined as a dissolved analyte or by ''direct analysis'' where the sample has not been processed using the total recoverable mixed acid digestion. For this reason it is recommended that samples be digested prior to the determination of silver.

The total recoverable sample digestion procedure given in this method is suitable for the determination of silver in aqueous samples containing concentrations up to 0.1 mg/L. For the analysis of wastewater samples containing higher concentrations of silver, succeeding smaller volume, well mixed aliquots should be prepared until the analysis solution contains <0.1 mg/L silver. The extraction of solid samples containing concentrations of silver >50 mg/kg should be treated in a similar manner. Also, the extraction of tin from solid samples should be prepared again using aliquots <1 g when determined sample concentrations exceed 1%.

1.8 The total recoverable sample digestion procedure given in this method will solubilize and hold in solution only minimal concentrations of barium in the presence of free sulfate. For the analysis of barium in samples having varying and unknown concentrations of sulfate, analysis should be completed as soon as possible after sample preparation.

1.9 The total recoverable sample digestion procedure given in this method is not suitable for the determination of volatile organo-mercury compounds. However, if digestion is not required (turbidity <1 NTU), the combined concentrations of inorganic and organo-mercury in solution can be determined by ''direct analysis'' pneumatic nebulization provided the sample solution is adjusted to contain the same mixed acid (HNO_3 + HCl) matrix as the total recoverable calibration standards and blank solutions.

1.10 Detection limits and linear ranges for the elements will vary with the wavelength selected, the spectrometer, and the matrices. Table 1 provides estimated instrument detection limits for the listed wavelengths.[7] However, actual method detection limits and linear working ranges will be dependent on the sample matrix, instrumentation, and selected operating conditions.

1.11 Users of the method data should state the data-quality objectives prior to analysis. Users of the method must document and have on file the required initial demonstration performance data described in Section 9.2 prior to using the method for analysis.

2.0 Summary of Method

2.1 An aliquot of a well mixed, homogeneous aqueous or solid sample is accurately weighed or measured for sample processing. For total recoverable analysis of a solid or an aqueous sample containing undissolved material, analytes are first solubilized by gentle refluxing with nitric and hydrochloric acids. After cooling, the sample is made up to volume, is mixed and centrifuged or allowed to settle overnight prior to analysis. For the determination of dissolved analytes in a filtered aqueous sample aliquot, or for the ''direct analysis'' total recoverable determination of analytes in drinking water where sample turbidity is <1 NTU, the sample is made ready for analysis by the appropriate addition of nitric acid, and then diluted to a predetermined volume and mixed before analysis.

2.2 The analysis described in this method involves multielemental determinations by ICP–AES using sequential or simultaneous instruments. The instruments measure characteristic atomic-line emission spectra by optical spectrometry. Samples are nebulized and the resulting aerosol is transported to the plasma torch. Element specific emission spectra are produced by a radio-frequency inductively coupled plasma. The spectra are dispersed by a grating spectrometer, and the intensities of the line spectra are monitored at specific wavelengths by a photosensitive device. Photocurrents from the photosensitive device are processed and controlled by a computer system. A background correction technique is required to compensate for variable background contribution to the determination of the analytes. Background must be measured adjacent to the analyte wavelength during analysis. Various interferences must be considered and addressed appropriately as discussed in Sections 4.0, 7.0, 9.0, 10.0, and 11.0.

3.0 Definitions

3.1 Calibration Blank—A volume of reagent water acidified with the same acid matrix as in the calibration standards. The calibration blank is a zero standard and is used to calibrate the ICP instrument (Section 7.10.1).

3.2 Calibration Standard (CAL)—A solution prepared from the dilution of stock standard solutions. The CAL solutions are used to calibrate the instrument response with respect to analyte concentration (Section 7.9).

3.3 Dissolved Analyte—The concentration of analyte in an aqueous sample that will pass through a 0.45 µm membrane filter assembly prior to sample acidification (Section 11.1).

3.4 Field Reagent Blank (FRB)—An aliquot of reagent water or other blank matrix that is placed in a sample container in the laboratory and treated as a sample in all respects, including shipment to the sampling site, exposure to the sampling site conditions, storage, preservation, and all analytical procedures. The purpose of the FRB is to determine if method analytes or other interferences are present in the field environment (Section 8.5).

3.5 Instrument Detection Limit (IDL)—The concentration equivalent to the analyte signal which is equal to three times the standard deviation of a series of 10 replicate measurements of the calibration blank signal at the same wavelength (Table 1.).

3.6 Instrument Performance Check (IPC) Solution—A solution of method analytes, used to evaluate the performance of the instrument system with respect to a defined set of method criteria (Sections 7.11 and 9.3.4).

3.7 Internal Standard—Pure analyte(s) added to a sample, extract, or standard solution in known amount(s) and used to measure the relative responses of other method analytes that are components of the same sample or solution. The internal standard must be an analyte that is not a sample component (Section 11.5).

3.8 Laboratory Duplicates (LD1 and LD2)—Two aliquots of the same sample taken in the laboratory and analyzed separately with identical procedures. Analyses of LD1 and LD2 indicate precision associated with laboratory procedures, but not with sample collection, preservation, or storage procedures.

3.9 Laboratory Fortified Blank (LFB)—An aliquot of LRB to which known quantities of the method analytes are added in the laboratory. The LFB is analyzed exactly like a sample, and its purpose is to determine whether the methodology is in control and whether the laboratory is capable of making accurate and precise measurements (Sections 7.10.3 and 9.3.2).

3.10 Laboratory Fortified Sample Matrix (LFM)—An aliquot of an environmental sample to which known quantities of the method analytes are added in the laboratory. The LFM is analyzed exactly like a sample, and its purpose is to determine whether the sample matrix contributes bias to the analytical results. The background concentrations of the analytes in the sample matrix must be determined in a separate aliquot and the measured values in the LFM corrected for background concentrations (Section 9.4).

3.11 Laboratory Reagent Blank (LRB)—An aliquot of reagent water or other blank matrices that are treated exactly as a sample including exposure to all glassware, equipment, solvents, reagents, and internal standards that are used with other samples. The LRB is used to determine if method analytes or other interferences are present in the laboratory environment, reagents, or apparatus (Sections 7.10.2 and 9.3.1).

3.12 Linear Dynamic Range (LDR)—The concentration range over which the instrument response to an analyte is linear (Section 9.2.2).

3.13 Method Detection Limit (MDL)—The minimum concentration of an analyte that can be identified, measured, and reported with 99% confidence that the analyte concentration is greater than zero (Section 9.2.4 and Table 4.).

3.14 Plasma Solution—A solution that is used to determine the optimum height above the work coil for viewing the plasma (Sections 7.15 and 10.2.3).

3.15 Quality Control Sample (QCS)—A solution of method analytes of known concentrations which is used to fortify an aliquot of LRB or sample matrix. The QCS is obtained from a source external to the laboratory and different from the source of calibration standards. It is used to check either laboratory or instrument performance (Sections 7.12 and 9.2.3).

3.16 Solid Sample—For the purpose of this method, a sample taken from material classified as soil, sediment or sludge.

3.17 Spectral Interference Check (SIC) Solution—A solution of selected method analytes of higher concentrations which is used to evaluate the procedural routine for correcting known interelement spectral interferences with respect to a defined set of method criteria (Sections 7.13, 7.14 and 9.3.5).

3.18 Standard Addition—The addition of a known amount of analyte to the sample in order to determine the relative response of the detector to an analyte within the sample matrix. The relative response is then used to

assess either an operative matrix effect or the sample analyte concentration (Sections 9.5.1 and 11.5).

3.19 Stock Standard Solution—A concentrated solution containing one or more method analytes prepared in the laboratory using assayed reference materials or purchased from a reputable commercial source (Section 7.8).

3.20 Total Recoverable Analyte—The concentration of analyte determined either by ''direct analysis'' of an unfiltered acid preserved drinking water sample with turbidity of <1 NTU (Section 11.2.1), or by analysis of the solution extract of a solid sample or an unfiltered aqueous sample following digestion by refluxing with hot dilute mineral acid(s) as specified in the method (Sections 11.2 and 11.3).

3.21 Water Sample—For the purpose of this method, a sample taken from one of the following sources: drinking, surface, ground, storm runoff, industrial or domestic wastewater.

4.0 Interferences

4.1 Spectral interferences are caused by background emission from continuous or recombination phenomena, stray light from the line emission of high concentration elements, overlap of a spectral line from another element, or unresolved overlap of molecular band spectra.

4.1.1 Background emission and stray light can usually be compensated for by subtracting the background emission determined by measurement(s) adjacent to the analyte wavelength peak. Spectral scans of samples or single element solutions in the analyte regions may indicate not only when alternate wavelengths are desirable because of severe spectral interference, but also will show whether the most appropriate estimate of the background emission is provided by an interpolation from measurements on both sides of the wavelength peak or by the measured emission on one side or the other. The location(s) selected for the measurement of background intensity will be determined by the complexity of the spectrum adjacent to the wavelength peak. The location(s) used for routine measurement must be free of off-line spectral interference (interelement or molecular) or adequately corrected to reflect the same change in background intensity as occurs at the wavelength peak.

4.1.2 Spectral overlaps may be avoided by using an alternate wavelength or can be compensated for by equations that correct for interelement contributions, which involves measuring the interfering elements. Some potential on-line spectral interferences observed for the recommended wavelengths are given in Table 2. When operative and uncorrected, these interferences will produce false-positive determinations and be reported as analyte concentrations. The interferences listed are only those that occur between method analytes. Only interferences of a direct overlap nature that were observed with a single instrument having a working resolution of 0.035 nm are listed. More extensive information on interferant effects at various wavelengths and resolutions is available in Boumans' Tables.[8] Users may apply interelement correction factors determined on their instruments within tested concentration ranges to compensate (off-line or on-line) for the effects of interfering elements.

4.1.3 When interelement corrections are applied, there is a need to verify their accuracy by analyzing spectral interference check solutions as described in Section 7.13. Interelement corrections will vary for the same emission line among instruments because of differences in resolution, as determined by the grating plus the entrance and exit slit widths, and by the order of dispersion. Interelement corrections will also vary depending upon the choice of background correction points. Selecting a background correction point where an interfering emission line may appear should be avoided when practical. Interelement corrections that constitute a major portion of an emission signal may not yield accurate data. Users should not forget that some samples may contain uncommon elements that could contribute spectral interferences.[7,8]

4.1.4 The interference effects must be evaluated for each individual instrument whether configured as a sequential or simultaneous instrument. For each instrument, intensities will vary not only with optical resolution but also with operating conditions (such as power, viewing height and argon flow rate). When using the recommended wavelengths given in Table 1, the analyst is required to determine and document for each wavelength the effect from the known interferences given in Table 2, and to utilize a computer routine for their automatic correction on all analyses. To determine the appropriate location for off-line background correction, the user must scan the area on either side adjacent to the wavelength and record the apparent emission intensity from all other method analytes. This spectral information must be documented and kept on file. The location selected for background correction must be either free of off-line interelement spectral interference or a computer routine must be used for their automatic correction on all determinations. If a wavelength other than the recommended wavelength is used, the user must determine and document both the on-line and off-line spectral interference effect from all method analytes and provide for their automatic correction on all analyses. Tests to determine the spectral interference must be done using analyte concentrations that will adequately describe the interference. Normally, 100 mg/L single element solutions are sufficient, however, for analytes such as iron that may be found at high concentration a more appropriate test would be to use a concentration near the upper LDR limit. See Section 10.4 for required spectral interference test criteria.

4.1.5 When interelement corrections are not used, either on-going SIC solutions (Section 7.14) must be analyzed to verify the absence of interelement spectral interference or a computer software routine must be employed for comparing the determinative data to limits files for notifying the analyst when an interfering element is detected in the sample at a concentration that will produce either an apparent false positive concentration, greater than the analyte IDL, or false negative analyte concentration, less than the 99% lower control limit of the calibration blank. When the interference accounts for 10% or more of the analyte concentration, either an alternate wavelength free of interference or another approved test procedure must be used to complete the analysis. For example, the copper peak at 213.853 nm could be mistaken for the zinc peak at 213.856 nm in solutions with high copper and low zinc concentrations. For this example, a spectral scan in the 213.8 nm region would not reveal the misidentification because a single peak near the zinc location would be observed. The possibility of this misidentification of copper for the zinc peak at 213.856 nm can be identified by measuring the copper at another emission line, *e.g.,* 324.754 nm. Users should be aware that, depending upon the instrumental resolution, alternate wavelengths with adequate sensitivity and freedom from interference may not be available for all matrices. In these circumstances the analyte must be determined using another approved test procedure.

4.2 Physical interferences are effects associated with the sample nebulization and transport processes. Changes in viscosity and surface tension can cause significant inaccuracies, especially in samples containing high dissolved solids or high acid concentrations. If physical interferences are present, they must be reduced by such means as a high-solids nebulizer, diluting the sample, using a peristaltic pump, or using an appropriate internal standard element. Another problem that can occur with high dissolved solids is salt buildup at the tip of the nebulizer, which affects aerosol flow rate and causes instrumental drift. This problem can be controlled by a high-solids nebulizer, wetting the argon prior to nebulization, using a tip washer, or diluting the sample. Also, it has been reported that better control of the argon flow rates, especially for the nebulizer, improves instrument stability and precision; this is accomplished with the use of mass flow controllers.

4.3 Chemical interferences include molecular-compound formation, ionization effects, and solute-vaporization effects. Normally, these effects are not significant with the ICP–AES technique. If observed, they can be minimized by careful selection of operating conditions (such as incident power and observation height), by buffering of the sample, by matrix matching, and by standard-addition procedures. Chemical interferences are highly dependent on matrix type and the specific analyte element.

4.4 Memory interferences result when analytes in a previous sample contribute to the signals measured in a new sample. Memory effects can result from sample deposition on the uptake tubing to the nebulizer, and from the buildup of sample material in the plasma torch and spray chamber. The site where these effects occur is dependent on the element and can be minimized by flushing the system with a rinse blank between samples (Section 7.10.4). The possibility of memory interferences should be recognized within an analytical run and suitable rinse times should be used

to reduce them. The rinse times necessary for a particular element must be estimated prior to analysis. This may be achieved by aspirating a standard containing elements corresponding to either their LDR or a concentration ten times those usually encountered. The aspiration time should be the same as a normal sample analysis period, followed by analysis of the rinse blank at designated intervals. The length of time required to reduce analyte signals to within a factor of two of the method detection limit, should be noted. Until the required rinse time is established, this method requires a rinse period of at least 60 seconds between samples and standards. If a memory interference is suspected, the sample must be re-analyzed after a long rinse period.

5.0 Safety

5.1 The toxicity or carcinogenicity of each reagent used in this method have not been fully established. Each chemical should be regarded as a potential health hazard and exposure to these compounds should be as low as reasonably achievable. Each laboratory is responsible for maintaining a current awareness file of OSHA regulations regarding the safe handling of the chemicals specified in this method.[9–12] A reference file of material data handling sheets should also be made available to all personnel involved in the chemical analysis. Specifically, concentrated nitric and hydrochloric acids present various hazards and are moderately toxic and extremely irritating to skin and mucus membranes. Use these reagents in a fume hood whenever possible and if eye or skin contact occurs, flush with large volumes of water. Always wear safety glasses or a shield for eye protection, protective clothing and observe proper mixing when working with these reagents.

5.2 The acidification of samples containing reactive materials may result in the release of toxic gases, such as cyanides or sulfides. Acidification of samples should be done in a fume hood.

5.3 All personnel handling environmental samples known to contain or to have been in contact with human waste should be immunized against known disease causative agents.

5.4 The inductively coupled plasma should only be viewed with proper eye protection from the ultraviolet emissions.

5.5 It is the responsibility of the user of this method to comply with relevant disposal and waste regulations. For guidance see Sections 14.0 and 15.0.

6.0 Equipment and Supplies

6.1 Inductively coupled plasma emission spectrometer:

6.1.1 Computer-controlled emission spectrometer with background-correction capability.

The spectrometer must be capable of meeting and complying with the requirements described and referenced in Section 2.2.

6.1.2 Radio-frequency generator compliant with FCC regulations.

6.1.3 Argon gas supply—High purity grade (99.99%). When analyses are conducted frequently, liquid argon is more economical and requires less frequent replacement of tanks than compressed argon in conventional cylinders.

6.1.4 A variable speed peristaltic pump is required to deliver both standard and sample solutions to the nebulizer.

6.1.5 (Optional) Mass flow controllers to regulate the argon flow rates, especially the aerosol transport gas, are highly recommended. Their use will provide more exacting control of reproducible plasma conditions.

6.2 Analytical balance, with capability to measure to 0.1 mg, for use in weighing solids, for preparing standards, and for determining dissolved solids in digests or extracts.

6.3 A temperature adjustable hot plate capable of maintaining a temperature of 95 °C.

6.4 (Optional) A temperature adjustable block digester capable of maintaining a temperature of 95 °C and equipped with 250 mL constricted digestion tubes.

6.5 (Optional) A steel cabinet centrifuge with guard bowl, electric timer and brake.

6.6 A gravity convection drying oven with thermostatic control capable of maintaining 180 °C ± 5 °C.

6.7 (Optional) An air displacement pipetter capable of delivering volumes ranging from 0.1–2500 µL with an assortment of high quality disposable pipet tips.

6.8 Mortar and pestle, ceramic or nonmetallic material.

6.9 Polypropylene sieve, 5-mesh (4 mm opening).

6.10 Labware—For determination of trace levels of elements, contamination and loss are of prime consideration. Potential contamination sources include improperly cleaned laboratory apparatus and general contamination within the laboratory environment from dust, etc. A clean laboratory work area designated for trace element sample handling must be used. Sample containers can introduce positive and negative errors in the determination of trace elements by contributing contaminants through surface desorption or leaching, or depleting element concentrations through adsorption processes. All reusable labware (glass, quartz, polyethylene, PTFE, FEP, etc.) should be sufficiently clean for the task objectives. Several procedures found to provide clean labware include washing with a detergent solution, rinsing with tap water, soaking for four hours or more in 20% (v/v) nitric acid or a mixture of HNO_3 and HCl (1+2+9), rinsing with reagent water and storing clean.[2 3] Chromic acid cleaning solutions must be avoided because chromium is an analyte.

6.10.1 Glassware—Volumetric flasks, graduated cylinders, funnels and centrifuge tubes (glass and/or metal-free plastic).

6.10.2 Assorted calibrated pipettes.

6.10.3 Conical Phillips beakers (Corning 1080–250 or equivalent), 250 mL with 50 mm watch glasses.

6.10.4 Griffin beakers, 250 mL with 75 mm watch glasses and (optional) 75 mm ribbed watch glasses.

6.10.5 (Optional) PTFE and/or quartz Griffin beakers, 250 mL with PTFE covers.

6.10.6 Evaporating dishes or high-form crucibles, porcelain, 100 mL capacity.

6.10.7 Narrow-mouth storage bottles, FEP (fluorinated ethylene propylene) with screw closure, 125 mL to 1 L capacities.

6.10.8 One-piece stem FEP wash bottle with screw closure, 125 mL capacity.

7.0 Reagents and Standards

7.1 Reagents may contain elemental impurities which might affect analytical data. Only high-purity reagents that conform to the American Chemical Society specifications[13] should be used whenever possible. If the purity of a reagent is in question, analyze for contamination. All acids used for this method must be of ultra high-purity grade or equivalent. Suitable acids are available from a number of manufacturers. Redistilled acids prepared by sub-boiling distillation are acceptable.

7.2 Hydrochloric acid, concentrated (sp.gr. 1.19)—HCl.

7.2.1 Hydrochloric acid (1+1)—Add 500 mL concentrated HCl to 400 mL reagent water and dilute to 1 L.

7.2.2 Hydrochloric acid (1+4)—Add 200 mL concentrated HCl to 400 mL reagent water and dilute to 1 L.

7.2.3 Hydrochloric acid (1+20)—Add 10 mL concentrated HCl to 200 mL reagent water.

7.3 Nitric acid, concentrated (sp.gr. 1.41)—HNO_3.

7.3.1 Nitric acid (1+1)—Add 500 mL concentrated HNO_3 to 400 mL reagent water and dilute to 1 L.

7.3.2 Nitric acid (1+2)—Add 100 mL concentrated HNO_3 to 200 mL reagent water.

7.3.3 Nitric acid (1+5)—Add 50 mL concentrated HNO_3 to 250 mL reagent water.

7.3.4 Nitric acid (1+9)—Add 10 mL concentrated HNO_3 to 90 mL reagent water.

7.4 Reagent water. All references to water in this method refer to ASTM Type I grade water.[14]

7.5 Ammonium hydroxide, concentrated (sp.gr. 0.902).

7.6 Tartaric acid, ACS reagent grade.

7.7 Hydrogen peroxide, 50%, stabilized certified reagent grade.

7.8 Standard Stock Solutions—Stock standards may be purchased or prepared from ultra-high purity grade chemicals (99.99–99.999% pure). All compounds must be dried for one hour at 105 °C, unless otherwise specified. It is recommended that stock solutions be stored in FEP bottles. Replace stock standards when succeeding dilutions for preparation of calibration standards cannot be verified.

CAUTION: Many of these chemicals are extremely toxic if inhaled or swallowed (Section 5.1). Wash hands thoroughly after handling.

Typical stock solution preparation procedures follow for 1 L quantities, but for the purpose of pollution prevention, the analyst is encouraged to prepare smaller quantities when possible. Concentrations are calculated based upon the weight of the pure element or upon the weight of the compound multiplied by the fraction of the analyte in the compound

From pure element,

$$\text{Concentration} = \frac{\text{weight (mg)}}{\text{volume (L)}}$$

From pure compound,

$$\text{Concentration} = \frac{\text{weight (mg)} \times \text{gravimetric factor}}{\text{volume (L)}}$$

where: gravimetric factor = the weight fraction of the analyte in the compound

7.8.1 Aluminum solution, stock, 1 mL = 1000 µg Al: Dissolve 1.000 g of aluminum metal, weighed accurately to at least four significant figures, in an acid mixture of 4.0 mL of (1+1) HCl and 1 mL of concentrated HNO_3 in a beaker. Warm beaker slowly to effect solution. When dissolution is complete, transfer solution quantitatively to a 1 L flask, add an additional 10.0 mL of (1+1) HCl and dilute to volume with reagent water.

7.8.2 Antimony solution, stock, 1 mL = 1000 µg Sb: Dissolve 1.000 g of antimony powder, weighed accurately to at least four significant figures, in 20.0 mL (1+1) HNO_3 and 10.0 mL concentrated HCl. Add 100 mL reagent water and 1.50 g tartaric acid. Warm solution slightly to effect complete dissolution. Cool solution and add reagent water to volume in a 1 L volumetric flask.

