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WHEN: Tuesday, July 10, 2012
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2012–08 of June 1, 2012

Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary, in order to protect the national security interests of the United States, to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act.

You are authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the **Federal Register**.

This suspension shall take effect after the transmission of this determination and report to the Congress.

THE WHITE HOUSE,
Washington, June 1, 2012.

[FR Doc. 2012–15390
Filed 6–21–12; 8:45 am]
Billing code 3295–F2–P

Presidential Documents

Memorandum of June 14, 2012

Delegation of Authority

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 405(c) of the Child Soldiers Prevention Act of 2008, title IV of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457).

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

THE WHITE HOUSE,
Washington, June 14, 2012.

[FR Doc. 2012–15397
Filed 6–21–12; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
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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.

SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

5 Part 9302

RIN 3460–AA02

Requests for Testimony or the Production of Records in a Court or Other Proceedings in Which the United States Is Not a Party

AGENCY: Special Inspector General for Afghanistan Reconstruction.

ACTION: Final rule.

SUMMARY: The Special Inspector General for Afghanistan Reconstruction (SIGAR) is adopting as final, without changes, an interim rule on procedures for the public to obtain the production or disclosure of information and documents of Special Inspector General for Afghanistan Reconstruction (SIGAR) in connection with legal proceedings in which neither the United States nor the SIGAR is a party.

DATES: *Effective date:* June 22, 2012.

ADDRESSES: Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, Virginia 22202–3940. Attention: Office of General Counsel.

FOR FURTHER INFORMATION CONTACT: Hugo Teufel, General Counsel, at (703) 545–5990, email: *hugo.teufel.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: On March 16, 2012, SIGAR published in the **Federal Register** (77 FR 15561) an interim final rule that establishes procedures for the public to obtain the production or disclosure of information and documents of Special Inspector General for Afghanistan Reconstruction (SIGAR) in connection with legal proceedings in which neither the United States nor the SIGAR is a party.

We provided a 30-day comment period that ended on April 16, 2012. We received no comments and will not be making any changes to the interim final rule. Based on the rationale set forth in the interim final rule, we adopt the interim final rule without change as a final rule.

I. Matters of Regulatory Procedure

Regulatory Flexibility Act

As Acting Inspector General of SIGAR, I have determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this proposed rule will not have a significant economic impact on a substantial number of small entities because it will primarily affect SIGAR employees.

Paperwork Reduction Act

As Acting Inspector General of SIGAR, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed rule, because it does not contain any information collection requirements that would require the approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this proposed rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

SIGAR has determined that this rule is not a rule as defined in 5 U.S.C. 804 and, thus, does not require review by Congress.

Executive Order 12866

In promulgating this proposed rule, SIGAR has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive order, since it deals with agency organization, management, and personnel matters and is not in any way event deemed ''significant'' thereunder.

Executive Order 12988

As Acting Inspector General of SIGAR, I have reviewed this proposed rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects in 5 CFR Part 9302

Courts, Freedom of information, Government employees.

Dated: June 15, 2012.

Steven J. Trent,

Acting Inspector General, Special Inspector General for Afghanistan Reconstruction.

Authority and Issuance

Accordingly, the interim final rule amending 5 CFR part 9302, which was published at 77 FR 15561 on March 16, 2012, is adopted as a final rule without change.

[FR Doc. 2012–15114 Filed 6–21–12; 8:45 am]

BILLING CODE 3710–L9–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11 and 25

[NRC–2011–0161]

RIN 3150–AJ00

Access Authorization Fees

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is confirming the effective date of June 22, 2012, for the direct final rule that it published in the **Federal Register** on May 3, 2012. The direct final rule amended the NRC's access authorization fees charged to licensees for work performed under the Material Access Authorization Program (MAAP) and the Information Access Authority Program (IAAP).

DATES: The effective date for the direct final rule published in the **Federal Register** on May 3, 2012 (77 FR 26149) is confirmed as June 22, 2012.

ADDRESSES: Please refer to Docket ID NRC–2011–0161 when contacting the NRC about the availability of information for this direct final rule. You may access information and comment submittals related to this direct final rulemaking, which the NRC

possesses and is publicly available, by any of the following methods:

• *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0161.

• *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.

• *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: Emily Robbins, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–492–3524, email: *Emily.Robbins@nrc.gov.*

SUPPLEMENTARY INFORMATION: On May 3, 2012 (77 FR 26149), the NRC published a direct final rule amending its regulations at Title 10 of the Code of Federal Regulations (10 CFR) part 11, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material,'' and 10 CFR part 25, ''Access Authorization.'' The NRC amended its access authorization fees charged to licensees for work performed under the MAAP and the IAAP. The amended cost is the result of an increase in the review time for each application for access authorization. The formula for calculating fees remains based on current Office of Personnel Management (OPM) billing rates for personnel background investigations. The NRC designed the formula to recover the full cost of processing a request for access authorization from the licensee. The use of the fee assessment formula tied to current OPM billing rates eliminates the need for the NRC to update its access authorization fee schedules through regular rulemaking. In the direct final rule, the NRC stated that, if it received no significant adverse comments, the direct final rule would become final on June 22, 2012.