7.8.3 Arsenic solution, stock, 1 mL = 1000 µg As: Dissolve 1.320 g of As_2O_3 (As fraction = 0.7574), weighed accurately to at least four significant figures, in 100 mL of reagent water containing 10.0 mL concentrated NH_4OH. Warm the solution gently to effect dissolution. Acidify the solution with 20.0 mL concentrated HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.4 Barium solution, stock, 1 mL = 1000 µg Ba: Dissolve 1.437 g $BaCO_3$ (Ba fraction = 0.6960), weighed accurately to at least four significant figures, in 150 mL (1+2) HNO_3 with heating and stirring to degas and dissolve compound. Let solution cool and dilute with reagent water in 1 L volumetric flask.

7.8.5 Beryllium solution, stock, 1 mL = 1000 µg Be: *DO NOT DRY.* Dissolve 19.66 g $BeSO_4 \bullet 4H_2O$ (Be fraction = 0.0509), weighed accurately to at least four significant figures, in reagent water, add 10.0 mL concentrated HNO_3, and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.6 Boron solution, stock, 1 mL = 1000 µg B: *DO NOT DRY.* Dissolve 5.716 g anhydrous H_3BO_3 (B fraction = 0.1749), weighed accurately to at least four significant figures, in reagent water and dilute in a 1 L volumetric flask with reagent water. Transfer immediately after mixing to a clean FEP bottle to minimize any leaching of boron from the glass volumetric container. Use of a nonglass volumetric flask is recommended to avoid boron contamination from glassware.

7.8.7 Cadmium solution, stock, 1 mL = 1000 µg Cd: Dissolve 1.000 g Cd metal, acid cleaned with (1+9) HNO_3, weighed accurately to at least four significant figures, in 50 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool and dilute with reagent water in a 1 L volumetric flask.

7.8.8 Calcium solution, stock, 1 mL = 1000 µg Ca: Suspend 2.498 g $CaCO_3$ (Ca fraction = 0.4005), dried at 180 °C for one hour before weighing, weighed accurately to at least four significant figures, in reagent water and dissolve cautiously with a minimum amount of (1+1) HNO_3. Add 10.0 mL concentrated HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.9 Cerium solution, stock, 1 mL = 1000 µg Ce: Slurry 1.228 g CeO_2 (Ce fraction = 0.8141), weighed accurately to at least four significant figures, in 100 mL concentrated HNO_3 and evaporate to dryness. Slurry the residue in 20 mL H_2O, add 50 mL concentrated HNO_3, with heat and stirring add 60 mL 50% H_2O_2 dropwise in 1 mL increments allowing periods of stirring between the 1 mL additions. Boil off excess H_2O_2 before diluting to volume in a 1 L volumetric flask with reagent water.

7.8.10 Chromium solution, stock, 1 mL = 1000 µg Cr: Dissolve 1.923 g CrO_3 (Cr fraction = 0.5200), weighed accurately to at least four significant figures, in 120 mL (1+5) HNO_3. When solution is complete, dilute to volume in a 1 L volumetric flask with reagent water.

7.8.11 Cobalt solution, stock, 1 mL = 1000 µg Co: Dissolve 1.000 g Co metal, acid cleaned with (1+9) HNO_3, weighed accurately to at least four significant figures, in 50.0 mL (1+1) HNO_3. Let solution cool and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.12 Copper solution, stock, 1 mL = 1000 µg Cu: Dissolve 1.000 g Cu metal, acid cleaned with (1+9) HNO_3, weighed accurately to at least four significant figures, in 50.0 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool and dilute in a 1 L volumetric flask with reagent water.

7.8.13 Iron solution, stock, 1 mL = 1000 µg Fe: Dissolve 1.000 g Fe metal, acid cleaned with (1+1) HCl, weighed accurately to four significant figures, in 100 mL (1+1) HCl with heating to effect dissolution. Let solution cool and dilute with reagent water in a 1 L volumetric flask.

7.8.14 Lead solution, stock, 1 mL = 1000 µg Pb: Dissolve 1.599 g $Pb(NO_3)_2$ (Pb fraction = 0.6256), weighed accurately to at least four significant figures, in a minimum amount of (1+1) HNO_3. Add 20.0 mL (1+1) HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.15 Lithium solution, stock, 1 mL = 1000 µg Li: Dissolve 5.324 g Li_2CO_3 (Li fraction = 0.1878), weighed accurately to at least four significant figures, in a minimum amount of (1+1) HCl and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.16 Magnesium solution, stock, 1 mL = 1000 µg Mg: Dissolve 1.000 g cleanly polished Mg ribbon, accurately weighed to at least four significant figures, in slowly added 5.0 mL (1+1) HCl (CAUTION: reaction is vigorous). Add 20.0 mL (1+1) HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.17 Manganese solution, stock, 1 mL = 1000 µg Mn: Dissolve 1.000 g of manganese metal, weighed accurately to at least four significant figures, in 50 mL (1+1) HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.18 Mercury solution, stock, 1 mL = 1000 µg Hg: *DO NOT DRY.* CAUTION: highly toxic element. Dissolve 1.354 g $HgCl_2$ (Hg fraction = 0.7388) in reagent water. Add 50.0 mL concentrated HNO_3 and dilute to volume in 1 L volumetric flask with reagent water.

7.8.19 Molybdenum solution, stock, 1 mL = 1000 µg Mo: Dissolve 1.500 g MoO_3 (Mo fraction = 0.6666), weighed accurately to at least four significant figures, in a mixture of 100 mL reagent water and 10.0 mL concentrated NH_4OH, heating to effect dissolution. Let solution cool and dilute with reagent water in a 1 L volumetric flask.

7.8.20 Nickel solution, stock, 1 mL = 1000 µg Ni: Dissolve 1.000 g of nickel metal, weighed accurately to at least four significant figures, in 20.0 mL hot concentrated HNO_3, cool, and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.21 Phosphorus solution, stock, 1 mL = 1000 µg P: Dissolve 3.745 g $NH_4H_2PO_4$ (P fraction = 0.2696), weighed accurately to at least four significant figures, in 200 mL reagent water and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.22 Potassium solution, stock, 1 mL = 1000 µg K: Dissolve 1.907 g KCl (K fraction = 0.5244) dried at 110 °C, weighed accurately to at least four significant figures, in reagent water, add 20 mL (1+1) HCl and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.23 Selenium solution, stock, 1 mL = 1000 µg Se: Dissolve 1.405 g SeO_2 (Se fraction = 0.7116), weighed accurately to at least four significant figures, in 200 mL reagent water and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.24 Silica solution, stock, 1 mL = 1000 µg SiO_2: *DO NOT DRY.* Dissolve 2.964 g $(NH_4)_2SiF_6$, weighed accurately to at least four significant figures, in 200 mL (1+20) HCl with heating at 85 °C to effect dissolution. Let solution cool and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.25 Silver solution, stock, 1 mL = 1000 µg Ag: Dissolve 1.000 g Ag metal, weighed accurately to at least four significant figures, in 80 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool and dilute with reagent water in a 1 L volumetric flask. Store

solution in amber bottle or wrap bottle completely with aluminum foil to protect solution from light.

7.8.26 Sodium solution, stock, 1 mL = 1000 µg Na: Dissolve 2.542 g NaCl (Na fraction = 0.3934), weighed accurately to at least four significant figures, in reagent water. Add 10.0 mL concentrated HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.27 Strontium solution, stock, 1 mL = 1000 µg Sr: Dissolve 1.685 g $SrCO_3$ (Sr fraction = 0.5935), weighed accurately to at least four significant figures, in 200 mL reagent water with dropwise addition of 100 mL (1+1) HCl. Dilute to volume in a 1 L volumetric flask with reagent water.

7.8.28 Thallium solution, stock, 1 mL = 1000 µg Tl: Dissolve 1.303 g $TlNO_3$ (Tl fraction = 0.7672), weighed accurately to at least four significant figures, in reagent water. Add 10.0 mL concentrated HNO_3 and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.29 Tin solution, stock, 1 mL = 1000 µg Sn: Dissolve 1.000 g Sn shot, weighed accurately to at least four significant figures, in an acid mixture of 10.0 mL concentrated HCl and 2.0 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool, add 200 mL concentrated HCl, and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.30 Titanium solution, stock, 1 mL = 1000 µg Ti: *DO NOT DRY.* Dissolve 6.138 g $(NH_4)_2TiO(C_2O_4)_2 \bullet H_2O$ (Ti fraction = 0.1629), weighed accurately to at least four significant figures, in 100 mL reagent water. Dilute to volume in a 1 L volumetric flask with reagent water.

7.8.31 Vanadium solution, stock, 1 mL = 1000 µg V: Dissolve 1.000 g V metal, acid cleaned with (1+9) HNO_3, weighed accurately to at least four significant figures, in 50 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool and dilute with reagent water to volume in a 1 L volumetric flask.

7.8.32 Yttrium solution, stock 1 mL = 1000 µg Y: Dissolve 1.270 g Y_2O_3 (Y fraction = 0.7875), weighed accurately to at least four significant figures, in 50 mL (1+1) HNO_3, heating to effect dissolution. Cool and dilute to volume in a 1 L volumetric flask with reagent water.

7.8.33 Zinc solution, stock, 1 mL = 1000 µg Zn: Dissolve 1.000 g Zn metal, acid cleaned with (1+9) HNO_3, weighed accurately to at least four significant figures, in 50 mL (1+1) HNO_3 with heating to effect dissolution. Let solution cool and dilute with reagent water to volume in a 1 L volumetric flask.

7.9 Mixed Calibration Standard Solutions—For the analysis of total recoverable digested samples prepare mixed calibration standard solutions (see Table 3) by combining appropriate volumes of the stock solutions in 500 mL volumetric flasks containing 20 mL (1+1) HNO_3 and 20 mL (1+1) HCl and dilute to volume with reagent water. Prior to preparing the mixed standards, each stock solution should be analyzed separately to determine possible spectral interferences or the presence of impurities. Care should be taken when preparing the mixed standards to ensure that the elements are compatible and stable together. To minimize the opportunity for contamination by the containers, it is recommended to transfer the mixed-standard solutions to acid-cleaned, never-used FEP fluorocarbon (FEP) bottles for storage. Fresh mixed standards should be prepared, as needed, with the realization that concentrations can change on aging. Calibration standards not prepared from primary standards must be initially verified using a certified reference solution. For the recommended wavelengths listed in Table 1 some typical calibration standard combinations are given in Table 3.

NOTE: If the addition of silver to the recommended mixed-acid calibration standard results in an initial precipitation, add 15 mL of reagent water and warm the flask until the solution clears. For this acid combination, the silver concentration should be limited to 0.5 mg/L.

7.10 Blanks—Four types of blanks are required for the analysis. The calibration blank is used in establishing the analytical curve, the laboratory reagent blank is used to assess possible contamination from the sample preparation procedure, the laboratory fortified blank is used to assess routine laboratory performance and a rinse blank is used to flush the instrument uptake system and nebulizer between standards, check solutions, and samples to reduce memory interferences.

7.10.1 The calibration blank for aqueous samples and extracts is prepared by acidifying reagent water to the same concentrations of the acids as used for the standards. The calibration blank should be stored in a FEP bottle.

7.10.2 The laboratory reagent blank (LRB) must contain all the reagents in the same volumes as used in the processing of the samples. The LRB must be carried through the same entire preparation scheme as the samples including sample digestion, when applicable.

7.10.3 The laboratory fortified blank (LFB) is prepared by fortifying an aliquot of the laboratory reagent blank with all analytes to a suitable concentration using the following recommended criteria: Ag 0.1 mg/L, K 5.0 mg/L and all other analytes 0.2 mg/L or a concentration approximately 100 times their respective MDL, whichever is greater. The LFB must be carried through the same entire preparation scheme as the samples including sample digestion, when applicable.

7.10.4 The rinse blank is prepared by acidifying reagent water to the same concentrations of acids as used in the calibration blank and stored in a convenient manner.

7.11 Instrument Performance Check (IPC) Solution—The IPC solution is used to periodically verify instrument performance during analysis. It should be prepared in the same acid mixture as the calibration standards by combining method analytes at appropriate concentrations. Silver must be limited to <0.5 mg/L; while potassium and phosphorus because of higher MDLs and silica because of potential contamination should be at concentrations of 10 mg/L. For other analytes a concentration of 2 mg/L is recommended. The IPC solution should be prepared from the same standard stock solutions used to prepare the calibration standards and stored in an FEP bottle. Agency programs may specify or request that additional instrument performance check solutions be prepared at specified concentrations in order to meet particular program needs.

7.12 Quality Control Sample (QCS)—Analysis of a QCS is required for initial and periodic verification of calibration standards or stock standard solutions in order to verify instrument performance. The QCS must be obtained from an outside source different from the standard stock solutions and prepared in the same acid mixture as the calibration standards. The concentration of the analytes in the QCS solution should be 1 mg/L, except silver, which must be limited to a concentration of 0.5 mg/L for solution stability. The QCS solution should be stored in a FEP bottle and analyzed as needed to meet data-quality needs. A fresh solution should be prepared quarterly or more frequently as needed.

7.13 Spectral Interference Check (SIC) Solutions—When interelement corrections are applied, SIC solutions are needed containing concentrations of the interfering elements at levels that will provide an adequate test of the correction factors.

7.13.1 SIC solutions containing (a) 300 mg/L Fe; (b) 200 mg/L AL; (c) 50 mg/L Ba; (d) 50 mg/L Be; (e) 50 mg/L Cd; (f) 50 mg/L Ce; (g) 50 mg/L Co; (h) 50 mg/L Cr; (i) 50 mg/L Cu; (j) 50 mg/L Mn; (k) 50 mg/L Mo; (l) 50 mg/L Ni; (m) 50 mg/L Sn; (n) 50 mg/L SiO_2; (o) 50 mg/L Ti; (p) 50 mg/L Tl and (q) 50 mg/L V should be prepared in the same acid mixture as the calibration standards and stored in FEP bottles. These solutions can be used to periodically verify a partial list of the on-line (and possible off-line) interelement spectral correction factors for the recommended wavelengths given in Table 1. Other solutions could achieve the same objective as well. (Multielement SIC solutions[3] may be prepared and substituted for the single element solutions provided an analyte is not subject to interference from more than one interferant in the solution.)

Note: If wavelengths other than those recommended in Table 1 are used, other solutions different from those above (a through q) may be required.

7.13.2 For interferences from iron and aluminum, only those correction factors (positive or negative) when multiplied by 100 to calculate apparent analyte concentrations that exceed the determined analyte IDL or fall below the lower 3-sigma control limit of the calibration blank need be tested on a daily basis.

7.13.3 For the other interfering elements, only those correction factors (positive or negative) when multiplied by 10 to calculate apparent analyte concentrations that exceed the determined analyte IDL or fall below the lower 3-sigma control limit of the calibration blank need be tested on a daily basis.

7.13.4 If the correction routine is operating properly, the determined apparent analyte(s) concentration from analysis of each interference solution (a through q) should fall within a specific concentration range bracketing the calibration blank. This

concentration range is calculated by multiplying the concentration of the interfering element by the value of the correction factor being tested and dividing by 10. If after subtraction of the calibration blank the apparent analyte concentration is outside (above or below) this range, a change in the correction factor of more than 10% should be suspected. The cause of the change should be determined and corrected and the correction factor should be updated.

Note: The SIC solution should be analyzed more than once to confirm a change has occurred with adequate rinse time between solutions and before subsequent analysis of the calibration blank.

7.13.5 If the correction factors tested on a daily basis are found to be within the 10% criteria for five consecutive days, the required verification frequency of those factors in compliance may be extended to a weekly basis. Also, if the nature of the samples analyzed is such (*e.g.,* finished drinking water) that they do not contain concentrations of the interfering elements at the 10 mg/L level, daily verification is not required; however, all interelement spectral correction factors must be verified annually and updated, if necessary.

7.13.6 If the instrument does not display negative concentration values, fortify the SIC solutions with the elements of interest at 1 mg/L and test for analyte recoveries that are below 95%. In the absence of measurable analyte, over-correction could go undetected because a negative value could be reported as zero.

7.14 For instruments without interelement correction capability or when interelement corrections are not used, SIC solutions (containing similar concentrations of the major components in the samples, *e.g.,* 10 mg/L) can serve to verify the absence of effects at the wavelengths selected. These data must be kept on file with the sample analysis data. If the SIC solution confirms an operative interference that is 10% of the analyte concentration, the analyte must be determined using a wavelength and background correction location free of the interference or by another approved test procedure. Users are advised that high salt concentrations can cause analyte signal suppressions and confuse interference tests.

7.15 Plasma Solution—The plasma solution is used for determining the optimum viewing height of the plasma above the work coil prior to using the method (Section 10.2). The solution is prepared by adding a 5 mL aliquot from each of the stock standard solutions of arsenic, lead, selenium, and thallium to a mixture of 20 mL (1+1) nitric acid and 20 mL (1+1) hydrochloric acid and diluting to 500 mL with reagent water. Store in a FEP bottle.

8.0 Sample Collection, Preservation, and Storage

8.1 Prior to the collection of an aqueous sample, consideration should be given to the type of data required, (*i.e.,* dissolved or total recoverable), so that appropriate preservation and pretreatment steps can be taken. The pH of all aqueous samples must be tested immediately prior to aliquoting for processing or ''direct analysis'' to ensure the sample has been properly preserved. If properly acid preserved, the sample can be held up to six months before analysis.

8.2 For the determination of the dissolved elements, the sample must be filtered through a 0.45 µm pore diameter membrane filter at the time of collection or as soon thereafter as practically possible. (Glass or plastic filtering apparatus are recommended to avoid possible contamination. Only plastic apparatus should be used when the determinations of boron and silica are critical.) Use a portion of the filtered sample to rinse the filter flask, discard this portion and collect the required volume of filtrate. Acidify the filtrate with (1+1) nitric acid immediately following filtration to pH <2.

8.3 For the determination of total recoverable elements in aqueous samples, samples are not filtered, but acidified with (1+1) nitric acid to pH <2 (normally, 3 mL of (1+1) acid per liter of sample is sufficient for most ambient and drinking water samples). Preservation may be done at the time of collection, however, to avoid the hazards of strong acids in the field, transport restrictions, and possible contamination it is recommended that the samples be returned to the laboratory within two weeks of collection and acid preserved upon receipt in the laboratory. Following acidification, the sample should be mixed, held for 16 hours, and then verified to be pH <2 just prior withdrawing an aliquot for processing or ''direct analysis''. If for some reason such as high alkalinity the sample pH is verified to be >2, more acid must be added and the sample held for 16 hours until verified to be pH <2. See Section 8.1.

Note: When the nature of the sample is either unknown or is known to be hazardous, acidification should be done in a fume hood. See Section 5.2.

8.4 Solid samples require no preservation prior to analysis other than storage at 4 °C. There is no established holding time limitation for solid samples.

8.5 For aqueous samples, a field blank should be prepared and analyzed as required by the data user. Use the same container and acid as used in sample collection.

9.0 Quality Control

9.1 Each laboratory using this method is required to operate a formal quality control (QC) program. The minimum requirements of this program consist of an initial demonstration of laboratory capability, and the periodic analysis of laboratory reagent blanks, fortified blanks and other laboratory solutions as a continuing check on performance. The laboratory is required to maintain performance records that define the quality of the data thus generated.

9.2 Initial Demonstration of Performance (mandatory).

9.2.1 The initial demonstration of performance is used to characterize instrument performance (determination of linear dynamic ranges and analysis of quality control samples) and laboratory performance (determination of method detection limits) prior to analyses conducted by this method.

9.2.2 Linear dynamic range (LDR)—The upper limit of the LDR must be established for each wavelength utilized. It must be determined from a linear calibration prepared in the normal manner using the established analytical operating procedure for the instrument. The LDR should be determined by analyzing succeedingly higher standard concentrations of the analyte until the observed analyte concentration is no more than 10% below the stated concentration of the standard. Determined LDRs must be documented and kept on file. The LDR which may be used for the analysis of samples should be judged by the analyst from the resulting data. Determined sample analyte concentrations that are greater than 90% of the determined upper LDR limit must be diluted and reanalyzed. The LDRs should be verified annually or whenever, in the judgment of the analyst, a change in analytical performance caused by either a change in instrument hardware or operating conditions would dictate they be redetermined.

9.2.3 Quality control sample (QCS)—When beginning the use of this method, on a quarterly basis, after the preparation of stock or calibration standard solutions or as required to meet data-quality needs, verify the calibration standards and acceptable instrument performance with the preparation and analyses of a QCS (Section 7.12). To verify the calibration standards the determined mean concentrations from three analyses of the QCS must be within 5% of the stated values. If the calibration standard cannot be verified, performance of the determinative step of the method is unacceptable. The source of the problem must be identified and corrected before either proceeding on with the initial determination of method detection limits or continuing with on-going analyses.

9.2.4 Method detection limit (MDL)—MDLs must be established for all wavelengths utilized, using reagent water (blank) fortified at a concentration of two to three times the estimated instrument detection limit.[15] To determine MDL values, take seven replicate aliquots of the fortified reagent water and process through the entire analytical method. Perform all calculations defined in the method and report the concentration values in the appropriate units. Calculate the MDL as follows:

$$MDL = (t) \times (S)$$

Where:

t = students' t value for a 99% confidence level and a standard deviation estimate with n-1 degrees of freedom [t = 3.14 for seven replicates]

S = standard deviation of the replicate analyses

Note: If additional confirmation is desired, reanalyze the seven replicate aliquots on two more nonconsecutive days and again calculate the MDL values for each day. An average of the three MDL values for each analyte may provide for a more appropriate MDL estimate. If the relative standard deviation (RSD) from the analyses of the seven aliquots is <10%, the concentration used to determine the analyte MDL may have been inappropriately high for the determination. If so, this could result in the calculation of an unrealistically low MDL. Concurrently, determination of MDL in

reagent water represents a best case situation and does not reflect possible matrix effects of real world samples. However, successful analyses of LFMs (Section 9.4) and the analyte addition test described in Section 9.5.1 can give confidence to the MDL value determined in reagent water. Typical single laboratory MDL values using this method are given in Table 4.

The MDLs must be sufficient to detect analytes at the required levels according to compliance monitoring regulation (Section 1.2). MDLs should be determined annually, when a new operator begins work or whenever, in the judgment of the analyst, a change in analytical performance caused by either a change in instrument hardware or operating conditions would dictate they be redetermined.

9.3 Assessing Laboratory Performance (mandatory)

9.3.1 Laboratory reagent blank (LRB)—The laboratory must analyze at least one LRB (Section 7.10.2) with each batch of 20 or fewer samples of the same matrix. LRB data are used to assess contamination from the laboratory environment. LRB values that exceed the MDL indicate laboratory or reagent contamination should be suspected. When LRB values constitute 10% or more of the analyte level determined for a sample or is 2.2 times the analyte MDL whichever is greater, fresh aliquots of the samples must be prepared and analyzed again for the affected analytes after the source of contamination has been corrected and acceptable LRB values have been obtained.

9.3.2 Laboratory fortified blank (LFB)—The laboratory must analyze at least one LFB (Section 7.10.3) with each batch of samples. Calculate accuracy as percent recovery using the following equation:

$$R = \frac{LFB - LRB}{s} \times 100$$

Where:

R = percent recovery
LFB = laboratory fortified blank
LRB = laboratory reagent blank
s = concentration equivalent of analyte added to fortify the LBR solution

If the recovery of any analyte falls outside the required control limits of 85–115%, that analyte is judged out of control, and the source of the problem should be identified and resolved before continuing analyses.

9.3.3 The laboratory must use LFB analyses data to assess laboratory performance against the required control limits of 85–115% (Section 9.3.2). When sufficient internal performance data become available (usually a minimum of 20–30 analyses), optional control limits can be developed from the mean percent recovery (x) and the standard deviation (S) of the mean percent recovery. These data can be used to establish the upper and lower control limits as follows:

UPPER CONTROL LIMIT = x + 3S
LOWER CONTROL LIMIT = x − 3S

The optional control limits must be equal to or better than the required control limits of 85–115%. After each five to 10 new recovery measurements, new control limits can be calculated using only the most recent 20–30 data points. Also, the standard deviation (S) data should be used to establish an on-going precision statement for the level of concentrations included in the LFB. These data must be kept on file and be available for review.

9.3.4 Instrument performance check (IPC) solution—For all determinations the laboratory must analyze the IPC solution (Section 7.11) and a calibration blank immediately following daily calibration, after every 10th sample (or more frequently, if required) and at the end of the sample run. Analysis of the calibration blank should always be < the analyte IDL, but greater than the lower 3-sigma control limit of the calibration blank. Analysis of the IPC solution immediately following calibration must verify that the instrument is within 5% of calibration with a relative standard deviation <3% from replicate integrations 4. Subsequent analyses of the IPC solution must be within 10% of calibration. If the calibration cannot be verified within the specified limits, reanalyze either or both the IPC solution and the calibration blank. If the second analysis of the IPC solution or the calibration blank confirm calibration to be outside the limits, sample analysis must be discontinued, the cause determined, corrected and/or the instrument recalibrated. All samples following the last acceptable IPC solution must be reanalyzed. The analysis data of the calibration blank and IPC solution must be kept on file with the sample analyses data.

9.3.5 Spectral interference check (SIC) solution—For all determinations the laboratory must periodically verify the interelement spectral interference correction routine by analyzing SIC solutions. The preparation and required periodic analysis of SIC solutions and test criteria for verifying the interelement interference correction routine are given in Section 7.13. Special cases where on-going verification is required are described in Section 7.14.

9.4 Assessing Analyte Recovery and Data Quality.

9.4.1 Sample homogeneity and the chemical nature of the sample matrix can affect analyte recovery and the quality of the data. Taking separate aliquots from the sample for replicate and fortified analyses can in some cases assess the effect. Unless otherwise specified by the data user, laboratory or program, the following laboratory fortified matrix (LFM) procedure (Section 9.4.2) is required. Also, other tests such as the analyte addition test (Section 9.5.1) and sample dilution test (Section 9.5.2) can indicate if matrix effects are operative.

9.4.2 The laboratory must add a known amount of each analyte to a minimum of 10% of the routine samples. In each case the LFM aliquot must be a duplicate of the aliquot used for sample analysis and for total recoverable determinations added prior to sample preparation. For water samples, the added analyte concentration must be the same as that used in the laboratory fortified blank (Section 7.10.3). For solid samples, however, the concentration added should be expressed as mg/kg and is calculated for a one gram aliquot by multiplying the added analyte concentration (mg/L) in solution by the conversion factor 100 (mg/L × 0.1L/0.001kg = 100, Section 12.5). (For notes on Ag, Ba, and Sn see Sections 1.7 and 1.8.) Over time, samples from all routine sample sources should be fortified.

Note: The concentration of calcium, magnesium, sodium and strontium in environmental waters, along with iron and aluminum in solids can vary greatly and are not necessarily predictable. Fortifying these analytes in routine samples at the same concentration used for the LFB may prove to be of little use in assessing data quality for these analytes. For these analytes sample dilution and reanalysis using the criteria given in Section 9.5.2 is recommended. Also, if specified by the data user, laboratory or program, samples can be fortified at higher concentrations, but even major constituents should be limited to <25 mg/L so as not to alter the sample matrix and affect the analysis.

9.4.3 Calculate the percent recovery for each analyte, corrected for background concentrations measured in the unfortified sample, and compare these values to the designated LFM recovery range of 70–130% or a 3-sigma recovery range calculated from the regression equations given in Table 9.[16] Recovery calculations are not required if the concentration added is less than 30% of the sample background concentration. Percent recovery may be calculated in units appropriate to the matrix, using the following equation:

$$R = \frac{C_s - C}{s} \times 100$$

Where:

R = percent recovery
C_s = fortified sample concentration
C = sample background concentration
s = concentration equivalent of analyte added to fortify the sample

9.4.4 If the recovery of any analyte falls outside the designated LFM recovery range, and the laboratory performance for that analyte is shown to be in control (Section 9.3), the recovery problem encountered with the fortified sample is judged to be matrix related, not system related. The data user should be informed that the result for that analyte in the unfortified sample is suspect due to either the heterogeneous nature of the sample or matrix effects and analysis by method of standard addition or the use of an internal standard(s) (Section 11.5) should be considered.

9.4.5 Where reference materials are available, they should be analyzed to provide additional performance data. The analysis of reference samples is a valuable tool for demonstrating the ability to perform the method acceptably. Reference materials containing high concentrations of analytes can provide additional information on the performance of the spectral interference correction routine.

9.5 Assess the possible need for the method of standard additions (MSA) or internal standard elements by the following tests. Directions for using MSA or internal standard(s) are given in Section 11.5.

9.5.1 Analyte addition test: An analyte(s) standard added to a portion of a prepared

sample, or its dilution, should be recovered to within 85% to 115% of the known value. The analyte(s) addition should produce a minimum level of 20 times and a maximum of 100 times the method detection limit. If the analyte addition is <20% of the sample analyte concentration, the following dilution test should be used. If recovery of the analyte(s) is not within the specified limits, a matrix effect should be suspected, and the associated data flagged accordingly. The method of additions or the use of an appropriate internal standard element may provide more accurate data.

9.5.2 Dilution test: If the analyte concentration is sufficiently high (minimally, a factor of 50 above the instrument detection limit in the original solution but <90% of the linear limit), an analysis of a 1 + 4 dilution should agree (after correction for the fivefold dilution) within 10% of the original determination. If not, a chemical or physical interference effect should be suspected and the associated data flagged accordingly. The method of standard additions or the use of an internal-standard element may provide more accurate data for samples failing this test.

10.0 Calibration and Standardization

10.1 Specific wavelengths are listed in Table 1. Other wavelengths may be substituted if they can provide the needed sensitivity and are corrected for spectral interference. However, because of the difference among various makes and models of spectrometers, specific instrument operating conditions cannot be given. The instrument and operating conditions utilized for determination must be capable of providing data of acceptable quality to the program and data user. The analyst should follow the instructions provided by the instrument manufacturer unless other conditions provide similar or better performance for a task. Operating conditions for aqueous solutions usually vary from 1100–1200 watts forward power, 15–16 mm viewing height, 15–19 L/min. argon coolant flow, 0.6–1 L/min. argon aerosol flow, 1–1.8 mL/min. sample pumping rate with a one minute preflush time and measurement time near 1 s per wavelength peak (for sequential instruments) and near 10 s per sample (for simultaneous instruments). Use of the Cu/Mn intensity ratio at 324.754 nm and 257.610 nm (by adjusting the argon aerosol flow) has been recommended as a way to achieve repeatable interference correction factors.[17]

10.2 Prior to using this method optimize the plasma operating conditions. The following procedure is recommended for vertically configured plasmas. The purpose of plasma optimization is to provide a maximum signal-to-background ratio for the least sensitive element in the analytical array. The use of a mass flow controller to regulate the nebulizer gas flow rate greatly facilitates the procedure.

10.2.1 Ignite the plasma and select an appropriate incident rf power with minimum reflected power. Allow the instrument to become thermally stable before beginning. This usually requires at least 30 to 60 minutes of operation. While aspirating the 1000 µg/mL solution of yttrium (Section 7.8.32), follow the instrument manufacturer's instructions and adjust the aerosol carrier gas flow rate through the nebulizer so a definitive blue emission region of the plasma extends approximately from 5–20 mm above the top of the work coil.[18] Record the nebulizer gas flow rate or pressure setting for future reference.

10.2.2 After establishing the nebulizer gas flow rate, determine the solution uptake rate of the nebulizer in mL/min. by aspirating a known volume calibration blank for a period of at least three minutes. Divide the spent volume by the aspiration time (in minutes) and record the uptake rate. Set the peristaltic pump to deliver the uptake rate in a steady even flow.

10.2.3 After horizontally aligning the plasma and/or optically profiling the spectrometer, use the selected instrument conditions from Sections 10.2.1 and 10.2.2, and aspirate the plasma solution (Section 7.15), containing 10 µg/mL each of As, Pb, Se and Tl. Collect intensity data at the wavelength peak for each analyte at 1 mm intervals from 14–18 mm above the top of the work coil. (This region of the plasma is commonly referred to as the analytical zone.)[19] Repeat the process using the calibration blank. Determine the net signal to blank intensity ratio for each analyte for each viewing height setting. Choose the height for viewing the plasma that provides the largest intensity ratio for the least sensitive element of the four analytes. If more than one position provides the same ratio, select the position that provides the highest net intensity counts for the least sensitive element or accept a compromise position of the intensity ratios of all four analytes.

10.2.4 The instrument operating condition finally selected as being optimum should provide the lowest reliable instrument detection limits and method detection limits. Refer to Tables 1 and 4 for comparison of IDLs and MDLs, respectively.

10.2.5 If either the instrument operating conditions, such as incident power and/or nebulizer gas flow rate are changed, or a new torch injector tube having a different orifice i.d. is installed, the plasma and plasma viewing height should be reoptimized.

10.2.6 Before daily calibration and after the instrument warmup period, the nebulizer gas flow must be reset to the determined optimized flow. If a mass flow controller is being used, it should be reset to the recorded optimized flow rate. In order to maintain valid spectral interelement correction routines the nebulizer gas flow rate should be the same from day-to-day (<2% change). The change in signal intensity with a change in nebulizer gas flow rate for both ''hard'' (Pb 220.353 nm) and ''soft'' (Cu 324.754) lines is illustrated in Figure 1.

10.3 Before using the procedure (Section 11.0) to analyze samples, there must be data available documenting initial demonstration of performance. The required data and procedure is described in Section 9.2. This data must be generated using the same instrument operating conditions and calibration routine (Section 11.4) to be used for sample analysis. These documented data must be kept on file and be available for review by the data user.

10.4 After completing the initial demonstration of performance, but before analyzing samples, the laboratory must establish and initially verify an interelement spectral interference correction routine to be used during sample analysis. A general description concerning spectral interference and the analytical requirements for background correction and for correction of interelement spectral interference in particular are given in Section 4.1. To determine the appropriate location for background correction and to establish the interelement interference correction routine, repeated spectral scan about the analyte wavelength and repeated analyses of the single element solutions may be required. Criteria for determining an interelement spectral interference is an apparent positive or negative concentration on the analyte that is outside the 3-sigma control limits of the calibration blank for the analyte. (The upper-control limit is the analyte IDL.) Once established, the entire routine must be initially and periodically verified annually, or whenever there is a change in instrument operating conditions (Section 10.2.5). Only a portion of the correction routine must be verified more frequently or on a daily basis. Test criteria and required solutions are described in Section 7.13. Initial and periodic verification data of the routine should be kept on file. Special cases where on-going verification are required is described in Section 7.14.

11.0 Procedure

11.1 Aqueous Sample Preparation—Dissolved Analytes

11.1.1 For the determination of dissolved analytes in ground and surface waters, pipet an aliquot (20 mL) of the filtered, acid preserved sample into a 50 mL polypropylene centrifuge tube. Add an appropriate volume of (1 + 1) nitric acid to adjust the acid concentration of the aliquot to approximate a 1% (v/v) nitric acid solution (*e.g.,* add 0.4 mL (1 + 1) HNO_3 to a 20 mL aliquot of sample). Cap the tube and mix. The sample is now ready for analysis (Section 1.3). Allowance for sample dilution should be made in the calculations. (If mercury is to be determined, a separate aliquot must be additionally acidified to contain 1% (v/v) HCl to match the signal response of mercury in the calibration standard and reduce memory interference effects. Section 1.9).

Note: If a precipitate is formed during acidification, transport, or storage, the sample aliquot must be treated using the procedure described in Sections 11.2.2 through 11.2.7 prior to analysis.

11.2 Aqueous Sample Preparation—Total Recoverable Analytes

11.2.1 For the ''direct analysis'' of total recoverable analytes in drinking water samples containing turbidity <1 NTU, treat an unfiltered acid preserved sample aliquot using the sample preparation procedure described in Section 11.1.1 while making allowance for sample dilution in the data calculation (Section 1.2). For the determination of total recoverable analytes in all other aqueous samples or for

preconcentrating drinking water samples prior to analysis follow the procedure given in Sections 11.2.2 through 11.2.7.

11.2.2 For the determination of total recoverable analytes in aqueous samples (other than drinking water with <1 NTU turbidity), transfer a 100 mL (1 mL) aliquot from a well mixed, acid preserved sample to a 250 mL Griffin beaker (Sections 1.2, 1.3, 1.6, 1.7, 1.8, and 1.9). (When necessary, smaller sample aliquot volumes may be used.)

Note: If the sample contains *undissolved* solids >1%, a well mixed, acid preserved aliquot containing no more than 1 g particulate material should be cautiously evaporated to near 10 mL and extracted using the acid-mixture procedure described in Sections 11.3.3 through 11.3.6.

11.2.3 Add 2 mL (1+1) nitric acid and 1.0 mL of (1+1) hydrochloric acid to the beaker containing the measured volume of sample. Place the beaker on the hot plate for solution evaporation. The hot plate should be located in a fume hood and previously adjusted to provide evaporation at a temperature of approximately but no higher than 85 °C. (See the following note.) The beaker should be covered with an elevated watch glass or other necessary steps should be taken to prevent sample contamination from the fume hood environment.

Note: For proper heating adjust the temperature control of the hot plate such that an uncovered Griffin beaker containing 50 mL of water placed in the center of the hot plate can be maintained at a temperature approximately but no higher than 85 °C. (Once the beaker is covered with a watch glass the temperature of the water will rise to approximately 95 °C.)

11.2.4 Reduce the volume of the sample aliquot to about 20 mL by gentle heating at 85 °C. *DO NOT BOIL.* This step takes about two hours for a 100 mL aliquot with the rate of evaporation rapidly increasing as the sample volume approaches 20 mL. (A spare beaker containing 20 mL of water can be used as a gauge.)

11.2.5 Cover the lip of the beaker with a watch glass to reduce additional evaporation and gently reflux the sample for 30 minutes. (Slight boiling may occur, but vigorous boiling must be avoided to prevent loss of the HCl-H_2O azeotrope.)

11.2.6 Allow the beaker to cool. Quantitatively transfer the sample solution to a 50 mL volumetric flask, make to volume with reagent water, stopper and mix.

11.2.7 Allow any undissolved material to settle overnight, or centrifuge a portion of the prepared sample until clear. (If after centrifuging or standing overnight the sample contains suspended solids that would clog the nebulizer, a portion of the sample may be filtered for their removal prior to analysis. However, care should be exercised to avoid potential contamination from filtration.) The sample is now ready for analysis. Because the effects of various matrices on the stability of diluted samples cannot be characterized, all analyses should be performed as soon as possible after the completed preparation.

11.3 Solid Sample Preparation—Total Recoverable Analytes

11.3.1 For the determination of total recoverable analytes in solid samples, mix the sample thoroughly and transfer a portion (>20 g) to tared weighing dish, weigh the sample and record the wet weight (WW). (For samples with <35% moisture a 20 g portion is sufficient. For samples with moisture >35% a larger aliquot 50–100 g is required.) Dry the sample to a constant weight at 60 °C and record the dry weight (DW) for calculation of percent solids (Section 12.6). (The sample is dried at 60 °C to prevent the loss of mercury and other possible volatile metallic compounds, to facilitate sieving, and to ready the sample for grinding.)

11.3.2 To achieve homogeneity, sieve the dried sample using a 5-mesh polypropylene sieve and grind in a mortar and pestle. (The sieve, mortar and pestle should be cleaned between samples.) From the dried, ground material weigh accurately a representative 1.0 ± 0.01 g aliquot (W) of the sample and transfer to a 250 mL Phillips beaker for acid extraction (Sections 1.6, 1.7, 1.8, and 1.9).

11.3.3 To the beaker add 4 mL of (1+1) HNO_3 and 10 mL of (1+4) HCl. Cover the lip of the beaker with a watch glass. Place the beaker on a hot plate for reflux extraction of the analytes. The hot plate should be located in a fume hood and previously adjusted to provide a reflux temperature of approximately 95 °C. (See the following note.)

Note: For proper heating adjust the temperature control of the hot plate such that an uncovered Griffin beaker containing 50 mL of water placed in the center of the hot plate can be maintained at a temperature approximately but no higher than 85 °C. (Once the beaker is covered with a watch glass the temperature of the water will rise to approximately 95 °C.) Also, a block digester capable of maintaining a temperature of 95 °C and equipped with 250 mL constricted volumetric digestion tubes may be substituted for the hot plate and conical beakers in the extraction step.

11.3.4 Heat the sample and gently reflux for 30 minutes. Very slight boiling may occur, however vigorous boiling must be avoided to prevent loss of the HCl-H_2O azeotrope. Some solution evaporation will occur (3–4 mL).

11.3.5 Allow the sample to cool and quantitatively transfer the extract to a 100 mL volumetric flask. Dilute to volume with reagent water, stopper and mix.

11.3.6 Allow the sample extract solution to stand overnight to separate insoluble material or centrifuge a portion of the sample solution until clear. (If after centrifuging or standing overnight the extract solution contains suspended solids that would clog the nebulizer, a portion of the extract solution may be filtered for their removal prior to analysis. However, care should be exercised to avoid potential contamination from filtration.) The sample extract is now ready for analysis. Because the effects of various matrices on the stability of diluted samples cannot be characterized, all analyses should be performed as soon as possible after the completed preparation.

11.4 Sample Analysis

11.4.1 Prior to daily calibration of the instrument inspect the sample introduction system including the nebulizer, torch, injector tube and uptake tubing for salt deposits, dirt and debris that would restrict solution flow and affect instrument performance. Clean the system when needed or on a daily basis.

11.4.2 Configure the instrument system to the selected power and operating conditions as determined in Sections 10.1 and 10.2.

11.4.3 The instrument must be allowed to become thermally stable before calibration and analyses. This usually requires at least 30 to 60 minutes of operation. After instrument warmup, complete any required optical profiling or alignment particular to the instrument.

11.4.4 For initial and daily operation calibrate the instrument according to the instrument manufacturer's recommended procedures, using mixed calibration standard solutions (Section 7.9) and the calibration blank (Section 7.10.1). A peristaltic pump must be used to introduce all solutions to the nebulizer. To allow equilibrium to be reached in the plasma, aspirate all solutions for 30 seconds after reaching the plasma before beginning integration of the background corrected signal to accumulate data. When possible, use the average value of replicate integration periods of the signal to be correlated to the analyte concentration. Flush the system with the rinse blank (Section 7.10.4) for a minimum of 60 seconds (Section 4.4) between each standard. The calibration line should consist of a minimum of a calibration blank and a high standard. Replicates of the blank and highest standard provide an optimal distribution of calibration standards to minimize the confidence band for a straight-line calibration in a response region with uniform variance.[20]

11.4.5 After completion of the initial requirements of this method (Sections 10.3 and 10.4), samples should be analyzed in the same operational manner used in the calibration routine with the rinse blank also being used between all sample solutions, LFBs, LFMs, and check solutions (Section 7.10.4).

11.4.6 During the analysis of samples, the laboratory must comply with the required quality control described in Sections 9.3 and 9.4. Only for the determination of dissolved analytes or the ''direct analysis'' of drinking water with turbidity of <1 NTU is the sample digestion step of the LRB, LFB, and LFM not required.

11.4.7 Determined sample analyte concentrations that are 90% or more of the upper limit of the analyte LDR must be diluted with reagent water that has been acidified in the same manner as calibration blank and reanalyzed (see Section 11.4.8). Also, for the interelement spectral interference correction routines to remain valid during sample analysis, the interferant concentration must not exceed its LDR. If the interferant LDR is exceeded, sample dilution with acidified reagent water and reanalysis is required. In these circumstances analyte detection limits are raised and determination by another approved test procedure that is either more sensitive and/or interference free is recommended.

11.4.8 When it is necessary to assess an operative matrix interference (*e.g.,* signal reduction due to high dissolved solids), the tests described in Section 9.5 are recommended.

11.4.9 Report data as directed in Section 12.0.

11.5 If the method of standard additions (MSA) is used, standards are added at one or more levels to portions of a prepared sample. This technique [21] compensates for enhancement or depression of an analyte signal by a matrix. It will not correct for additive interferences such as contamination, interelement interferences, or baseline shifts. This technique is valid in the linear range when the interference effect is constant over the range, the added analyte responds the same as the endogenous analyte, and the signal is corrected for additive interferences. The simplest version of this technique is the single-addition method. This procedure calls for two identical aliquots of the sample solution to be taken. To the first aliquot, a small volume of standard is added; while to the second aliquot, a volume of acid blank is added equal to the standard addition. The sample concentration is calculated by the following:

$$\text{Sample Conc. (mg/L or mg/kg)} = \frac{S_2 \times V_1 \times C}{(S_1 - S_2) \times V_2}$$

Where:

C = Concentration of the standard solution (mg/L)

S_1 = Signal for fortified aliquot

S_2 = Signal for unfortified aliquot

V_1 = Volume of the standard addition (L)

V_2 = Volume of the sample aliquot (L) used for MSA

For more than one fortified portion of the prepared sample, linear regression analysis can be applied using a computer or calculator program to obtain the concentration of the sample solution. An alternative to using the method of standard additions is use of the internal standard technique by adding one or more elements (not in the samples and verified not to cause an uncorrected interelement spectral interference) at the same concentration (which is sufficient for optimum precision) to the prepared samples (blanks and standards) that are affected the same as the analytes by the sample matrix. Use the ratio of analyte signal to the internal standard signal for calibration and quantitation.