The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 19th day of June 2012.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Rules, Announcements, and Directives Branch, Office of Administration.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 380

RIN 3064–AD84

DEPARTMENT OF THE TREASURY

31 CFR Part 149

RIN 1505–AC36

Calculation of Maximum Obligation Limitation

AGENCY: Federal Deposit Insurance Corporation; Departmental Offices, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (the ''FDIC'') and the Departmental Offices of the Department of the Treasury (the ''Treasury'') (collectively, the ''Agencies'') are issuing the final rule (''Final Rule'') to implement applicable provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'').[1] The Final Rule governs the calculation of the maximum obligation limitation (''MOL''), as specified in the Dodd-Frank Act. The MOL limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

DATES: The effective date of the Final Rule is July 23, 2012.

FOR FURTHER INFORMATION CONTACT:

FDIC

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Treasury

Lance Auer, Deputy Assistant Secretary (Financial Institution Policy), at (202) 622–1262; Monique Rollins, Senior Policy Advisor (Office of Capital Markets), at (202) 622–1745; Peter A. Bieger, Assistant General Counsel (Banking and Finance), at (202) 622–0480; and Steven D. Laughton, Senior Counsel, Office of General Counsel, at (202) 622–8413.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act

Title II of the Dodd-Frank Act establishes an Orderly Liquidation Authority (''OLA'') to resolve a large interconnected financial company upon a determination that its failure and resolution under otherwise applicable law would have serious adverse effects on financial stability in the United States and the use of OLA would avoid or mitigate such adverse effects. Under the process set forth in the Dodd-Frank Act, certain designated Federal agencies,[2] on their own initiative or at the request of the Secretary of the Treasury (''Secretary''), may recommend that the Secretary appoint the FDIC as receiver of a financial company. Any written recommendation from the designated Federal agencies that the Secretary should appoint the FDIC as receiver for a financial company must include a number of specific findings, which are enumerated in section 203(a)(2) of the Dodd-Frank Act.[3] Then,

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[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 12 U.S.C. 5301 *et seq.* (2010).

[2] The Board of Governors of the Federal Reserve System (''FRB'') and the Securities and Exchange Commission (''SEC'') will make the recommendation if the company or its largest U.S. subsidiary is a broker or a dealer. The FRB and the Director of the Treasury's Federal Insurance Office will make the recommendation and provide affirmative approval, respectively, if the company or its largest U.S. subsidiary is an insurance company, and the FRB and the FDIC will make the recommendation in all other cases. In cases involving the FRB and FDIC, the recommendation must be approved by at least ⅔ of the members of the FRB then serving and at least ⅔ of the members of the FDIC Board of Directors then serving.

[3] Section 203(a)(2) of the Dodd-Frank Act provides that all written recommendations from the designated Federal agencies to the Secretary must include the following:

(1) An evaluation of whether the financial company is in default or in danger of default;

(2) A description of the effect that the default of the financial company would have on financial stability in the United States;

(3) A description of the effect that the default of the financial company would have on economic conditions or financial stability for low income, minority, or underserved communities;

(4) A recommendation regarding the nature and the extent of actions to be taken under Title II of the Dodd-Frank Act regarding the financial company;

based on the written recommendation of the appropriate agencies, the Secretary, in consultation with the President, must determine whether the conditions in section 203(b) of the Dodd-Frank Act have been satisfied so that the Secretary can seek the appointment of the FDIC as receiver for the financial company.[4] In making that determination, the Secretary must document any determination and retain such documentation. This procedure is very similar to the way that systemic risk determinations are made under section 13 of the Federal Deposit Insurance Act (the ''FDIA'').[5] Under section 201(a)(8) of the Dodd-Frank Act, a ''covered financial company'' is a ''financial company''[6] for which a determination has been made pursuant to section 203(b) of the Dodd-Frank Act but does not include an insured depository institution.

Once the Secretary makes the determination, the Secretary can seek the appointment of the FDIC as receiver of the covered financial company. If the board of directors (or similar governing body) of the company consents to the appointment, the Secretary shall appoint the FDIC as receiver. If the company's governing body does not consent, section 202 of the Dodd-Frank Act requires the Secretary to petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the FDIC as receiver. In determining whether to grant the petition, the court will determine whether two of the Secretary's seven determinations—that the covered financial company is in default or in danger of default and that it meets the definition of financial company under Title II—are arbitrary and capricious.[7] If the court upholds the two reviewable determinations of the Secretary, the court will issue an order authorizing the Secretary to appoint the FDIC as receiver. If the court does not make a determination within twenty-four hours of receiving the Secretary's petition, then the appointment of the FDIC as receiver takes effect by operation of law.