12.0 Data Analysis and Calculations

12.1 Sample data should be reported in units of mg/L for aqueous samples and mg/kg dry weight for solid samples.

12.2 For dissolved aqueous analytes (Section 11.1) report the data generated directly from the instrument with allowance for sample dilution. Do not report analyte concentrations below the IDL.

12.3 For total recoverable aqueous analytes (Section 11.2), multiply solution analyte concentrations by the dilution factor 0.5, when 100 mL aliquot is used to produce the 50 mL final solution, and report data as instructed in Section 12.4. If a different aliquot volume other than 100 mL is used for sample preparation, adjust the dilution factor accordingly. Also, account for any additional dilution of the prepared sample solution needed to complete the determination of analytes exceeding 90% or more of the LDR upper limit. Do not report data below the determined analyte MDL concentration or below an adjusted detection limit reflecting smaller sample aliquots used in processing or additional dilutions required to complete the analysis.

12.4 For analytes with MDLs <0.01 mg/L, round the data values to the thousandth place and report analyte concentrations up to three significant figures. For analytes with MDLs <0.01 mg/L round the data values to the 100th place and report analyte concentrations up to three significant figures. Extract concentrations for solids data should be rounded in a similar manner before calculations in Section 12.5 are performed.

12.5 For total recoverable analytes in solid samples (Section 11.3), round the solution analyte concentrations (mg/L) as instructed in Section 12.4. Report the data up to three significant figures as mg/kg dry-weight basis unless specified otherwise by the program or data user. Calculate the concentration using the equation below:

$$\text{Sample Conc. (mg/kg) dry} - \text{weight basis} = \frac{C \times V \times D}{W}$$

Where:

C = Concentration in extract (mg/L)

V = Volume of extract (L, 100 mL = 0.1L)

D = Dilution factor (undiluted = 1)

W = Weight of sample aliquot extracted (g x 0.001 = kg)

Do not report analyte data below the estimated solids MDL or an adjusted MDL because of additional dilutions required to complete the analysis.

12.6 To report percent solids in solid samples (Section 11.3) calculate as follows:

$$\%\ \text{solids (S)} = \frac{DW}{WW} \times 100$$

Where:

DW = Sample weight (g) dried at 60 °C

WW = Sample weight (g) before drying

Note: If the data user, program or laboratory requires that the reported percent solids be determined by drying at 105 °C, repeat the procedure given in Section 11.3 using a separate portion (>20 g) of the sample and dry to constant weight at 103–105 °C.

12.7 The QC data obtained during the analyses provide an indication of the quality of the sample data and should be provided with the sample results.

13.0 Method Performance

13.1 Listed in Table 4 are typical single laboratory total recoverable MDLs determined for the recommended wavelengths using simultaneous ICP–AES and the operating conditions given in Table 5. The MDLs were determined in reagent blank matrix (best case situation). PTFE beakers were used to avoid boron and silica contamination from glassware with the final dilution to 50 mL completed in polypropylene centrifuged tubes. The listed MDLs for solids are estimates and were calculated from the aqueous MDL determinations.

13.2 Data obtained from single laboratory method testing are summarized in Table 6 for five types of water samples consisting of drinking water, surface water, ground water, and two wastewater effluents. The data presented cover all analytes except cerium and titanium. Samples were prepared using the procedure described in Section 11.2. For each matrix, five replicate aliquots were prepared, analyzed and the average of the five determinations used to define the sample background concentration of each analyte. In addition, two pairs of duplicates were fortified at different concentration levels. For each method analyte, the sample background concentration, mean percent recovery, standard deviation of the percent recovery, and relative percent difference between the duplicate fortified samples are listed in Table 6. The variance of the five replicate sample background determinations is included in the calculated standard deviation of the percent recovery when the analyte concentration in the sample was greater than the MDL. The tap and well waters were processed in Teflon and quartz beakers and diluted in polypropylene centrifuged tubes. The nonuse of borosilicate glassware is reflected in the precision and recovery data for boron and silica in those two sample types.

13.3 Data obtained from single laboratory method testing are summarized in Table 7 for three solid samples consisting of EPA 884 Hazardous Soil, SRM 1645 River Sediment, and EPA 286 Electroplating Sludge. Samples were prepared using the procedure described in Section 11.3. For each method analyte, the sample background concentration, mean percent recovery of the fortified additions, the standard deviation of the percent

recovery, and relative percent difference between duplicate additions were determined as described in Section 13.2. Data presented are for all analytes except cerium, silica, and titanium. Limited comparative data to other methods and SRM materials are presented in Reference 23 of Section 16.0.

13.4 Performance data for aqueous solutions independent of sample preparation from a multilaboratory study are provided in Table 8.[22]

13.5 Listed in Table 9 are regression equations for precision and bias for 25 analytes abstracted from EPA Method Study 27, a multilaboratory validation study of Method 200.7.[1] These equations were developed from data received from 12 laboratories using the total recoverable sample preparation procedure on reagent water, drinking water, surface water and three industrial effluents. For a complete review and description of the study, see Reference 16 of Section 16.0.

14.0 Pollution Prevention

14.1 Pollution prevention encompasses any technique that reduces or eliminates the quantity or toxicity of waste at the point of generation. Numerous opportunities for pollution prevention exist in laboratory operation. The EPA has established a preferred hierarchy of environmental management techniques that places pollution prevention as the management option of first choice. Whenever feasible, laboratory personnel should use pollution prevention techniques to address their waste generation (*e.g.,* Section 7.8). When wastes cannot be feasibly reduced at the source, the Agency recommends recycling as the next best option.

14.2 For information about pollution prevention that may be applicable to laboratories and research institutions, consult ''Less is Better: Laboratory Chemical Management for Waste Reduction'', available from the American Chemical Society's Department of Government Relations and Science Policy, 1155 16th Street NW., Washington, DC 20036, (202) 872–4477.

15.0 Waste Management

15.1 The Environmental Protection Agency requires that laboratory waste management practices be conducted consistent with all applicable rules and regulations. The Agency urges laboratories to protect the air, water, and land by minimizing and controlling all releases from hoods and bench operations, complying with the letter and spirit of any sewer discharge permits and regulations, and by complying with all solid and hazardous waste regulations, particularly the hazardous waste identification rules and land disposal restrictions. For further information on waste management consult ''The Waste Management Manual for Laboratory Personnel'', available from the American Chemical Society at the address listed in the Section 14.2.

16.0 References

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17.0 Tables, Diagrams, Flowcharts, and Validation Data

TABLE 1—WAVELENGTHS, ESTIMATED INSTRUMENT DETECTION LIMITS, AND RECOMMENDED CALIBRATION

Analyte	Wavelength[a] (nm)	Estimated detection limit[b] (μg/L)	Calibrate[c] to (mg/L)
Aluminum	308.215	45	10
Antimony	206.833	32	5
Arsenic	193.759	53	10
Barium	493.409	2.3	1
Beryllium	313.042	0.27	1
Boron	249.678	5.7	1
Cadmium	226.502	3.4	2
Calcium	315.887	30	10
Cerium	413.765	48	2
Chromium	205.552	6.1	5
Cobalt	228.616	7.0	2
Copper	324.754	5.4	2
Iron	259.940	6.2	10
Lead	220.353	42	10
Lithium	670.784	[d] 3.7	5
Magnesium	279.079	30	10
Manganese	257.610	1.4	2
Mercury	194.227	2.5	2
Molybdenum	203.844	12	10
Nickel	231.604	15	2
Phosphorus	214.914	76	10
Potassium	766.491	[e] 700	20
Selenium	196.090	75	5
Silica (SiO_2)	251.611	[d] 26 (SiO_2)	10
Silver	328.068	7.0	0.5
Sodium	588.995	29	10
Strontium	421.552	0.77	1
Thallium	190.864	40	5
Tin	189.980	25	4
Titanium	334.941	3.8	10
Vanadium	292.402	7.5	2
Zinc	213.856	1.8	5

[a] The wavelengths listed are recommended because of their sensitivity and overall acceptability. Other wavelengths may be substituted if they can provide the needed sensitivity and are treated with the same corrective techniques for spectral interference (see Section 4.1).

[b] These estimated 3-sigma instrumental detection limits [16] are provided only as a guide to instrumental limits. The method detection limits are sample dependent and may vary as the sample matrix varies. *Detection limits for solids* can be estimated by dividing these values by the grams extracted per liter, which depends upon the extraction procedure. Divide solution detection limits by 10 for 1 g extracted to 100 mL for solid detection limits.

[c] Suggested concentration for instrument calibration.[2] Other calibration limits in the linear ranges may be used.

[d] Calculated from 2-sigma data.[5]

[e] Highly dependent on operating conditions and plasma position.

TABLE 2—ON-LINE METHOD INTERELEMENT SPECTRAL INTERFERANCES ARISING FROM INTERFERANTS AT THE 100 MG/L LEVEL

Analyte	Wavelength (nm)	Interferant*
Ag	328.068	Ce, Ti, Mn
Al	308.215	V, Mo, Ce, Mn
As	193.759	V, Al, Co, Fe, Ni
B	249.678	None
Ba	493.409	None
Be	313.042	V, Ce
Ca	315.887	Co, Mo, Ce
Cd	226.502	Ni, Ti, Fe, Ce
Ce	413.765	None
Co	228.616	Ti, Ba, Cd, Ni, Cr, Mo, Ce
Cr	205.552	Be, Mo, Ni
Cu	324.754	Mo, Ti
Fe	259.940	None
Hg	194.227	V, Mo
K	766.491	None
Li	670.784	None
Mg	279.079	Ce
Mn	257.610	Ce
Mo	203.844	Ce
Na	588.995	None
Ni	231.604	Co, Tl
P	214.914	Cu, Mo
Pb	220.353	Co, Al, Ce, Cu, Ni, Ti, Fe
Sb	206.833	Cr, Mo, Sn, Ti, Ce, Fe
Se	196.099	Fe
SiO_2	251.611	None
Sn	189.980	Mo, Ti, Fe, Mn, Si
Sr	421.552	None
Tl	190.864	Ti, Mo, Co, Ce, Al, V, Mn
Ti	334.941	None
V	292.402	Mo, Ti, Cr, Fe, Ce
Zn	213.856	Ni, Cu, Fe

*These on-line interferences from method analytes and titanium only were observed using an instrument with 0.035 nm resolution (see Section 4.1.2). Interferant ranked by magnitude of intensity with the most severe interferant listed first in the row.

TABLE 3—MIXED STANDARD SOLUTIONS

Solution	Analytes
I	Ag, As, B, Ba, Ca, Cd, Cu, Mn, Sb, and Se
II	K, Li, Mo, Na, Sr, and Ti
III	Co, P, V, and Ce
IV	Al, Cr, Hg, SiO_2, Sn, and Zn
V	Be, Fe, Mg, Ni, Pb, and Tl

TABLE 4—TOTAL RECOVERABLE METHOD DETECTION LIMITS (MDL)

Analyte	MDLs Aqueous, mg/L(1)	Solids, mg/kg(2)
Ag	0.002	0.3
Al	0.02	3
As	0.008	2
B	0.003	—
Ba	0.001	0.2
Be	0.0003	0.1
Ca	0.01	2
Cd	0.001	0.2
Ce	0.02	3
Co	0.002	0.4
Cr	0.004	0.8
Cu	0.003	0.5
Fe	*0.03	6
Hg	0.007	2
K	0.3	60
Li	0.001	0.2
Mg	0.02	3
Mn	0.001	0.2
Mo	0.004	1

TABLE 4—TOTAL RECOVERABLE METHOD DETECTION LIMITS (MDL)—Continued

Analyte	MDLs Aqueous, mg/L[1]	Solids, mg/kg[2]
Na	0.03	6
Ni	0.005	1
P	0.06	12
Pb	0.01	2
Sb	0.008	2
Se	0.02	5
SiO_2	0.02	—
Sn	0.007	2
Sr	0.0003	0.1
Tl	0.001	0.2
Ti	0.02	3
V	0.003	1
Zn	0.002	0.3

[1] MDL concentrations are computed for original matrix with allowance for 2x sample preconcentration during preparation. Samples were processed in PTFE and diluted in 50-mL plastic centrifuge tubes.
[2] Estimated, calculated from aqueous MDL determinations.
— Boron not reported because of glassware contamination. Silica not determined in solid samples.
* Elevated value due to fume-hood contamination.

TABLE 5—INDUCTIVELY COUPLED PLASMA INSTRUMENT OPERATING CONDITIONS

Incident rf power	1100 watts
Reflected rf power	<5 watts
Viewing height above work coil.	15 mm

TABLE 5—INDUCTIVELY COUPLED PLASMA INSTRUMENT OPERATING CONDITIONS—Continued

Injector tube orifice i.d.	1 mm
Argon supply	liquid argon
Argon pressure	40 psi
Coolant argon flow rate	19 L/min.
Aerosol carrier argon flow rate	620 mL/min.

TABLE 5—INDUCTIVELY COUPLED PLASMA INSTRUMENT OPERATING CONDITIONS—Continued

Auxiliary (plasma) argon flow rate.	300 mL/min.
Sample uptake rate controlled to.	1.2 mL/min.

TABLE 6—PRECISION AND RECOVERY DATA IN AQUEOUS MATRICES

Analyte	Sample conc. mg/L	Low spike mg/L	Average recovery R (%)	S (R)	RPD	High spike mg/L	Average recovery R (%)	S (R)	RPD
Tap Water									
Ag	<0.002	0.05	95	0.7	2.1	0.2	96	0.0	0.0
Al	0.185	0.05	98	8.8	1.7	0.2	105	3.0	3.1
As	<0.008	0.05	108	1.4	3.7	0.2	101	0.7	2.0
B	0.023	0.1	98	0.2	0.0	0.4	98	0.2	0.5
Ba	0.042	0.05	102	1.6	2.2	0.2	98	0.4	0.8
Be	<0.0003	0.01	100	0.0	0.0	0.1	99	0.0	0.0
Ca	35.2	5.0	101	8.8	1.7	20.0	103	2.0	0.9
Cd	<0.001	0.01	105	3.5	9.5	0.1	98	0.0	0.0
Co	<0.002	0.02	100	0.0	0.0	0.2	99	0.5	1.5
Cr	<0.004	0.01	110	0.0	0.0	0.1	102	0.0	0.0
Cu	<0.003	0.02	103	1.8	4.9	0.2	101	1.2	3.5
Fe	0.008	0.1	106	1.0	1.8	0.4	105	0.3	0.5
Hg	<0.007	0.05	103	0.7	1.9	0.2	100	0.4	1.0
K	1.98	5.0	109	1.4	2.3	20.	107	0.7	1.7
Li	0.006	0.02	103	6.9	3.8	0.2	110	1.9	4.4
Mg	8.08	5.0	104	2.2	1.5	20.0	100	0.7	1.1
Mn	<0.001	0.01	100	0.0	0.0	0.1	99	0.0	0.0
Mo	<0.004	0.02	95	3.5	10.5	0.2	108	0.5	1.4
Na	10.3	5.0	99	3.0	2.0	20.0	106	1.0	1.6
Ni	<0.005	0.02	108	1.8	4.7	0.2	104	1.1	2.9
P	0.045	0.1	102	13.1	9.4	0.4	104	3.2	1.3
Pb	<0.01	0.05	95	0.7	2.1	0.2	100	0.2	0.5
Sb	<0.008	0.05	99	0.7	2.0	0.2	102	0.7	2.0
Se	<0.02	0.1	87	1.1	3.5	0.4	99	0.8	2.3
SiO_2	6.5	5.0	104	3.3	3.4	20.0	96	1.1	2.3
Sn	<0.007	0.05	103	2.1	5.8	0.2	101	1.8	5.0
Sr	0.181	0.1	102	3.3	2.1	0.4	105	0.8	1.0
Tl	<0.02	0.1	101	3.9	10.9	0.4	101	0.1	0.3
V	<0.003	0.05	101	0.7	2.0	0.2	99	0.2	0.5
Zn	0.005	0.05	101	3.7	9.0	0.2	98	0.9	2.5
Pond Water									
Ag	<0.002	0.05	92	0.0	0.0	0.2	94	0.0	0.0

TABLE 6—PRECISION AND RECOVERY DATA IN AQUEOUS MATRICES—Continued

Analyte	Sample conc. mg/L	Low spike mg/L	Average recovery R (%)	S (R)	RPD	High spike mg/L	Average recovery R (%)	S (R)	RPD
Al	0.819	0.2	88	10.0	5.0	0.8	100	2.9	3.7
As	<0.008	0.05	102	0.0	0.0	0.2	98	1.4	4.1
B	0.034	0.1	111	8.9	6.9	0.4	103	2.0	0.0
Ba	0.029	0.05	96	0.9	0.0	0.2	97	0.3	0.5
Be	<0.0003	0.01	95	0.4	1.1	0.2	95	0.0	0.0
Ca	53.9	5.0	*	*	0.7	20.0	100	2.0	1.5
Cd	<0.001	0.01	107	0.0	0.0	0.1	97	0.0	0.0
Co	<0.002	0.02	100	2.7	7.5	0.2	97	0.7	2.1
Cr	<0.004	0.01	105	3.5	9.5	0.1	103	1.1	2.9
Cu	<0.003	0.02	98	2.1	4.4	0.2	100	0.5	1.5
Fe	0.875	0.2	95	8.9	2.8	0.8	97	3.2	3.6
Hg	<0.007	0.05	97	3.5	10.3	0.2	98	0.0	0.0
K	2.48	5.0	106	0.3	0.1	20.0	103	0.2	0.4
Li	<0.001	0.02	110	0.0	0.0	0.2	106	0.2	0.5
Mg	10.8	5.0	102	0.5	0.0	20.0	96	0.7	1.3
Mn	0.632	0.01	*	*	0.2	0.1	97	2.3	0.3
Mo	<0.004	0.02	105	3.5	9.5	0.2	103	0.4	1.0
Na	17.8	5.0	103	1.3	0.4	20.0	94	0.3	0.0
Ni	<0.005	0.02	96	5.6	9.1	0.2	100	0.7	1.5
P	0.196	0.1	91	14.7	0.3	0.4	108	3.9	1.3
Pb	<0.01	0.05	96	2.6	7.8	0.2	100	0.7	2.0
Sb	<0.008	0.05	102	2.8	7.8	0.2	104	0.4	1.0
Se	<0.02	0.1	104	2.1	5.8	0.4	103	1.6	4.4
SiO_2	7.83	5.0	151	1.6	1.3	20.0	117	0.4	0.6
Sn	<0.007	0.05	98	0.0	0.0	0.2	99	1.1	3.0
Sr	0.129	0.1	105	0.4	0.0	0.4	99	0.1	0.2
Tl	<0.02	0.1	103	1.1	2.9	0.4	97	1.3	3.9
V	0.003	0.05	94	0.4	0.0	0.2	98	0.1	0.0
Zn	0.006	0.05	97	1.6	1.8	0.2	94	0.4	0.0
Well Water									
Ag	<0.002	0.05	97	0.7	2.1	0.2	96	0.2	0.5
Al	0.036	0.05	107	7.6	10.1	0.2	101	1.1	0.8
As	<0.008	0.05	107	0.7	1.9	0.2	104	0.4	1.0
B	0.063	0.1	97	0.6	0.7	0.4	98	0.8	2.1
Ba	0.102	0.05	102	3.0	0.0	0.2	99	0.9	1.0
Be	<0.0003	0.01	100	0.0	0.0	0.1	100	0.0	0.0
Ca	93.8	5.0	*	*	2.1	20.0	100	4.1	0.1
Cd	0.002	0.01	90	0.0	0.0	0.1	96	0.0	0.0
Co	<0.002	0.02	94	0.4	1.1	0.2	94	0.4	1.1
Cr	<0.004	0.01	100	7.1	20.0	0.1	100	0.4	1.0
Cu	<0.005	0.02	100	1.1	0.4	0.2	96	0.5	1.5
Fe	0.042	0.1	99	2.3	1.4	0.4	97	1.4	3.3
Hg	<0.007	0.05	94	2.8	8.5	0.2	93	1.2	3.8
K	6.21	5.0	96	3.4	3.6	20.0	101	1.2	2.3
Li	0.001	0.02	100	7.6	9.5	0.2	104	1.0	1.9
Mg	24.5	5.0	95	5.6	0.3	20.0	93	1.6	1.2
Mn	2.76	0.01	*	*	0.4	0.1	*	*	0.7
Mo	<0.004	0.02	108	1.8	4.7	0.2	101	0.2	0.5
Na	35.0	5.0	101	11.4	0.8	20.0	100	3.1	1.5
Ni	<0.005	0.02	112	1.8	4.4	0.2	96	0.2	0.5
P	0.197	0.1	95	12.7	1.9	0.4	98	3.4	0.9
Pb	<0.01	0.05	87	4.9	16.1	0.2	95	0.2	0.5
Sb	<0.008	0.05	98	2.8	8.2	0.2	99	1.4	4.0
Se	<0.02	0.1	102	0.4	1.0	0.4	94	1.1	3.4
SiO_2	13.1	5.0	93	4.8	2.8	20.0	99	0.8	0.0
Sn	<0.007	0.05	98	2.8	8.2	0.2	94	0.2	0.5
Sr	0.274	0.1	94	5.7	2.7	0.4	95	1.7	2.2
Tl	<0.02	0.1	92	0.4	1.1	0.4	95	1.1	3.2
V	<0.003	0.05	98	0.0	0.0	0.2	99	0.4	1.0
Zn	0.538	0.05	*	*	0.7	0.2	99	2.5	1.1
Sewage Treatment Effluent									
Ag	0.009	0.05	92	1.5	3.6	0.2	95	0.1	0.0
Al	1.19	0.05	*	*	0.9	0.2	113	12.4	2.1
As	<0.008	0.05	99	2.1	6.1	0.2	93	2.1	6.5
B	0.226	0.1	217	16.3	9.5	0.4	119	13.1	20.9
Ba	0.189	0.05	90	6.8	1.7	0.2	99	1.6	0.5

TABLE 6—PRECISION AND RECOVERY DATA IN AQUEOUS MATRICES—Continued

Analyte	Sample conc. mg/L	Low spike mg/L	Average recovery R (%)	S (R)	RPD	High spike mg/L	Average recovery R (%)	S (R)	RPD
Be	<0.0003	0.01	94	0.4	1.1	0.1	100	0.4	1.0
Ca	87.9	5.0	*	*	0.6	20.0	101	3.7	0.0
Cd	0.009	0.01	89	2.6	2.3	0.1	97	0.4	1.0
Co	0.016	0.02	95	3.1	0.0	0.2	93	0.4	0.5
Cr	0.128	0.01	*	*	1.5	0.1	97	2.4	2.7
Cu	0.174	0.02	98	33.1	4.7	0.2	98	3.0	1.4
Fe	1.28	0.1	*	*	2.8	0.4	111	7.0	0.6
Hg	<0.007	0.05	102	1.4	3.9	0.2	98	0.5	1.5
K	10.6	5.0	104	2.8	1.3	20.0	101	0.6	0.0
Li	0.011	0.02	103	8.5	3.2	0.2	105	0.8	0.5
Mg	22.7	5.0	100	4.4	0.0	20.0	92	1.1	0.2
Mn	0.199	0.01	*	*	2.0	0.1	104	1.9	0.3
Mo	0.125	0.02	110	21.2	6.8	0.2	102	1.3	0.9
Na	0.236	5.0	*	*	0.0	20.0	*	*	0.4
Ni	0.087	0.02	122	10.7	4.5	0.2	98	0.8	1.1
P	4.71	0.1	*	*	2.6	0.4	*	*	1.4
Pb	0.015	0.05	91	3.5	5.0	0.2	96	1.3	2.9
Sb	<0.008	0.05	97	0.7	2.1	0.2	103	1.1	2.9
Se	<0.02	0.1	108	3.9	10.0	0.4	101	2.6	7.2
SiO_2	16.7	5.0	124	4.0	0.9	20.0	108	1.1	0.8
Sn	0.016	0.05	90	3.8	0.0	0.2	95	1.0	0.0
Sr	0.515	0.1	103	6.4	0.5	0.4	96	1.6	0.2
Tl	<0.02	0.1	105	0.4	1.0	0.4	95	0.0	0.0
V	0.003	0.05	93	0.9	2.0	0.2	97	0.2	0.5
Zn	0.160	0.05	98	3.3	1.9	0.2	101	1.0	1.4
Industrial Effluent									
Ag	<0.0003	0.05	88	0.0	0.0	0.2	84	0.9	3.0
Al	0.054	0.05	88	11.7	12.2	0.2	90	3.9	8.1
As	<0.02	0.05	82	2.8	9.8	0.2	88	0.5	1.7
B	0.17	0.1	162	17.6	13.9	0.4	92	4.7	9.3
Ba	0.083	0.05	86	8.2	1.6	0.2	85	2.3	2.4
Be	<0.0006	0.01	94	0.4	1.1	0.1	82	1.4	4.9
Ca	500	5.0	*	*	2.8	20.0	*	*	2.3
Cd	0.008	0.01	85	4.7	6.1	0.1	82	1.4	4.4
Co	<0.004	0.02	93	1.8	5.4	0.2	83	0.4	1.2
Cr	0.165	0.01	*	*	4.5	0.1	106	6.6	5.6
Cu	0.095	0.02	93	23.3	0.9	0.2	95	2.7	2.8
Fe	0.315	0.1	88	16.4	1.0	0.4	99	6.5	8.0
Hg	<0.01	0.05	87	0.7	2.3	0.2	86	0.4	1.2
K	2.87	5.0	101	3.4	2.4	20.0	100	0.8	0.4
Li	0.069	0.02	103	24.7	5.6	0.2	104	2.5	2.2
Mg	6.84	5.0	87	3.1	0.0	20.0	87	0.9	1.2
Mn	0.141	0.01	*	*	1.2	0.1	89	6.6	4.8
Mo	1.27	0.02	*	*	0.0	0.2	100	15.0	2.7
Na	1500	5.0	*	*	2.7	20.0	*	*	2.0
Ni	0.014	0.02	98	4.4	3.0	0.2	87	0.5	1.1
P	0.326	0.1	105	16.0	4.7	0.4	97	3.9	1.4
Pb	0.251	0.05	80	19.9	1.4	0.2	88	5.0	0.9
Sb	2.81	0.05	*	*	0.4	0.2	*	*	2.0
Se	0.021	0.1	106	2.6	3.2	0.4	105	1.9	4.6
SiO_2	6.83	5.0	99	6.8	1.7	20.0	100	2.2	3.0
Sn	<0.01	0.05	87	0.7	2.3	0.2	86	0.4	1.2
Sr	6.54	0.1	*	*	2.0	0.4	*	*	2.7
Tl	<0.03	0.1	87	1.8	5.8	0.4	84	1.1	3.6
V	<0.005	0.05	90	1.4	4.4	0.2	84	1.1	3.6
Zn	0.024	0.05	89	6.0	4.4	0.2	91	3.5	8.9

S (R) Standard deviation of percent recovery.
RPD Relative percent difference between duplicate spike determinations.
< Sample concentration below established method detection limit.
* Spike concentration <10% of sample background concentration.

TABLE 7—PRECISION AND RECOVERY DATA IN SOLID MATRICES

Analyte	Sample conc. mg/kg	Low + spike mg/kg	Average recovery R (%)	S (R)	RPD	High + spike mg/kg	Average recovery R (%)	S (R)	RPD
EPA Hazardous Soil #884									
Ag	1.1	20	98	0.7	1.0	100	96	0.2	0.6
Al	5080	20	*	*	7.2	100	*	*	5.4
As	5.7	20	95	5.4	10.6	100	96	1.4	3.6
B	20.4	100	93	2.7	5.3	400	100	2.1	5.5
Ba	111	20	98	71.4	22.2	100	97	10.0	1.0
Be	0.66	20	97	0.7	2.3	100	99	0.1	0.2
Ca	85200	–	–	–	–	–	–	–	–
Cd	2	20	93	0.7	1.0	100	94	0.2	0.4
Co	5.5	20	96	3.5	7.7	100	93	0.8	2.1
Cr	79.7	20	87	28.8	16.5	100	104	1.3	1.1
Cu	113	20	110	16.2	4.4	100	104	4.0	4.2
Fe	16500	–	–	–	–	–	–	–	–
Hg	<1.4	10	92	2.5	7.7	40	98	0.0	0.0
K	621	500	121	1.3	0.0	2000	107	0.9	1.8
Li	6.7	10	113	3.5	4.4	40	106	0.6	0.6
Mg	24400	500	*	*	8.4	2000	*	*	10.1
Mn	343	20	*	*	8.5	100	95	11.0	1.6
Mo	5.3	20	88	5.3	13.2	100	91	1.4	4.1
Na	195	500	102	2.2	2.4	2000	100	1.5	3.7
Ni	15.6	20	100	1.8	0.0	100	94	1.5	3.6
P	595	500	106	13.4	8.0	2000	103	3.2	2.7
Pb	145	20	88	51.8	17.9	100	108	15.6	17.4
Sb	6.1	20	83	3.9	7.5	100	81	1.9	5.9
Se	<5	20	79	14.7	52.4	100	99	0.7	2.1
Sn	16.6	20	91	34.6	5.8	80	112	8.7	2.8
Sr	102	100	84	9.6	10.8	400	94	2.5	4.6
Tl	<4	20	92	4.8	14.6	100	91	1.5	4.6
V	16.7	20	104	4.2	5.4	100	99	0.8	1.7
Zn	131	20	103	31.2	7.3	100	104	7.2	6.4
EPA Electroplating Sludge #286									
Ag	6	20	96	0.2	0.4	100	93	0.1	0.4
Al	4980	20	*	*	4.4	100	*	*	5.6
As	32	20	94	1.3	0.8	100	97	0.7	1.6
B	210	100	113	2.0	1.6	400	98	1.9	3.5
Ba	39.8	20	0	6.8	0.3	100	0	1.6	5.7
Be	0.32	20	96	0.2	0.5	100	101	0.7	2.0
Ca	48500	–	–	–	–	–	–	–	–
Cd	108	20	98	2.5	0.8	100	96	0.5	0.5
Co	5.9	20	93	2.9	5.7	100	93	0.6	1.5
Cr	7580	20	*	*	0.7	100	*	*	1.3
Cu	806	20	*	*	1.5	100	94	8.3	0.7
Fe	31100	–	–	–	–	–	–	–	–
Hg	6.1	10	90	2.5	4.0	40	97	1.7	4.3
K	2390	500	75	8.3	4.0	2000	94	2.9	3.8
Li	9.1	10	101	2.8	0.5	40	106	1.6	3.1
Mg	1950	500	110	2.0	0.8	2000	108	2.3	3.2
Mn	262	20	*	*	1.8	100	91	1.2	0.9
Mo	13.2	20	92	2.1	2.9	100	92	0.3	0.0
Na	73400	500	*	*	1.7	2000	*	*	1.4
Ni	456	20	*	*	0.4	100	88	2.7	0.9
P	9610	500	*	*	2.9	2000	114	7.4	3.4
Pb	1420	20	*	*	2.1	100	*	*	1.3
Sb	<2	20	76	0.9	3.3	100	75	2.8	10.7
Se	6.3	20	86	9.0	16.6	100	103	1.6	2.7
Sn	24.0	20	87	4.0	2.7	80	92	0.7	0.0
Sr	145	100	90	8.1	8.1	400	93	2.4	4.6
Tl	16	20	89	4.6	5.3	100	92	0.8	0.9
V	21.7	20	95	1.2	1.0	100	96	0.4	0.9
Zn	12500	20	*	*	0.8	100	*	*	0.8
NBS 1645 River Sediment									
Ag	1.6	20	92	0.4	1.0	100	96	0.3	0.9
Al	5160	20	*	*	8.4	100	*	*	2.4
As	62.8	20	89	14.4	9.7	100	97	2.9	5.0
B	31.9	100	116	7.1	13.5	400	95	0.6	1.5
Ba	54.8	20	95	6.1	2.8	100	98	1.2	1.3

TABLE 7—PRECISION AND RECOVERY DATA IN SOLID MATRICES—Continued

Analyte	Sample conc. mg/kg	Low + spike mg/kg	Average recovery R (%)	S (R)	RPD	High + spike mg/kg	Average recovery R (%)	S (R)	RPD
Be	0.72	20	101	0.4	1.0	100	103	1.4	3.9
Ca	28000	–	–	–	–	–	–	–	–
Cd	9.7	20	100	1.1	0.0	100	101	0.7	1.8
Co	9.4	20	98	3.8	4.8	100	98	0.9	1.8
Cr	28500	20	*	*	0.4	100	*	*	0.7
Cu	109	20	115	8.5	0.0	100	102	1.8	1.0
Fe	84800	–	–	–	–	–	–	–	–
Hg	3.1	10	99	4.3	7.7	40	96	0.7	1.0
K	452	500	98	4.1	2.0	2000	106	1.4	2.3
Li	3.7	10	101	2.0	0.7	40	108	1.3	3.0
Mg	6360	500	*	*	1.8	2000	93	2.7	1.0
Mn	728	20	*	*	3.5	100	97	12.4	2.2
Mo	17.9	20	97	12.5	18.5	100	98	0.6	0.0
Na	1020	500	92	2.6	0.0	2000	97	1.1	1.7
Ni	36.2	20	94	5.9	4.0	100	100	1.1	1.5
P	553	500	102	1.4	0.9	2000	100	0.8	1.6
Pb	707	20	*	*	0.8	100	103	5.9	0.4
Sb	22.8	20	86	2.3	0.0	100	88	0.6	0.9
Se	6.7	20	103	14.3	27.1	100	98	3.1	7.6
Sn	309	20	*	*	1.0	80	101	7.9	2.7
Sr	782	100	91	12.3	3.0	400	96	3.3	2.6
Tl	<4	20	90	0.0	0.0	100	95	1.3	4.0
V	20.1	20	89	5.4	5.8	100	98	0.7	0.0
Zn	1640	20	*	*	1.8	100	*	*	1.1

S (R) Standard deviation of percent recovery.
RPD Relative percent difference between duplicate spike determinations.
< Sample concentration below established method detection limit.
* Spike concentration <10% of sample background concentration.
– Not spiked.
+ Equivalent.

TABLE 8—ICP–AES INSTRUMENTAL PRECISION AND ACCURACY FOR AQUEOUS SOLUTIONS [a]

Element	Mean conc. (mg/L)	N [b]	RSD (%)	Accurace [c] (% of Nominal)
Al	14.8	8	6.3	100
Sb	15.1	8	7.7	102
As	14.7	7	6.4	99
Ba	3.66	7	3.1	99
Be	3.78	8	5.8	102
Cd	3.61	8	7.0	97
Ca	15.0	8	7.4	101
Cr	3.75	8	8.2	101
Co	3.52	8	5.9	95
Cu	3.58	8	5.6	97
Fe	14.8	8	5.9	100
Pb	14.4	7	5.9	97
Mg	14.1	8	6.5	96
Mn	3.70	8	4.3	100
Mo	3.70	8	6.9	100
Ni	3.70	7	5.7	100
K	14.1	8	6.6	95
Se	15.3	8	7.5	104
Na	14.0	8	4.2	95
Tl	15.1	7	8.5	102
V	3.51	8	6.6	95
Zn	3.57	8	8.3	96

[a] These performance values are independent of sample preparation because the labs analyzed portions of the same solutions using sequential or simultaneous instruments.
[b] N = Number of measurements for mean and relative standard deviation (RSD).
[c] Accuracy is expressed as a percentage of the nominal value for each analyte in the acidified, multi-element solutions.

TABLE 9—MULTILABORATORY ICP PRECISION AND ACCURACY DATA*

Analyte	Concentration µg/L	Total recoverable digestion µ/L
Aluminum	69–4792	X = 0.9380 (C) + 22.1

TABLE 9—MULTILABORATORY ICP PRECISION AND ACCURACY DATA*—Continued

Analyte	Concentration µg/L	Total recoverable digestion µ/L
Antimony	77–1406	SR = 0.0481 (X) + 18.8 0.8908 (C) + 0.9
Arsenic	69–1887	SR = 0.0682 (X) + 2.5 X = 1.0175 (C) + 3.9
Barium	9–377	SR = 0.0643 (X) + 10.3 X = 0.8.80 (C) + 1.68
Beryllium	3–1906	SR = 0.0826 (X) + 3.54 X = 1.0177 (C) − 0.55
Boron	19–5189	SR = 0.0445 (X) − 0.10 X = 0.9676 (C) + 18.7
Cadmium	9–1943	SR = 0.0743 (X) + 21.1 X = 1.0137 (C) − 0.65
Calcium	17–47170	SR = 0.0332 (X) + 0.90 X = 0.9658 (C) + 0.8
Chromium	13–1406	SR = 0.0327 (X) + 10.1 X = 1.0049 (C) − 1.2
Cobalt	17–2340	SR = 0.0571 (X) + 1.0 X = 0.9278 (C) + 1.5
Copper	8–1887	SR = 0.0407 (X) + 0.4 X = 0.9647 (C) − 3.64
Iron	13–9359	SR = 0.0406 (X) + 0.96 X = 0.9830 (C) + 5.7
Lead	42–4717	SR = 0.0790 (X) + 11.5 X = 1.0056 (C) + 4.1
Magnesium	34–13868	SR = 0.0448 (X) + 3.5 X = 0.9879 (C) + 2.2
Manganese	4–1887	SR = 0.0268 (X) + 8.1 X = 0.9725 (C) + 0.07
Molybdenum	17–1830	SR = 0.0400 (X) + 0.82 X = 0.9707 (C) − 2.3
Nickel	17–47170	SR = 0.0529 (X) + 2.1 X = 0.9869 (C) + 1.5
Potassium	347–14151	SR = 0.0393 (X) + 2.2 X = 0.9355 (C) − 183.1
Selenium	69–1415	SR = 0.0329 (X) + 60.9 X = 0.9737 (C) − 1.0
Silicon	189–9434	SR = 0.0443 (X) + 6.6 X = 0.9737 (C) − 22.6
Silver	8–189	SR = 0.2133 (X) + 22.6 X = 0.3987 (C) + 8.25
Sodium	35–47170	SR = 0.1836 (X) − 0.27 X = 1.0526 (C) + 26.7
Thallium	79–1434	SR = 0.0884 (X) + 50.5 X = 0.9238 (C) + 5.5
Vanadium	13–4698	SR = 0.0106 (X) + 48.0 X = 0.9551 (C) + 0.4
Zinc	7–7076	SR = 0.0472 (X) + 0.5 X = 0.9500 (C) + 1.82 SR = 0.0153 (X) + 7.78

*—Regression equations abstracted from Reference 16.
X = Mean Recovery, µg/L.
C = True Value for the Concentration, µg/L.
SR = Single-analyst Standard Deviation, µg/L.

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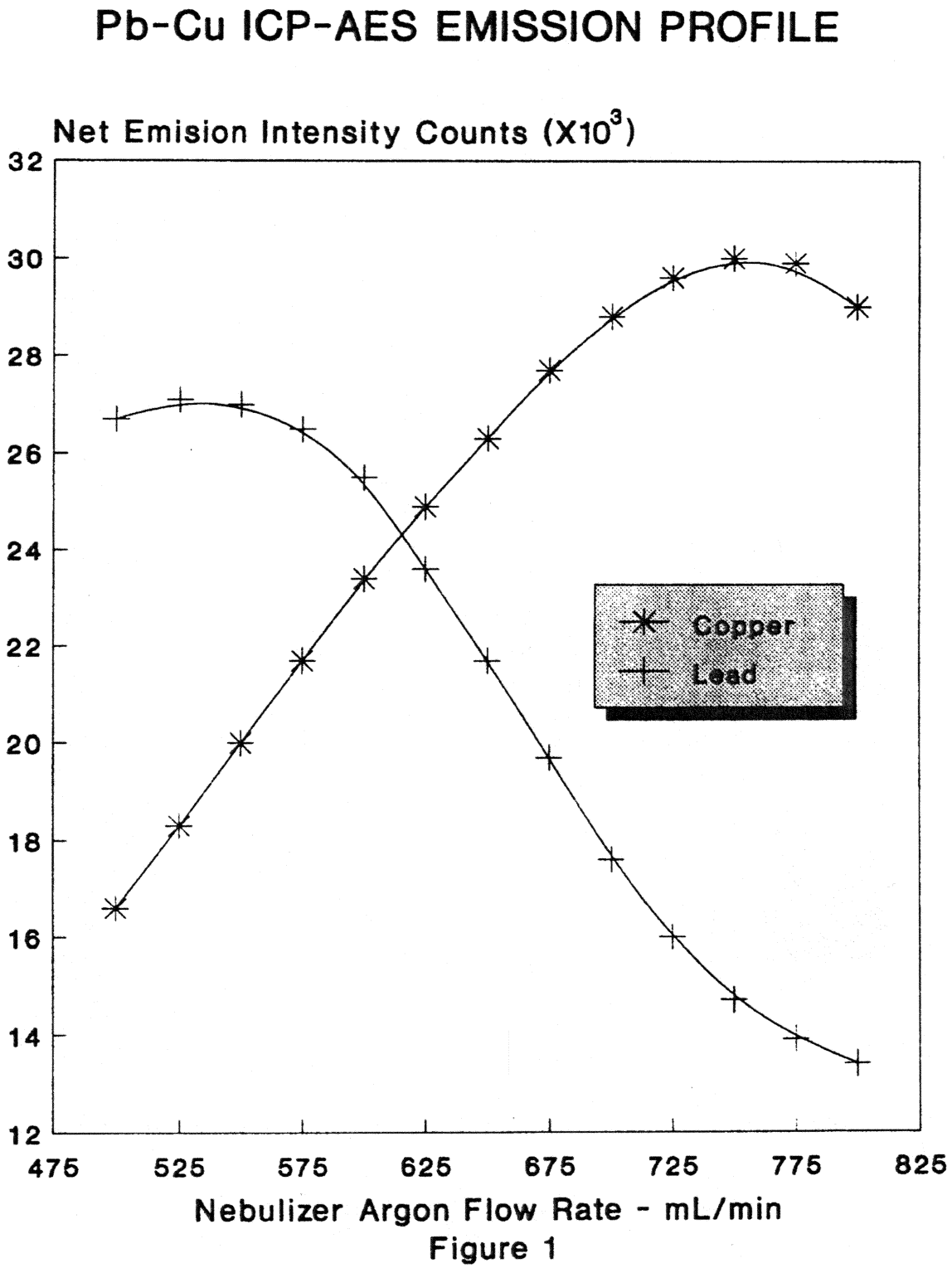

Figure 1

BILLING CODE 6560–50–C

■ 9. Revise Appendix D to Part 136 to read as follows:

Appendix D to Part 136—Precision and Recovery Statements for Methods for Measuring Metals

Two selected methods from ''Methods for Chemical Analysis of Water and Wastes,'' EPA–600/4–79–020 (1979) have been subjected to interlaboratory method validation studies. The two selected methods are for Thallium and Zinc. The following precision and recovery statements are presented in this appendix and incorporated into Part 136:

Method 279.2

For Thallium, Method 279.2 (Atomic Absorption, Furnace Technique) replace the Precision and Accuracy Section statement with the following:

Precision and Accuracy

An interlaboratory study on metal analyses by this method was conducted by the Quality Assurance Branch (QAB) of the

Environmental Monitoring Systems Laboratory—Cincinnati (EMSL–CI). Synthetic concentrates containing various levels of this element were added to reagent water, surface water, drinking water and three effluents. These samples were digested by the total digestion procedure, 4.1.3 in this manual. Results for the reagent water are given below. Results for other water types and study details are found in ''EPA Method Study 31, Trace Metals by Atomic Absorption (Furnace Techniques),'' National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 Order No. PB 86–121 704/AS, by Copeland, F.R. and Maney, J.P., January 1986.

For a concentration range of 10.00–252 µg/L

$X = 0.8781(C) - 0.715$
$S = 0.1112(X) + 0.669$
$SR = 0.1005(X) + 0.241$

Where:

C = True Value for the Concentration, µg/L
X = Mean Recovery, µg/L
S = Multi-laboratory Standard Deviation, µg/L
SR = Single-analyst Standard Deviation, µg/L

Method 289.2

For Zinc, Method 289.2 (Atomic Absorption, Furnace Technique) replace the Precision and Accuracy Section statement with the following:

Precision and Accuracy

An interlaboratory study on metal analyses by this method was conducted by the Quality Assurance Branch (QAB) of the Environmental Monitoring Systems Laboratory—Cincinnati (EMSL–CI). Synthetic concentrates containing various levels of this element were added to reagent water, surface water, drinking water and three effluents. These samples were digested by the total digestion procedure, 4.1.3 in this manual. Results for the reagent water are given below. Results for other water types and study details are found in ''EPA Method Study 31, Trace Metals by Atomic Absorption (Furnace Techniques),'' National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 Order No. PB 86–121 704/AS, by Copeland, F.R. and Maney, J.P., January 1986.

For a concentration range of 0.51–189 µg/L

$X = 1.6710(C) + 1.485$
$S = 0.6740(X) - 0.342$
$SR = 0.3895(X) - 0.384$

Where:

C = True Value for the Concentration, µg/L
X = Mean Recovery, µg/L
S = Multi-laboratory Standard Deviation, µg/L
SR = Single-analyst Standard Deviation, µg/L

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 10. The authority citation for Part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

■ 11. Section 260.11 is amended by revising paragraph (c)(2) to read as follows:

§ 260.11 References.

* * * * *

(c) * * *

(2) Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material SGT–HEM; Non-polar Material) by Extraction and Gravimetry:

(i) Revision A, EPA–821–R–98–002, February 1999, IBR approved for Part 261, Appendix IX.

(ii) Revision B, EPA–821–R–10–001, February 2010, IBR approved for Part 261, Appendix IX.

* * * * *

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

■ 12. The authority citation for Part 423 continues to read as follows:

Authority: Secs. 301; 304(b), (c), (e), and (g); 306(b) and (c); 307(b) and (c); and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended by Clean Water Act of 1977) (the ''Act''; 33 U.S.C. 1311; 1314(b), (c), (e), and (g); 1316(b) and (c); 1317(b) and (c); and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217), unless otherwise noted.

■ 13. Section 423.11 is amended by revising paragraphs (a) and (l) to read as follows:

§ 423.11 Specialized definitions.

* * * * *

(a) The term *total residual chlorine* (or total residual oxidants for intake water with bromides) means the value obtained using any of the ''chlorine—total residual'' methods in Table IB in 40 CFR 136.3(a), or other methods approved by the permitting authority.

* * * * *

(l) The term *free available chlorine* means the value obtained using any of the ''chlorine—free available'' methods in Table IB in 40 CFR 136.3(a) where the method has the capability of measuring free available chlorine, or other methods approved by the permitting authority.

* * * * *

PART 430—PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

■ 14. The authority citation for Part 430 continues to read as follows:

Authority: Secs. 301, 304, 306, 307, 308, 402, and 501, Clean Water Act as amended, (33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361) and Section 112 of the Clean Air Act, as amended (42 U.S.C. 7412).

■ 15. Section 430.01 is amended by revising paragraph (a) and by adding paragraphs (s) through (v) to read as follows:

§ 430.01 General definitions.

* * * * *

(a) *Adsorbable organic halides (AOX).* A bulk parameter that measures the total mass of chlorinated organic matter in water and wastewater. The approved method of analysis for AOX is Method 1650, which is available in Appendix A of this part, and online at *http://water.epa.gov/scitech/methods/cwa/index.cfm.*

* * * * *

(s) TCDD. 2,3,7,8-tetrachlorodibenzo-*p*-dioxin. The approved method of analysis for TCDD is Method 1613B, which is available in Appendix A of this part, and online at *http://water.epa.gov/scitech/methods/cwa/index.cfm.*

(t) TCDF. 2,3,7,8-tetrachlorodibenzofuran. The approved method of analysis for TCDF is Method 1613B, which is available in Appendix A of this part, and online at *http://water.epa.gov/scitech/methods/cwa/index.cfm.*

(u) Chloroform. The approved methods of analysis for chloroform are listed in Table IC at 40 CFR 136.3.

(v) The approved method of analysis for the following chlorinated phenolic compounds is Method 1653, which is available in Appendix A of this part, and online at *http://water.epa.gov/scitech/methods/cwa/index.cfm*:

(1) Trichlorosyringol.
(2) 3,4,5-Trichlorocatechol.
(3) 3,4,6-Trichlorocatechol.
(4) 3,4,5-Trichloroguaiacol.
(5) 3,4,6-Trichloroguaiacol.
(6) 4,5,6-Trichloroguaiacol.
(7) 2,4,5-Trichlorophenol.
(8) 2,4,6-Trichlorophenol.
(9) Tetrachlorocatechol.
(10) Tetrachloroguaiacol.
(11) 2,3,4,6–Tetrachlorophenol.
(12) Pentachlorophenol.

PART 435—OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

■ 16. The authority citation for part 435 continues to read as follows:

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

■ 17. Section 435.11 is amended as follows:

■ a. By revising paragraph (d).
■ b. By revising paragraph (e).
■ c. By revising paragraph (k)(2).

■ d. By revising paragraph (o).
■ e. By revising paragraph (t).
■ f. By revising paragraph (u).
■ g. By revising paragraph (v).
■ h. By revising paragraph (x).
■ i. By revising paragraph (ee).
■ j. By revising paragraph (gg).
■ k. By revising paragraph (hh).
■ l. By revising paragraph (ss).
■ m. By adding paragraph (uu).

§ 435.11 Special definitions.

* * * * *

(d) *Base fluid retained on cuttings* as applied to BAT effluent limitations and NSPS refers to the ''Determination of the Amount of Non-Aqueous Drilling Fluid (NAF) Base Fluid from Drill Cuttings by a Retort Chamber (Derived from API Recommended Practice 13B–2)'', EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

(e) *Biodegradation rate* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings refers to the ''Protocol for the Determination of Degradation of Non Aqueous Base Fluids in a Marine Closed Bottle Biodegradation Test System: Modified ISO 11734:1995,'' EPA Method 1647, supplemented with ''Procedure for Mixing Base Fluids With Sediments,'' EPA Method 1646. Both EPA Method 1646 and 1647 are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

* * * * *

(k) * * *

(2) *Dry drill cuttings* means the residue remaining in the retort vessel after completing the retort procedure specified in EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

* * * * *

(o) *Formation oil* means the oil from a producing formation which is detected in the drilling fluid, as determined by the GC/MS compliance assurance method, EPA Method 1655, when the drilling fluid is analyzed before being shipped offshore, and as determined by the RPE method, EPA Method 1670, when the drilling fluid is analyzed at the offshore point of discharge. The GC/MS compliance assurance method and the RPE method approved for use with this part are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section. Detection of formation oil by the RPE method may be confirmed by the GC/MS compliance assurance method, and the results of the GC/MS compliance assurance method shall apply instead of those of the RPE method.

* * * * *

(t) *Maximum weighted mass ratio averaged over all NAF well sections* for BAT effluent limitations and NSPS for base fluid retained on cuttings means the weighted average base fluid retention for all NAF well sections as determined by EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

(u) *Method 1654A* refers to EPA Method 1654, Revision A, entitled ''PAH Content of Oil by HPLC/UV,'' December 1992, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

(v) *Minimum* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings means the minimum 96-hour LC_{50} value allowed as measured in any single sample of the discharged waste stream. *Minimum* as applied to BPT and BCT effluent limitations and NSPS for sanitary wastes means the minimum concentration value allowed as measured in any single sample of the discharged waste stream.

* * * * *

(x) *No discharge of free oil* means that waste streams may not be discharged that contain free oil as evidenced by the monitoring method specified for that particular stream, *e.g.,* deck drainage or miscellaneous discharges cannot be discharged when they would cause a film or sheen upon or discoloration of the surface of the receiving water; drilling fluids or cuttings may not be discharged when they fail EPA Method 1617 (Static Sheen Test), which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

* * * * *

(ee) *Sediment toxicity* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings refers to EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' and sediment preparation procedures specified in EPA Method 1646. EPA Method 1644 is published in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' (see paragraph (uu) of this section) and EPA Method 1646 is published as an appendix to Subpart A of this part.

* * * * *

(gg) *SPP toxicity* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings refers to the bioassay test procedure, ''Suspended Particulate Phase (SPP) Toxicity Test,'' presented in EPA Method 1619, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

(hh) *Static sheen test* means the standard test procedure that has been developed for this industrial subcategory for the purpose of demonstrating compliance with the requirement of no discharge of free oil. The methodology for performing the static sheen test is presented in EPA Method 1617, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (uu) of this section.

* * * * *

(ss) *C_{16}-C_{18} internal olefin drilling fluid* means a C_{16}-C_{18} internal olefin drilling fluid formulated as specified in appendix 1 of subpart A of this part.

* * * * *

(uu) *Analytic Methods for the Oil and Gas Extraction Point Source Category* is the EPA document, ''Analytic Methods for the Oil and Gas Point Source Category,'' December 2011, EPA–821–R–11–004, that compiles analytic methods for this category. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* A copy may also be inspected at EPA's Water Docket, 1200 Pennsylvania Ave. NW., Washington, DC 20460. This method may be obtained

at *http://water.epa.gov/scitech/methods/cwa/index.cfm*.

■ 18. In § 435.12, Footnote 1 to the table is revised to read as follows:

§ 435.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

[1] No discharge of free oil. See § 435.11(x).

* * * * *

■ 19. In § 435.13:

■ a. Remove ''LC_5'' and add in its place ''LC_{50}'' wherever it appears.

■ b. Footnotes 2, 3, and 5 through 11 to the table are revised to read as follows:

§ 435.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

[2] As determined by the suspended particulate phase (SPP) toxicity test. See § 435.11(gg).

[3] As determined by the static sheen test. See § 435.11(hh).

* * * * *

[5] PAH mass ratio = Mass (g) of PAH (as phenanthrene)/Mass (g) of stock base fluid as determined by EPA Method 1654, Revision A, [specified at § 435.11(u)] entitled ''PAH Content of Oil by HPLC/UV,'' December 1992, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu).

[6] Base fluid sediment toxicity ratio = 10-day LC_{50} of C_{16}-C_{18} internal olefin/10-day LC_{50} of stock base fluid as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after preparing the sediment according to the procedure specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu).

[7] Biodegradation rate ratio = Cumulative headspace gas production (ml) of C_{16}-C_{18} internal olefin/Cumulative headspace gas production (ml) of stock base fluid, both at 275 days as determined by EPA Method 1647, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(e) and (uu).

[8] Drilling fluid sediment toxicity ratio = 4-day LC_{50} of C_{16}-C_{18} internal olefin drilling fluid/4-day LC_{50} of drilling fluid removed from drill cuttings at the solids control equipment as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after sediment preparation procedures specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu).

[9] As determined before drilling fluids are shipped offshore by the GC/MS compliance assurance method (EPA Method 1655), and as determined prior to discharge by the RPE method (EPA Method 1670) applied to drilling fluid removed from drill cuttings. If the operator wishes to confirm the results of the RPE method (EPA Method 1670), the operator may use the GC/MS compliance assurance method (EPA Method 1655). Results from the GC/MS compliance assurance method (EPA Method 1655) shall supersede the results of the RPE method (EPA Method 1670). EPA Method 1655 and 1670 are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu).

[10] Maximum permissible retention of non-aqueous drilling fluid (NAF) base fluid on wet drill cuttings averaged over drilling intervals using NAFs as determined by EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu). This limitation is applicable for NAF base fluids that meet the base fluid sediment toxicity ratio (Footnote 6), biodegradation rate ratio (Footnote 7), PAH, mercury, and cadmium stock limitations (C_{16}-C_{18} internal olefin) defined above in this table.

[11] Maximum permissible retention of non-aqueous drilling fluid (NAF) base fluid on wet drill cuttings average over drilling intervals using NAFs as determined by EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu). This limitation is applicable for NAF base fluids that meet the ester base fluid sediment toxicity ratio and ester biodegradation rate ratio stock limitations defined as:

(a) ester base fluid sediment toxicity ratio = 10-day LC_{50} of C_{12}-C_{14} ester or C_8 ester/10-day LC_{50} of stock base fluid as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after sediment preparation procedures specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu);

(b) ester biodegradation rate ratio = Cumulative headspace gas production (ml) of C_{12}-C_{14} ester or C_8 ester/Cumulative headspace gas production (ml) of stock base fluid, both at 275 days as determined by EPA Method 1647, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(e) and (uu); and

(c) PAH mass ratio (Footnote 5), mercury, and cadmium stock limitations (C_{16}-C_{18} internal olefin) defined above in this table.

■ 20. In § 435.14 footnote 2 to the table is revised to read as follows:

§ 435.14 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

* * * * *

[2] As determined by the static sheen test. See § 435.11(hh).

* * * * *

■ 21. In § 435.15:

■ a. Remove ''LC_5'' and add in its place ''LC_{50}''wherever it appears.

■ b. Footnotes 2, 3, and 5 through 11 to the table are revised to read as follows:

§ 435.15 Standards of performance for new sources (NSPS).

* * * * *

[2] As determined by the suspended particulate phase (SPP) toxicity test. See § 435.11(gg).

[3] As determined by the static sheen test. See § 435.11(hh).

* * * * *

[5] PAH mass ratio = Mass (g) of PAH (as phenanthrene)/Mass (g) of stock base fluid as determined by EPA Method 1654, Revision A, [specified at § 435.11(u)] entitled ''PAH Content of Oil by HPLC/UV,'' December 1992, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu).

[6] Base fluid sediment toxicity ratio = 10-day LC_{50} of C_{16}-C_{18} internal olefin/10-day LC_{50} of stock base fluid as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after preparing the sediment according to the procedure specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu).

[7] Biodegradation rate ratio = Cumulative headspace gas production (ml) of C_{16}-C_{18} internal olefin/Cumulative headspace gas production (ml) of stock base fluid, both at 275 days as determined by EPA Method 1647, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(e) and (uu).

[8] Drilling fluid sediment toxicity ratio = 4-day LC_{50} of C_{16}-C_{18} internal olefin drilling fluid/4-day LC_{50} of drilling fluid removed from drill cuttings at the solids control equipment as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after sediment preparation procedures specified in

EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu).

[9] As determined before drilling fluids are shipped offshore by the GC/MS compliance assurance method (EPA Method 1655), and as determined prior to discharge by the RPE method (EPA Method 1670) applied to drilling fluid removed from drill cuttings. If the operator wishes to confirm the results of the RPE method (EPA Method 1670), the operator may use the GC/MS compliance assurance method (EPA Method 1655). Results from the GC/MS compliance assurance method (EPA Method 1655) shall supersede the results of the RPE method (EPA Method 1670). EPA Method 1655 and 1670 are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu).

[10] Maximum permissible retention of non-aqueous drilling fluid (NAF) base fluid on wet drill cuttings averaged over drilling intervals using NAFs as determined by EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu). This limitation is applicable for NAF base fluids that meet the base fluid sediment toxicity ratio (Footnote 6), biodegradation rate ratio (Footnote 7), PAH, mercury, and cadmium stock limitations (C_{16}-C_{18} internal olefin) defined above in this table.

[11] Maximum permissible retention of non-aqueous drilling fluid (NAF) base fluid on wet drill cuttings average over drilling intervals using NAFs as determined by EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(uu). This limitation is applicable for NAF base fluids that meet the ester base fluid sediment toxicity ratio and ester biodegradation rate ratio stock limitations defined as:

(a) ester base fluid sediment toxicity ratio = 10-day LC_{50} of C_{12}-C_{14} ester or C_8 ester/10-day LC_{50} of stock base fluid as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after sediment preparation procedures specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu);

(b) ester biodegradation rate ratio = Cumulative headspace gas production (ml) of C_{12}-C_{14} ester or C_8 ester/Cumulative headspace gas production (ml) of stock base fluid, both at 275 days as determined by EPA Method 1647, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(e) and (uu); and (c) PAH mass ratio (Footnote 5), mercury, and cadmium stock limitations (C_{16}-C_{18} internal olefin) defined above in this table.

■ 22. The heading of Appendix 1 to Subpart A of Part 435 is revised to read as follows:

Appendix 1 to Subpart A of Part 435—Static Sheen Test (EPA Method 1617)

* * * * *

■ 23. Appendix 2 to Subpart A of Part 435 is amended as follows:

■ a. Revise the appendix heading.

■ b. Remove the fourth sentence from Section II.C.6.

■ c. Revise Section III.A.1.

■ d. Revise Section III.E.2.

The revisions read as follows:

Appendix 2 to Subpart A of Part 435—Drilling Fluids Toxicity Test (EPA Method 1619)

* * * * *

III–A. * * *

(1) Each definitive test consists of 18 test containers: 3 replicates of a control and 5 SPP dilutions. Test containers should be Pyrex or equivalent glass. For definitive tests, 5 SPP dilutions with 3 replicates of at least 500 ml each are required. Twenty mysids per replicate, 360 per definitive test are required.

* * * * *

III–E. * * *

(2) Establish the definitive test concentrations based on results of a range finding test or based on prior experience and knowledge of the mud system.

* * * * *

■ 24. The heading of Appendix 3 to Subpart A of Part 435 is amended to read as follows:

Appendix 3 to Subpart A of Part 435—Procedure for Mixing Base Fluids With Sediments (EPA Method 1646)

* * * * *

■ 25. Appendix 4 to Subpart A of Part 435 is revised to read as follows:

Appendix 4 to Subpart A of Part 435—Protocol for the Determination of Degradation of Non-Aqueous Base Fluids in a Marine Closed Bottle Biodegradation Test System: Modified ISO 11734:1995 (EPA Method 1647)

1.0. Summary of EPA Method 1647

a. This method determines the anaerobic degradation potential of mineral oils, paraffin oils and non-aqueous fluids (NAF) in sediments. These substrates are base fluids for formulating offshore drilling fluids. The test evaluates base fluid biodegradation rates by monitoring gas production due to microbial degradation of the test fluid in natural marine sediment.

b. The test procedure places a mixture of marine/estuarine sediment, test substrate (hydrocarbon or controls) and seawater into clean 120 mL (150 mL actual volume) Wheaton serum bottles. The test is run using four replicate serum bottles containing 2,000 mg carbon/kg dry weight concentration of test substrate in sediment. The use of resazurin dye solution (1 ppm) evaluates the anaerobic (redox) condition of the bottles (dye is blue when oxygen is present, reddish in low oxygen conditions and colorless if oxygen free). After capping the bottles, a nitrogen sparge removes air in the headspace before incubation begins. During the incubation period, the sample should be kept at a constant temperature of 29 ± 1°C. Gas production and composition is measured approximately every two weeks. The samples need to be brought to ambient temperature before making the measurements. Measure gas production using a pressure gauge. Barometric pressure is measured at the time of testing to make necessary volume adjustments.

c. ISO 11734:1995 specifies that total gas is the standard measure of biodegradation. While modifying this test for evaluating biodegradation of NAFs, methane was also monitored and found to be an acceptable method of evaluating biodegradation. Section 7 contains the procedures used to follow biodegradation by methane production. Measurement of either total gas or methane production is permitted. If methane is followed, determine the composition of the gas by using gas chromatography (GC) analysis at each sampling. At the end of the test when gas production stops, or at around 275 days, an analysis of sediment for substrate content is possible. Common methods which have been successfully used for analyzing NAFs from sediments are listed in Section 8.

2.0 System Requirements

This environmental test system has three phases, spiked sediment, overlying seawater, and a gas headspace. The sediment/test compound mixture is combined with synthetic sea water and transferred into 120-mL serum bottles. The total volume of sediment/sea water mixture in the bottles is 75 mL. The volume of the sediment layer will be approximately 50 mL, but the exact volume of the sediment will depend on sediment characteristics (wet:dry ratio and density). The amount of synthetic sea water will be calculated to bring the total volume in the bottles to 75 mL. The test systems are maintained at a temperature of 29 ± 1°C during incubation. The test systems are brought to ambient temperatures prior to measuring pressure or gas volume.

2.1 Sample Requirements

a. The concentration of base fluids are at least 2,000 mg carbon test material/kg dry sediment. Carbon concentration is determined by theoretical composition based on the chemical formula or by chemical analysis by ASTM D5291–96. Sediments with positive, intermediate and negative control substances as well as a C_{16}-C_{18} internal olefin type base fluid will be run in conjunction with test materials under the same conditions. The positive control is ethyl oleate (CAS 111–62–6), the intermediate control is 1-hexadecene (CAS 629–73–2), and the negative control is squalane (CAS 111–01–3). Controls must be of analytical grade or

the highest grade available. Each test control concentration should be prepared according to the mixing procedure described in Section 3.1.

b. Product names will be used for examples or clarification in the following text. Any use of trade or product names in this publication is for descriptive use only, and does not constitute endorsement by EPA or the authors.

2.2. Seawater Requirements

Synthetic seawater at a salinity of 25 ± 1 ppt should be used for the test. The synthetic seawater should be prepared by mixing a commercially available artificial seawater mix, into high purity distilled or de-ionized water. The seawater should be aerated and allowed to age for approximately one month prior to use.

2.3. Sediment Requirements

a. The dilution sediment must be from a natural estuarine or marine environment and be free of the compounds of interest. The collection location, date and time will be documented and reported. The sediment is prepared by press-sieving through a 2,000-micron mesh sieve to remove large debris, then press-sieving through a 500-micron sieve to remove indigenous organisms that may confound test results. The water content of the sediment should be less than 60% (w/w) or a wet to dry ratio of 2.5. The sediment should have a minimum organic matter content of 3% (w/w) as determined by ASTM D2974–07a (Method A and D and calculate organic matter as in Section 8.3 of method ASTM D2974–07a).

b. To reduce the osmotic shock to the microorganisms in the sediment the salinity of the sediment's pore water should be between 20–30 ppt. Sediment should be used for testing as soon as possible after field collection. If required, sediment can be stored in the dark at 4 °C with 3–6 inches of overlying water in a sealed container for a maximum period of 2 months prior to use.

3.0 Test Set Up

The test is set up by first mixing the test or control substrates into the sediment inoculum, then mixing in seawater to make a pourable slurry. The slurry is then poured into serum bottles, which are then flushed with nitrogen and sealed.

3.1. Mixing Procedure

Because base fluids are strongly hydrophobic and do not readily mix with sediments, care must be taken to ensure base fluids are thoroughly homogenized within the sediment. All concentrations are weight-to-weight comparisons (mg of base fluid to kg of dry control sediment). Sediment and base fluid mixing will be accomplished by using the following method.

3.1.1. Determine the wet to dry weight ratio for the control sediment by weighing approximately 10 sub-samples of approximately 1 g each of the screened and homogenized wet sediment into tared aluminum weigh pans. Dry sediment at 105 °C for 18–24 h. Remove the dried sediments and cool in a desiccator. Repeat the drying, cooling, and weighing cycle until a constant weight is achieved (within 4% of previous weight). Re-weigh the samples to determine the dry weight. Calculate the mean wet and dry weights of the 10 sub samples and determine the wet/dry ratio by dividing the mean wet weight by the mean dry weight using Equation 5–1. This is required to determine the weight of wet sediment needed to prepare the test samples.

$$\frac{\text{Mean Wet Sediment Weight (g)}}{\text{Mean Dry Sediment Weight (g)}} = \text{Wet to Dry Ratio} \qquad \text{[Eq.1]}$$

3.1.2. Determine the density (g/ml) of the wet sediment. This will be used to determine total volume of wet sediment needed for the various test treatments. One method is to tare a 5 ml graduated cylinder and add about 5 ml of homogenized sediment. Carefully record the volume then weigh this volume of sediment. Repeat this a total of three times. To determine the wet sediment density, divide the weight by volume per the following formula:

$$\frac{\text{Mean Wet Sediment Weight (g)}}{\text{Mean Wet Sediment Volume (mL)}} = \text{Wet Sediment Density (g/mL)} \qquad \text{[Eq. 2]}$$

3.1.3. Determine the amount of base fluid to be spiked into wet sediment in order to obtain the desired initial base fluid concentration of 2,000 mg carbon/kg dry weight. An amount of wet sediment that is the equivalent of 30 g of dry sediment will be added to each bottle. A typical procedure is to prepare enough sediment for 8 serum bottles (3 bottles to be sacrificed at the start of the test, 4 bottles incubated for headspace analysis, and enough extra sediment for 2 extra bottles). Extra sediment is needed because some of the sediment will remain coated onto the mixing bowl and utensils. Experience with this test may indicate that preparing larger volumes of spiked sediment is a useful practice, then the following calculations should be adjusted accordingly.

a. Determine the total weight of dry sediment needed to add 30 g dry sediment to 8 bottles. If more bottles are used then the calculations should be modified accordingly. For example:

$$\text{30 g dry sediment per bottle} \times 8 = \text{240 g dry sediment} \qquad \text{[Eq.3]}$$

b. Determine the weight of base fluid, in terms of carbon, needed to obtain a final base fluid concentration of 2,000 mg carbon/kg dry weight. For example:

$$\frac{\text{2,000 mg carbon}}{\text{Per kg dry sediment}} \times \frac{\text{240 g}}{\text{1,000}} = \text{480 mg carbon} \qquad \text{[Eq. 4]}$$

c. i. Convert from mg of carbon to mg of base fluid. This calculation will depend on the % fraction of carbon present in the molecular structure of each base fluid. For the control fluids, ethyl oleate is composed of 77.3% carbon, hexadecene is composed of 85.7% carbon, and squalane is composed of 85.3% carbon. The carbon fraction of each base fluid should be supplied by the manufacturer or determined before use. ASTM D5291–96 or equivalent will be used to determine composition of fluid.

ii. To calculate the amount of base fluid to add to the sediment, divide the amount of carbon (480 mg) by the percent fraction of carbon in the fluid.

iii. For example, the amount of ethyl oleate added to 240 g dry weight sediment can be calculated from the following equation:

$$\frac{480 \text{ mg carbon}}{(77.3 \div 100)} = 621 \text{ mg ethyl oleate} \quad \text{[Eq. 5]}$$

iv. Therefore, add 621 mg of ethyl oleate to 240 g dry weight sediment for a final concentration of 2,000 mg carbon/kg sediment dry weight.

3.1.4. Mix the calculated amount of base fluid with the appropriate weight of wet sediment.

a. Use the wet:dry ratio to convert from g sediment dry weight to g sediment wet weight, as follows:

$$240 \text{ g dry sediment} \times \text{wet:dry ratio} = \text{g wet sediment needed} \quad \text{[Eq. 6]}$$

b. i. Weigh the appropriate amount of base fluid (calculated in Section 3.1.3.c) into stainless mixing bowls, tare the vessel weight, then add the wet sediment calculated in Equation 5, and mix with a high shear dispersing impeller for 9 minutes.

ii. The sediment is now mixed with synthetic sea water to form a slurry that will be transferred into the bottles.

3.2. Creating Seawater/Sediment Slurry

Given that the total volume of sediment/sea water slurry in each bottle is to be 75 mL, determine the volume of sea water to add to the wet sediment.

3.2.1. If each bottle is to contain 30 g dry sediment, calculate the weight, and then the volume, of wet sediment to be added to each bottle.

$$30 \text{ g dry sediment} \times \text{wet:dry ratio} = \text{g wet sediment added to each bottle} \quad \text{[Eq. 7]}$$

$$\frac{\text{g wet sediment}}{\text{Density (g/mL) of wet sediment}} = \text{mL wet sediment} \quad \text{[Eq. 8]}$$

3.2.2. Calculate volume of sea water to be added to each bottle.

$$75 \text{ mL total volume} - \text{mL wet sediment (from Eq. 8)} = \text{mL of sea water} \quad \text{[Eq. 9]}$$

3.2.3. Determine the ratio of sea water to wet sediment (volume:volume) in each bottle.

$$\frac{\text{Volume sea water per bottle (Eq. 9)}}{\text{Volume sediment water per bottle (Eq. 8)}} = \text{Ratio of sea water:wet sediment} \quad \text{[Eq. 10]}$$

3.2.4. Convert the wet sediment weight from Equation 6 into a volume using the sediment density.

$$\text{g wet sediment (Eq. 6) density} = \text{volume (mL) of sediment} \quad \text{[Eq. 11]}$$

3.2.5. Determine the amount of sea water to mix with the wet sediment.

$$\text{mL wet sediment (Eq. 11)} \times \text{Sea water:sediment ratio (Eq. 10)} = \text{mL sea water to add to wet sediment} \quad \text{[Eq. 12]}$$

Mix sea water thoroughly with wet sediment to form a sediment/sea water slurry.

3.3. Bottling the Sediment Seawater Slurry

The total volume of sediment/sea water slurry in each bottle is to be 75 mL. Convert the volume (mL) of sediment/sea water slurry into a weight (g) using the density of the sediment and the seawater.

3.3.1. Determine the weight of sediment to be added to each bottle.

$$\text{mL sediment (Eq. 8)} \times \text{density of wet sediment (g/mL)} = \text{g wet sediment} \quad \text{[Eq. 13]}$$

3.3.2. Determine the weight of sea water to be added to each bottle.

$$\text{mL sea water (Eq. 9)} \times \text{density of sea water (1.01 g/mL)} = \text{g sea water} \quad \text{[Eq. 14]}$$

3.3.3. Determine weight of sediment/sea water slurry to be added to each bottle.

$$\text{g wet sediment (Eq. 13)} + \text{g sea water (Eq. 14)} = \text{g sediment/sea water slurry} \quad \text{[Eq. 15]}$$

This should provide each bottle with 30 g dry sediment in a total volume of 75 mL.

3.3.4. Putting the sediment:seawater slurry in the serum bottles.

a. **Note:** The slurry will need to be constantly stirred to keep the sediment suspended.

b. Place a tared serum bottle on a balance and add the appropriate amount of slurry to the bottle using a funnel. Once the required slurry is in the bottle remove the funnel, add 2–3 drops (25 µL) of a 1 gram/L resazurin dye stock solution. Cap the bottle with a butyl rubber stopper (Bellco Glass, Part #2048–11800) and crimp with an aluminum seal (Bellco Glass Part #2048–11020).

c. Using a plastic tube with a (23-gauge, 1-inch long) needle attached to one side and a nitrogen source to the other, puncture the serum cap with the needle. Puncture the serum cap again with a second needle to sparge the bottle's headspace of residual air for two minutes. The nitrogen should be flowing at no more than 100 mL/min to encourage gentle displacement of oxygenated air with nitrogen. Faster nitrogen flow rates would cause mixing and complete oxygen removal would take much longer. Remove the nitrogen needle first to avoid any initial pressure problems. The second (vent) needle should be removed within 30 seconds of removing the nitrogen needle.

d. Triplicate blank test systems are prepared, with similar quantities of sediment and seawater without any base fluid. Incubate in the dark at a constant temperature of 29 ± 1 °C.

e. Record the test temperature. The test duration is dependent on base fluid performance, but at a maximum should be no more than 275 days. Stop the test after all base fluids have achieved a plateau of gas production. At termination, base fluid concentrations can be verified in the terminated samples by extraction and GC analysis according to Section 8.

4.0. Concentration Verification Chemical Analyses

a. Because of the difficulty of homogeneously mixing base fluid with sediment, it is important to demonstrate that the base fluid is evenly mixed within the sediment sea water slurry that was added to each bottle. Of the seven serum bottles set up for each test or control condition, three are randomly selected for concentration verification analyses. These should be immediately placed at 4 °C and a sample of sediment from each bottle should be analyzed for base fluid content as soon as possible. The coefficient of variation (CV) for the replicate samples must be less than 20%. The results should show recovery of at least 70% of the spiked base fluid. Use an appropriate analytical procedure described in Section 8 to perform the extractions and analyses. If any set of sediments fail the criteria for concentration verification, then the corrective action for that set of sediments is also outlined in Section 8.

b. The nominal concentrations and the measured concentrations from the three bottles selected for concentration verification should be reported for the initial test concentrations. The coefficient of variation (CV) for the replicate samples must be less than 20%. If base fluid content results are not within the 20% CV limit, the test must be stopped and restarted with adequately mixed sediment.

5.0. Gas Monitoring Procedures

Biodegradation is measured by total gas as specified in ISO 11734:1995. Methane production can also be tracked and is described in Section 7.

5.1. Total Gas Monitoring Procedures

Bottles should be brought to room temperature before readings are taken. a. The bottles are observed to confirm that the resazurin has not oxidized to pink or blue. Total gas production in the culture bottles should be measured using a pressure transducer (one source is Biotech International). The pressure readings from test and control cultures are evaluated against a calibration curve created by analyzing the pressure created by known additions of gas to bottles established identically to the culture bottles. Bottles used for the standard curve contain 75 mL of water, and are sealed with the same rubber septa and crimp cap seals used for the bottles containing sediment. After the bottles used in the standard curve have been sealed, a syringe needle inserted through the septa is used to equilibrate the pressure inside the bottles to the outside atmosphere. The syringe needle is removed and known volumes of air are injected into the headspace of the bottles. Pressure readings provide a standard curve relating the volume of gas injected into the bottles and headspace pressure. No less than three points may be used to generate the standard curve. A typical standard curve may use 0, 1, 5, 10, 20 and 40 mL of gas added to the standard curve bottles.

b. The room temperature and barometric pressure (to two digits) should be recorded at the time of sampling. One option for the barometer is Fisher Part #02–400 or 02–401. Gas production by the sediment is expressed in terms of the volume (mL) of gas at standard temperature (0 °C = 273 °K) and pressure (1 atm = 30 inches of Hg) using Eq. 16.

$$V_2 = \frac{P_1 \times V_1 \times T_2}{T_1 \times P_2} \quad \text{[Eq.16]}$$

Where:

V_2 = Volume of gas production at standard temperature and pressure

P_1 = Barometric pressure on day of sampling (inches of Hg)

V_1 = Volume of gas measured on day of sampling (mL)

T_2 = Standard temperature = 273 °K

T_1 = Temperature on day of sampling (°C + 273 = °K)

P_2 = Standard pressure = 30 inches Hg

c. An estimate can be made of the total volume of anaerobic gas that will be produced in the bottles. The gas production measured for each base fluid can be expressed as a percent of predicted total anaerobic gas production.

5.1.1. Calculate the total amount of carbon in the form of the base fluid present in each bottle.

a. Each bottle is to contain 30 g dry weight sediment. The base fluid concentration is 2,000 mg carbon/kg dry weight sediment. Therefore:

$$2{,}000 \text{ mg carbon/kg sediment} \times (30 \text{ g} \div 1{,}000) = 60 \text{ mg carbon per bottle} \quad \text{[Eq. 17]}$$

5.1.2. Theory states that anaerobic microorganisms will convert 1 mole of carbon substrate into 1 mole of total anaerobic gas production.

a. Calculate the number of moles of carbon in each bottle.

b. The molecular weight of carbon is 12 (*i.e.,* 1 mole of carbon = 12 g). Therefore, the number of moles of carbon in each bottle can be calculated.

$$\frac{60 \text{ mg carbon per bottle}/1{,}000}{12 \text{ g/mole}} = 0.005 \text{ moles carbon} \quad \text{[Eq. 18]}$$

5.1.3. Calculate the predicted volume of anaerobic gas.

One mole of gas equals 22.4 L (at standard temperature and pressure), therefore,

$$0.005 \text{ moles} \times 22.4 \text{ L} = 0.112\text{L (or 112 mL total gas production)} \quad \text{[Eq. 19]}$$

5.2. Gas Venting

a. If the pressure in the serum bottle is too great for the pressure transducer or syringe, some of the excess gas must be wasted. The best method to do this is to vent the excess gas right after measurement. To do this, remove the barrel from a 10-mL syringe and fill it ⅓ full with water. This is then inserted into the bottle through the stopper using a small diameter (high gauge) needle. The excess pressure is allowed to vent through the water until the bubbles stop. This allows equalization of the pressure inside the bottle to atmospheric without introducing oxygen. The amount of gas vented (which is equal to the volume determined that day) must be kept track of each time the bottles are vented. A simple way to do this in a spreadsheet format is to have a separate column in which cumulative vented gas is tabulated. Each time the volume of gas in the cultures is analyzed, the total gas produced is equal to the gas in the culture at that time plus the total of the vented gas.

b. To keep track of the methane lost in the venting procedure, multiply the amount of gas vented each time by the corrected % methane determined on that day. The answer gives the volume of methane wasted. This must be added into the cumulative totals similarly to the total gas additions.

6.0. Test Acceptability and Interpretation

6.1. Test Acceptability

At day 275 or when gas production has plateaued, whichever is first, the controls are evaluated to confirm that the test has been performed appropriately. In order for this modification of the closed bottle biodegradation test to be considered acceptable, all the controls must meet the biodegradation levels indicated in Table 1. The intermediate control hexadecene must produce at least 30% of the theoretical gas production. This level may be reexamined after two years and more data has been generated.

TABLE 1—TEST ACCEPTABILITY CRITERIA

Concentration	Percent biodegradability as a function of gas measurement		
	Positive control	Squalane negative control	Hexadecene intermediate control
2,000 mg carbon/kg	≥60% theoretical	≤5% theoretical	≥30% theoretical.

6.2 Interpretation

a. In order for a fluid to pass the closed bottle test, the biodegradation of the base fluid as indicated by the total amount of total gas (or methane) generated once gas production has plateaued (or at the end of 275 days, which ever is first) must be greater than or equal to the volume of gas (or methane) produced by the reference standard (internal elefin or ester).

b. The method for evaluating the data to determine whether a fluid has passed the biodegradation test must use the equations:

$$\frac{\text{\% Theoretical gas production of reference fluid}}{\text{\% Theoretical gas production of NAF}} \leq 1.0 \quad \text{[Eq. 20]}$$

Where:

NAF = Stock base fluid being tested for compliance

Reference fluid = C_{16}-C_{18} internal olefin or C_{12} –C_{14} or C_8 ester reference fluid

7.0. Methane Measurement

7.1. Methane Monitoring Procedures

a. The use of total gas production alone may result in an underestimation of the actual metabolism occurring since CO_2 is slightly soluble in water. An acceptable alternative method is to monitor methane production and total gas production. This is easily done using GC analysis. A direct injection of headspace gases can be made into a GC using almost any packed or capillary column with an FID detector. Unless volatile fuels or solvents are present in the test material or the inocula, the only component of the headspace gas that can be detected using an FID detector is methane. The percent methane in the headspace gas is determined by comparing the response of the sample injections to the response from injections of known percent methane standards. The percent methane is corrected for water vapor saturation using Eq. 21 and then converted to a volume of dry methane using Eq. 22.

$$\text{Corrected \% } CH_4 = \frac{\% \ CH_4}{1 - \frac{D \times 22.4 \text{ L/mol}}{18 \text{ g/mol} \times 1{,}000}} \qquad \text{[Eq. 21]}$$

Where:

D = The density of water vapor at saturation (g/m³, can be found in CRC Handbook of Chemistry and Physics) for the temperature of sampling.

$$V_{CH4} \text{ (ml)} = (S + V) \times \frac{P - P_W}{T + 273} \times \frac{CH_4}{100} \times \frac{273}{760} \qquad \text{[Eq. 22]}$$

Where:

V_{CH4} = Volume of methane in the bottle
S = Volume of excess gas production (measured with a pressure transducer)
V = Volume of the headspace in the culture bottle (total volume—liquid phase)
P = Barometric pressure (mm Hg, measured with barometer)
T = Temperature (°C)
P_w = Vapor pressure of water at T (mm Hg, can be found in CRC Handbook of Chemistry and Physics)
CH_4 = % methane in headspace gas (after correction for water vapor)

b. The total volume of serum bottles sold as 125 mL bottles (Wheaton) is 154.8 mL.

c. The volumes of methane produced are then compared to the volumes of methane in the controls to determine if a significant inhibition of methane production or a significant increase of methane production has been observed. Effective statistical analyses are important, as variability in the results is common due to the heterogeneity of the inoculum's source. It is also common to observe that the timing of the initiation of culture activity is not equal in all of the cultures. Expect a great variability over the period when the cultures are active, some replicates will start sooner than others, but all of the replicates should eventually reach similar levels of base fluid degradation and methane production.

7.2. Expected Methane Production Calculations

a. The amount of methane expected can be calculated using the equation of Symons and Buswell (Eq. 23). In the case of complete mineralization, all of the carbon will appear as wither CO_2 or CH_4, thus the total moles of gas produced will be equal to the total moles of carbon in the parent molecule. The use of the Buswell equation allows you to calculate the effects the redox potential will have on the distribution of the products in methanogenic cultures. More reduced electron donors will allow the production of more methane, while more oxidized electron donors will cause a production of more carbon dioxide.

$$\frac{12 \text{ mole } CH_4}{\text{mole hexadecene}} \times \frac{22.4 \text{ L}}{\text{mole } CH_4} \times \frac{1{,}000 \text{ ml}}{\text{L}} \times \frac{1 \text{ mole hexadecene}}{224.4 \text{ g hexadecene}} \times \frac{23 \text{ g hexadecene}}{\text{kg dry soil}} \times \frac{0.03 \text{ kg}}{\text{culture}} = 84 \text{ (ml)} \qquad \text{[Eq. 24]}$$

b. An example calculation of the expected methane volume in a culture fed 2,000 mg/kg hexadecene is as follows. The application of Symons and Buswell's equation reveals that hexadecene ($C_{16}H_{32}$) will yield 4 moles of CO_2 and 12 moles of CH_4. Assuming 30 g of dry sediment are added to the bottles with 2,334 mg hexadecene/kg dry sediment (*i.e.,* equivalent to 2,000 mg carbon/kg dry sediment) the calculation is as follows.

$$\frac{12 \text{ mole } CH_4}{\text{mole hexadecene}} \times \frac{22.4 \text{ L}}{\text{mole } CH_4} \times \frac{1{,}000 \text{ ml}}{\text{L}} \times \frac{1 \text{ mole hexadecene}}{224.4 \text{ g hexadecene}} \times \frac{23 \text{ g hexadecene}}{\text{kg dry soil}} \times \frac{0.03 \text{ kg}}{\text{culture}} = 84 \text{ (ml)} \qquad \text{[Eq. 24]}$$

c. By subtracting the average amount of methane in control bottles from the test bottles and then dividing by the expected volume an evaluation of the completion of the process may be conducted.

8.0. Concentration Verification Analysis

The Concentration Verification analysis is required at the beginning of the test to ensure homogeneity and confirm that the required amount of fluid was delivered to the sediments at the start of the test.

8.1. Three samples per fluid need to be analyzed and achieve ≤20% Coefficient of Variability and an average of ≥70% to ≤120% of fluid delivered to sediment.

8.2. If a third party performs the analysis, then the laboratory should be capable of delivering the homogeneity data within seven days, in order to identify any samples that do not meet the homogeneity requirement as quickly as possible.

8.3. If one sediment/fluid set, out a multiple set batch of samples, fails these criteria, then that one set of samples must be discarded and a fresh set of spiked sediment prepared, started, and analyzed to ensure homogeneity. The same stock sediment is used to prepare the replacement set(s). The remaining sets do not need to be re-mixed or restarted.

8.4. The re-mixed set(s) will need to be run the additional days as appropriate to ensure that the total number of days is the same for all sets of bottles, even though the specific days are not aligned.

8.5. Re-mixing of bottle sets can be performed multiple times as a result of a failure of the analytical criteria, until the holding time for the stock sediment has expired (60 days). If the problem set(s) has not fallen within the acceptable analytical criteria by then, it must not be part of the batch of bottles run. If the problem batch is one of the controls, and those controls were not successfully prepared when the sediment holding time expired, then the entire test must be restarted.

9.0 Program Quality Assurance and Quality Control

9.1 Calibration

9.1.1. All equipment/instrumentation will be calibrated in accordance with the test method or the manufacturer's instructions and may be scheduled or triggered.

9.1.2. Where possible, standards used in calibration will be traceable to a nationally recognized standard (*e.g.,* certified standard by NIST).

9.1.3. All calibration activities will be documented and the records retained.

9.1.4. The source, lot, batch number, and expiration date of all reagents used with be documented and retained.

9.2. Maintenance

9.2.1. All equipment/instrumentation will be maintained in accordance with the test method or the manufacturer's instructions and may be scheduled or triggered.

9.2.2. All maintenance activities will be documented and the records retained.

9.3. Data Management and Handling

9.3.1. All primary (raw) data will be correct, complete, without selective reporting, and will be maintained.

9.3.2. Hand-written data will be recorded in lab notebooks or electronically at the time of observation.

9.3.3. All hand-written records will be legible and amenable to reproduction by electrostatic copiers.

9.3.4. All changes to data or other records will be made by:

a. Using a single line to mark-through the erroneous entry (maintaining original data legibility).

b. Write the revision.

c. Initial, date, and provide revision code (*see* attached or laboratory's equivalent).

9.3.5. All data entry, transcriptions, and calculations will be verified by a qualified person.

a. Verification will be documented by initials of verifier and date.

9.3.6. Procedures will be in place to address data management procedures used (at minimum):

a. Significant figures.

b. Rounding practices.

c. Identification of outliers in data series.

d. Required statistics.

9.4. Document Control

9.4.1. All technical procedures, methods, work instructions, standard operating procedures must be documented and approved by laboratory management prior to the implementation.

9.4.2. All primary data will be maintained by the contractor for a minimum of five (5) years.

9.5. Personnel and Training

9.5.1. Only qualified personnel shall perform laboratory activities.

9.5.2. Records of staff training and experience will be available. This will include initial and refresher training (as appropriate).

9.6. Test Performance

9.6.1. All testing will done in accordance with the specified test methods.

9.6.2. Receipt, arrival condition, storage conditions, dispersal, and accountability of the test article will be documented and maintained.

9.6.3. Receipt or production, arrival or initial condition, storage conditions, dispersal, and accountability of the test matrix (*e.g.,* sediment or artificial seawater) will be documented and maintained.

9.6.4. Source, receipt, arrival condition, storage conditions, dispersal, and accountability of the test organisms (including inoculum) will be documented and maintained.

9.6.5. Actual concentrations administered at each treatment level will be verified by appropriate methodologies.

9.6.6. Any data originating at a different laboratory will be identified and the laboratory fully referenced in the final report.

9.7. The following references identify analytical methods that have historically been successful for achieving the analytical quality criteria.

9.7.1. Continental Shelf Associates Report 1998. Joint EPA/Industry Screening Survey to Assess the Deposition of Drill Cuttings and Associated Synthetic Based Mud on the Seabed of the Louisiana Continental Shelf, Gulf of Mexico. Analysis by Charlie Henry Report Number IES/RCAT97–36 GC–FID and GC/MS.

9.7.2. EPA Method 3550 for extraction with EPA Method 8015 for GC–FID. EPA Method 3550C, Revision 3. February 2007. Ultrasonic Extraction. EPA Method 8015C, Revision 3. February 2007. Nonhalogenated Organics by Gas Chromatography.

9.7.3. Chandler, J.E., S.P. Rabke, and A.J.J. Leuterman. 1999. Predicting the Potential Impact of Synthetic-Based Muds With the Use of Biodegradation Studies. Society of Petroleum Engineers SPE 52742.

9.7.4. Chandler, J.E., B. Lee, S.P. Rabke, J.M. Geliff, R. Stauffer, and J. Hein. 2000. Modification of a Standardized Anaerobic Biodegradation Test to Discriminate Performance of Various Non-Aqueous Base Fluids. Society of Petroleum Engineers SPE 61203.

9.7.5. Munro, P.D., B Croce, C.F. Moffet, N.A Brown, A.D. McIntosh, S.J. Hird, and R.M. Stagg. 1998. Solid-Phase Test for Comparison for Degradation Rates of Synthetic Mud Base Fluids Used in the Offshore Drilling Industry. *Environ. Toxicol. Chem.* 17:1951–1959.

9.7.6. Webster, L., P.R. Mackie, S.J. Hird, P.D. Munro, N.A. Brown, and C.F. Moffat. 1997. Development of Analytical Methods for the Determination of Synthetic Mud Base Fluids in Marine Sediments. *The Analyst* 122:1485–1490.

9.8 The following standards are approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may also be inspected at EPA's Water Docket, 1200 Pennsylvania Ave. NW., Washington, DC 20460 and at at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

9.8.1 ASTM International. Available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, or online at *http://www.astm.org.*

9.8.1.1 ASTM D5291–96, Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants, approved April 10, 1996.

9.8.1.2 ASTM D2974–07a, Standard Test Methods for Moisture, Ash, and Organic Matter of Peat and Other Organic Soils, approved March 15, 2007.

■ 26. Amend Appendix 5 to Subpart A of Part 435 by:

■ a. Revising the appendix heading.

■ b. Removing ''35 to 500 amu'' and adding in its place ''35 to 600 amu'' in Section 6.3.2.

■ c. Revising section 9.5. introductory text.

■ d. Revising the equation in section 9.5.2.

■ e. Revising sections 9.6, 11.3 introductory text, 11.3.1, and 11.5.4.2.

■ f. Adding section 6.17.

Appendix 5 to Subpart A of Part 435—Determination of Crude Oil Contamination in Non-Aqueous Drilling Fluids by Gas Chromatography/Mass Spectrometry (GC/MS) (EPA Method 1655)

* * * * *

9.5 Duplicates—A duplicate field sample shall be prepared and analyzed according to Section 11. The relative percent difference (RPD) of the calculated concentrations shall be less than 15%.

* * * * *

$$RPD = \frac{|D_1 - D_2|}{[(D_1 + D_2)/2]} \times 100$$

9.6 A clean NAF sample shall be prepared and analyzed according to Section 11. Ultimately the oil-equivalent concentration from the TIC or EIP signal measured in the clean NAF sample shall be subtracted from the corresponding authentic field samples in order to calculate the true contaminant concentration (% oil) in the field samples (*see* Section 12).

* * * * *

11.3 Qualitative Identification—See Section 17 of this method for schematic flowchart.

11.3.1 Qualitative identification shall be accomplished by comparison of the TIC and EIP area data from an authentic sample to the TIC and EIP area data from the calibration standards (*see* Section 10.4). Crude oil shall be identified by the presence of C_{10} to C_{13} n-alkanes and corresponding target aromatics.

* * * * *

11.5.4.2 Asphaltene crude oils with API gravity <20 may not produce chromatographic peaks strong enough to show contamination at levels of the calibration. Extracted ion peaks should be easier to see than increased intensities for the C8 to C13 peaks. If a sample of asphaltene crude from the formation is available, a calibration standard shall be prepared.

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6.17 Schematic Flowchart for Qualitative Identification

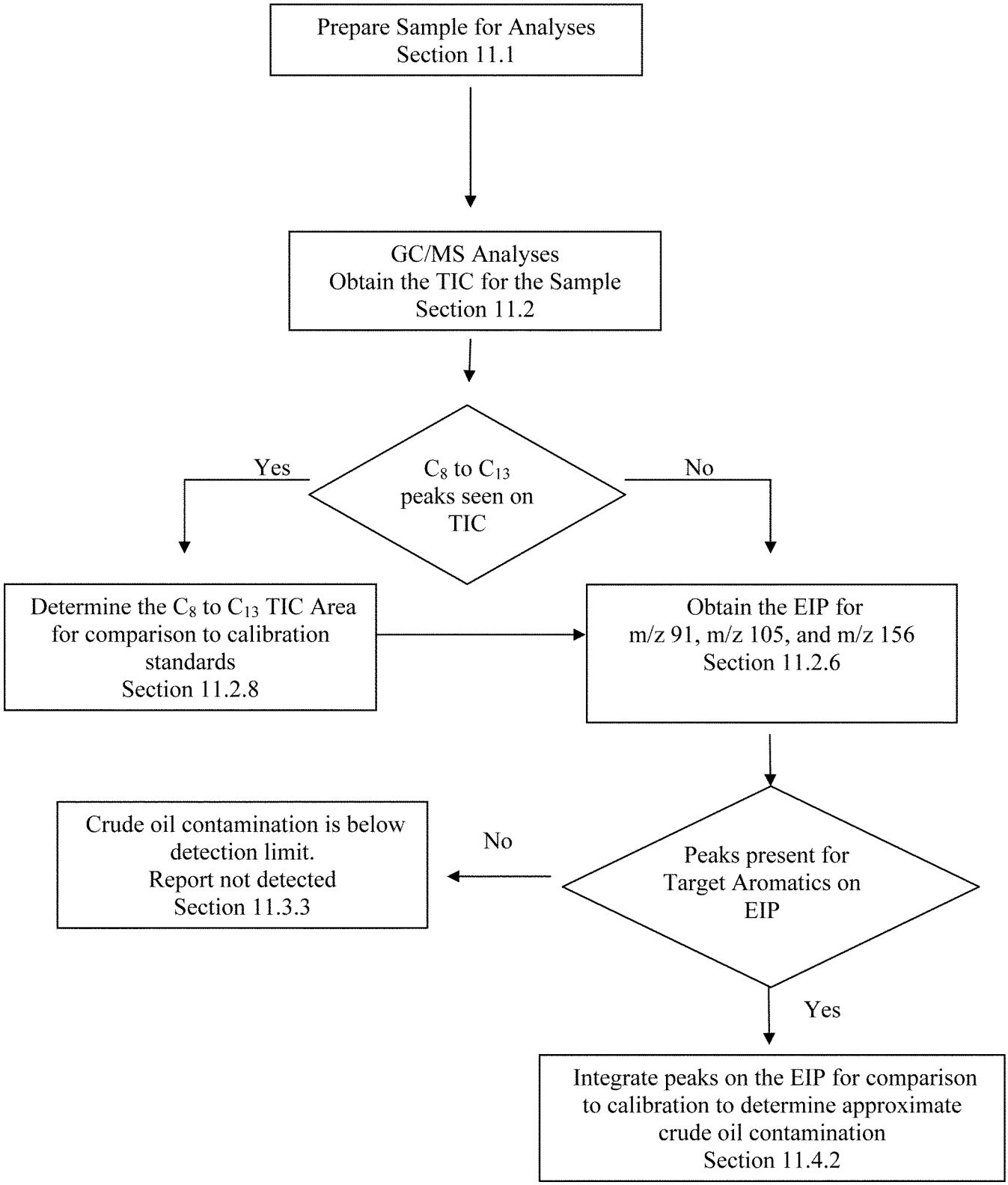

Figure 1. Schematic Flowchart for Qualitative Identification

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■ 27. The heading of Appendix 6 to Subpart A of Part 435 is revised to read as follows:

Appendix 6 to Subpart A of Part 435—Reverse Phase Extraction (RPE) Method for Detection of Oil Contamination in Non-Aqueous Drilling Fluids (NAF) (GC/MS) (EPA Method 1670)

* * * * *

■ 28. The heading of Appendix 7 to Subpart A of Part 435 is revised to read as follows:

Appendix 7 to Subpart A of Part 435—Determination of the Amount of Non-Aqueous Drilling Fluid (NAF) Base Fluid From Drill Cuttings by a Retort Chamber (Derived From API Recommended Practice 13B–2) (EPA Method 1674)

* * * * *

■ 29. Appendix 8 to Subpart A of Part 435 is amended by:

■ a. Revising the second paragraph.

■ b. Adding ''>'' before ''11–14'' in Table 1.

Appendix 8 to Subpart A of Part 435—Reference C_{16}-C_{18} Internal Olefin Drilling Fluid Formulation

* * * * *

Drilling fluid sediment toxicity ratio = 4-day LC_{50} of C_{16}-C_{18} internal olefin drilling fluid/4-day LC_{50} of drilling fluid removed from drill cuttings at the solids control equipment as determined by EPA Method 1644: ''Method for Conducting a Sediment Toxicity Test with *Leptocheirus plumulosus* and Non-Aqueous Drilling Fluids or Synthetic-Based Drilling Muds'' after sediment preparation procedures specified in EPA Method 1646, which are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See § 435.11(ee) and (uu).

* * * * *

Subpart D—Coastal Subcategory

■ 30. Section 435.41 is amended:

■ a. By revising paragraph (d).

■ b. By revising paragraph (e).

■ c. By revising paragraph (k).

■ d. By revising paragraph (m)(2).

■ e. By revising paragraph (q).

■ f. By revising paragraph (r).

■ g. By amending paragraph (w) to remove ''LC_5'' and add in its place ''LC_{50}''.

■ h. By revising paragraph (y).

■ i. By revising paragraph (ee).

■ j. By revising paragraph (ff).

■ k. By adding paragraph (mm).

§ 435.41 Special definitions.

* * * * *

(d) *Base fluid retained on cuttings* as applied to BAT effluent limitations and NSPS refers to the ''Determination of the Amount of Non-Aqueous Drilling Fluid (NAF) Base Fluid from Drill Cuttings by a Retort Chamber (Derived from API Recommended Practice 13B–2)'', EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

(e) *Biodegradation rate* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings refers to the ''Protocol for the Determination of Degradation of Non Aqueous Base Fluids in a Marine Closed Bottle Biodegradation Test System: Modified ISO 11734:1995,'' EPA Method 1647, supplemented with ''Procedure for Mixing Base Fluids With Sediments,'' EPA Method 1646. Both EPA Method 1646 and 1647 are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

* * * * *

(k) *Diesel oil* refers to the grade of distillate fuel oil, as specified in the American Society for Testing and Materials Standard Specification for Diesel Fuel Oils D975–91, that is typically used as the continuous phase in conventional oil-based drilling fluids. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. A copy may also be inspected at EPA's Water Docket, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

* * * * *

(m) * * *

(2) *Dry drill cuttings* means the residue remaining in the retort vessel after completing the retort procedure specified in EPA Method 1674, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

* * * * *

(q) *Formation oil* means the oil from a producing formation which is detected in the drilling fluid, as determined by the GC/MS compliance assurance method, EPA Method 1655, when the drilling fluid is analyzed before being shipped offshore, and as determined by the RPE method, EPA Method 1670, when the drilling fluid is analyzed at the offshore point of discharge. The GC/MS compliance assurance method and the RPE method approved for use with this part are published as appendices to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section. Detection of formation oil by the RPE method may be confirmed by the GC/MS compliance assurance method, and the results of the GC/MS compliance assurance method shall supersede those of the RPE method.

(r) *Garbage* means all kinds of victual, domestic, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of coastal oil and gas facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78. A copy of MARPOL may be inspected at EPA's Water Docket, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

* * * * *

(y) *No discharge of free oil* means that waste streams may not be discharged that contain free oil as evidenced by the monitoring method specified for that particular stream, *e.g.,* deck drainage or miscellaneous discharges cannot be discharged when they would cause a film or sheen upon or discoloration of the surface of the receiving water; drilling fluids or cuttings may not be discharged when they fail EPA Method 1617 (Static Sheen Test), which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

* * * * *

(ee) *SPP toxicity* as applied to BAT effluent limitations and NSPS for drilling fluids and drill cuttings refers to the bioassay test procedure, ''Suspended Particulate Phase (SPP) Toxicity Test,'' presented in EPA Method 1619, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

(ff) *Static sheen test* means the standard test procedure that has been

developed for this industrial subcategory for the purpose of demonstrating compliance with the requirement of no discharge of free oil. The methodology for performing the static sheen test is presented in EPA Method 1617, which is published as an appendix to Subpart A of this part and in ''Analytic Methods for the Oil and Gas Extraction Point Source Category,'' EPA–821–R–11–004. See paragraph (mm) of this section.

* * * * *

(mm) *Analytic Methods for the Oil and Gas Extraction Point Source Category* is the EPA document, EPA–821–R–11–004, that compiles analytic methods for this category. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* A copy may also be inspected at EPA's Water Docket, 1200 Pennsylvania Ave. NW., Washington, DC 20460. This method may be obtained at *http://water.epa.gov/scitech/methods/cwa/index.cfm.*

■ 31. In § 435.42 footnote 1 to the table is revised to read as follows:

§ 435.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

* * * * *

[1] No discharge of free oil. See § 435.41(y).

* * * * *

■ 32. In § 435.43:

■ a. Remove ''LC_5'' and add in its place ''LC_{50}'' in the table.

■ b. Footnotes 2 and 4 to the table are revised to read as follows:

§ 435.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

* * * * *

[2] As determined by the static sheen test. See § 435.41(ff).

* * * * *

[4] As determined by the suspended particulate phase (SPP) toxicity test. See § 435.41(ee).

* * * * *

■ 33. In § 435.44 footnote 2 to the table is revised to read as follows:

§ 435.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

* * * * *

[2] As determined by the static sheen test. See § 435.41(ff).

* * * * *

■ 34. In § 435.45:

■ a. Remove ''LC_5'' and add in its place ''LC_{50}''in the table.

■ b. Footnotes 2 and 4 to the table are revised to read as follows:

§ 435.45 Standards of performance for new sources (NSPS).

* * * * *

[2] As determined by the static sheen test. See § 435.41(ff).

* * * * *

[4] As determined by the suspended particulate phase (SPP) toxicity test. See § 435.41(ee).

* * * * *

[FR Doc. 2012–10210 Filed 5–17–12; 8:45 am]

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FEDERAL REGISTER

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Part III

Department of Housing and Urban Development

Redelegation of Authority for the Office of Policy Development and Research; Order of Succession for the Office of Policy Development and Research; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[FR–5641–D–01]

Redelegation of Authority for the Office of Policy Development and Research

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Section 7(d) of the Department of Housing and Urban Development Act, as amended, authorizes the Secretary of HUD to delegate functions, powers, and duties as the Secretary deems necessary. On August 30, 2011, at 76 FR 53934, the Secretary delegated authority over the Department's research agenda to the Assistant Secretary for Policy Development and Research and authorized the Assistant Secretary for Policy Development and Research the authority to redelegate all such authority, except for the authority to issue and waive regulations. In this notice, the Assistant Secretary for Policy Development and Research redelegates all authority to the General Deputy Assistant Secretary for Policy Development and Research and the Deputy Assistant Secretary for Policy Development, with the exception of the authority to issue and waive regulations.

DATES: *Effective Date:* May 11, 2012.

FOR FURTHER INFORMATION CONTACT: Jean Lin Pao, General Deputy Assistant Secretary, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8228, Washington, DC 20410–6000, telephone (202) 708–1600. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Section A. Authority

The Assistant Secretary for Policy Development and Research hereby redelegates all authority delegated to him by the Secretary on August 30, 2011, at 76 FR 53934, to the General Deputy Assistant Secretary for Policy Development and Research and the Deputy Assistant Secretary for Policy Development, with the exception of the authority in Section B below.

Section B. Authority Excepted

The authority delegated in this document does not include the authority to issue and waive regulations.

Section C. Authority To Redelegate

The General Deputy Assistant Secretary for Policy Development and Research and the Deputy Assistant Secretary for Policy Development are authorized to redelegate to employees of HUD any of the authority redelegated to them in this notice.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 11, 2012.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2012–12142 Filed 5–17–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[FR–5641–D–02]

Order of Succession for the Office of Policy Development and Research

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of order of succession.

SUMMARY: In this notice, the Assistant Secretary for Policy Development and Research designates the Order of Succession for the Office of Assistant Secretary for Policy Development and Research. This Order of Succession supersedes all prior Orders of Succession for the Office of Policy and Development.

DATES: *Effective Date:* May 11, 2012.

FOR FURTHER INFORMATION CONTACT: Jean Lin Pao, General Deputy Assistant Secretary, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8228, Washington, DC 20410–6000, telephone (202) 708–1812. (This is not a toll-free number.) Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Policy Development and Research is issuing this Order of Succession of officials authorized to perform the duties and functions of the Office of the Assistant Secretary when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the Office. This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998 (5 U.S.C. 3345–3349d). This publication supersedes all prior Orders of Succession for the Office of Policy Development and Research.

Accordingly, the Assistant Secretary for Policy Development and Research designates the following Order of Succession:

Section A. Order of Succession

Subject to the provision of the Vacancy Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Policy Development and Research is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Policy Development and Research, the following officials within the Office of Policy Development and Research are hereby designated to exercise the powers and perform the duties of the Office, including the authority to waive regulations

(1) Deputy Assistant Secretary for Policy Development.

(2) General Deputy Assistant Secretary.

(3) Deputy Assistant Secretary for Research, Evaluation, and Monitoring.

(4) Deputy Assistant Secretary for Economic Affairs.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his or hers in this order, are unable to act by reason of absence, disability, or vacancy in office. No individual who is serving in an office listed in an acting capacity shall, by virtue of so serving, act as Assistant Secretary for Policy Development and Research pursuant to this order.

Section B. Authority Superseded

This Order of Succession supersedes all prior Orders of Succession for the Office of Policy Development and Research including the Order of Succession published on August 30, 2011 (76 FR 53938).

Authority: Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 11, 2012.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2012–12140 Filed 5–17–12; 8:45 am]

BILLING CODE 4210–67–P

FEDERAL REGISTER

Vol. 77 Friday,

No. 97 May 18, 2012

Part IV

The President

Notice of May 17, 2012—Continuation of the National Emergency With Respect To Burma

Federal Register
Vol. 77, No. 97
Friday, May 18, 2012

Presidential Documents

Title 3—

The President

Notice of May 17, 2012

Continuation of the National Emergency With Respect To Burma

On May 20, 1997, the President issued Executive Order 13047, certifying to the Congress under section 570(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208), that the Government of Burma had committed large-scale repression of the democratic opposition in Burma after September 30, 1996, thereby invoking the prohibition on new investment in Burma by United States persons contained in that section. The President also declared a national emergency to deal with the threat posed to the national security and foreign policy of the United States by the actions and policies of the Government of Burma, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706.

Because the actions and policies of the Government of Burma continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 20, 1997, and the measures adopted to deal with that emergency in Executive Orders 13047 of May 20, 1997; 13310 of July 28, 2003; 13448 of October 18, 2007; and 13464 of April 30, 2008, must continue in effect beyond May 20, 2012.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Burma. This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
May 17, 2012.

[FR Doc. 2012–12337
Filed 5–17–12; 2:15 pm]
Billing code 3295–F2–P

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H.R. 298/P.L. 112–107

To designate the facility of the United States Postal Service located at 500 East Whitestone Boulevard in Cedar Park, Texas, as the "Army Specialist Matthew Troy Morris Post Office Building". (May 15, 2012; 126 Stat. 328)

H.R. 1423/P.L. 112–108

To designate the facility of the United States Postal Service located at 115 4th Avenue Southwest in Ardmore, Oklahoma, as the "Specialist Michael E. Phillips Post Office". (May 15, 2012; 126 Stat. 329)

H.R. 2079/P.L. 112–109

To designate the facility of the United States Postal Service located at 10 Main Street in East Rockaway, New York, as the "John J. Cook Post Office". (May 15, 2012; 126 Stat. 330)

H.R. 2213/P.L. 112–110

To designate the facility of the United States Postal Service located at 801 West Eastport Street in Iuka, Mississippi, as the "Sergeant Jason W. Vaughn Post Office". (May 15, 2012; 126 Stat. 331)

H.R. 2244/P.L. 112–111

To designate the facility of the United States Postal Service located at 67 Castle Street in Geneva, New York, as the "Corporal Steven Blaine Riccione Post Office". (May 15, 2012; 126 Stat. 332)

H.R. 2660/P.L. 112–112

To designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the "Tomball Veterans Post Office". (May 15, 2012; 126 Stat. 333)

H.R. 2668/P.L. 112–113

Brian A. Terry Memorial Act (May 15, 2012; 126 Stat. 334)

H.R. 2767/P.L. 112–114

To designate the facility of the United States Postal Service located at 8 West Silver Street in Westfield, Massachusetts, as the "William T. Trant Post Office Building". (May 15, 2012; 126 Stat. 336)

H.R. 3004/P.L. 112–115

To designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the "Private First Class Alejandro R. Ruiz Post Office Building". (May 15, 2012; 126 Stat. 337)

H.R. 3246/P.L. 112–116

To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the "Specialist Peter J. Navarro Post Office Building". (May 15, 2012; 126 Stat. 338)

H.R. 3247/P.L. 112–117

To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building". (May 15, 2012; 126 Stat. 339)

H.R. 3248/P.L. 112–118

To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building". (May 15, 2012; 126 Stat. 340)

S. 1302/P.L. 112–119

To authorize the Administrator of General Services to convey a parcel of real property in Tracy, California, to the City of Tracy. (May 15, 2012; 126 Stat. 341)

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