The OLA in the Dodd-Frank Act is intended as a limited exception to bankruptcy or other applicable insolvency laws for purposes of ensuring that the resolution of a failing non-depository financial company does not have serious adverse effects on U.S. financial stability. Section 204(a) of the Dodd-Frank Act expressly provides that the purpose of the OLA is to provide the means ''to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard.'' Section 214(a) expressly provides that ''[a]ll financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.'' Moreover, section 214(b) provides that ''[a]ll funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.'' Finally, section 214(c) provides that ''[t]axpayers shall bear no losses from the exercise of any authority under this title.''

To achieve the orderly liquidation of financial companies, the FDIC is given broad authority under the Dodd-Frank Act to: transfer assets or liabilities to a bridge financial company; operate or liquidate businesses; sell assets; and resolve the liabilities of a covered financial company, just after the FDIC's appointment as receiver or as soon as conditions make this appropriate.[8] This authority enables the FDIC to act immediately to sell any assets or liabilities of the covered financial company to another entity, or, if that is not possible or consistent with maximizing the value of the assets of the covered financial company, to transfer assets and liabilities to a bridge financial company established by the FDIC and sell the assets or liabilities over time while maintaining critical functions. Oftentimes, in administering a receivership, it is necessary to continue key operations, services, and transactions that will maximize the value of the firm's assets and avoid a disorderly collapse in the marketplace.

(5) An evaluation of the likelihood of a private sector alternative to prevent the default of the financial company;

(6) An evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company;

(7) An evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants; and

(8) An evaluation of whether the company satisfies the definition of a financial company under section 201 of the Dodd-Frank Act.

[4] Section 203(b) of the Dodd-Frank Act requires the Secretary of Treasury to determine that:

(1) The financial company is in default or in danger of default;

(2) The failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;

(3) No viable private sector alternative is available to prevent the default of the financial company;

(4) Any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions taken under Title II of the Dodd-Frank Act is appropriate, given the impact that any action taken under Title II of the Dodd-Frank Act would have on financial stability in the United States;

(5) Any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties and shareholders in the financial company;

(6) A Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order; and

(7) The company satisfies the definition of a financial company under section 201.

[5] 12 U.S.C. 1823(c)(4).

[6] Section 201(a)(11) of the Dodd Frank Act defines the term ''financial company'' to mean any company that:

(A) Is incorporated or organized under any provision of Federal law or the laws of any State;

(B) Is—

(i) A bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(ii) A nonbank financial company supervised by the FRB;

(iii) Any company that is predominantly engaged in activities that the FRB has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or

(iv) Any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the FRB has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) Is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 *et seq.*), a governmental entity, or a regulated entity, as defined under section 1303(20) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20)).

[7] Dodd Frank Act, section 202(a)(1)(A)(iii).

[8] Section 210 of the Dodd-Frank Act prescribes the FDIC's powers and duties once it is appointed as receiver of a covered financial company, including, *inter alia,* its powers and duties to: (1) Succeed to all rights, titles, powers and privileges of the covered financial company and its assets, and of any stockholder, member, officer or director of such company; (2) take over the assets and operate the covered financial company with all the powers of the shareholders, members, directors and officers, and conduct all business of the covered financial company; (3) liquidate the covered financial company through the sale of assets and liabilities or the transfer of assets and liabilities to a bridge financial company, as provided under section 210(h) of the Dodd-Frank Act; (4) merge the covered financial company with another company or transfer assets or liabilities; (5) pay valid obligations that come due, to the extent that funds are available; (6) exercise subpoena powers; (7) use private sector services to manage and dispose of assets; (8) terminate rights and claims of stockholders and creditors (except for the right to payment of claims consistent with the priority of claims provision); and (9) determine and pay claims. However, a receivership of an insurance company would generally be conducted in accordance with state law.

Section 210(n) of the Dodd-Frank Act establishes an Orderly Liquidation Fund (''OLF'') in the U.S. Treasury that will be available to the FDIC to carry out its responsibilities as receiver of a covered financial company and pay the costs of actions authorized under Title II of the Dodd-Frank Act. These responsibilities include: the orderly liquidation of covered financial companies; the payment of administrative expenses; and the payment of principal and interest by the FDIC on obligations issued under section 210(n)(5) of the Dodd-Frank Act. The OLF will be comprised of amounts received by the FDIC, including: the proceeds of obligations issued to Treasury pursuant to section 210(n)(5); assessments received under section 210(o); interest and other earnings from investments; and repayments to the FDIC by covered financial companies.[9]

In order for the FDIC to fulfill its obligations as receiver of a covered financial company, it may be necessary for the FDIC to borrow funds from the Treasury. Under section 210(n)(5) of the Dodd-Frank Act, the FDIC is authorized to issue obligations to Treasury upon the FDIC's appointment as receiver, and Treasury may purchase any such obligations, ''upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus an interest rate surcharge to be determined by the Secretary, which shall be greater than the difference between—(i) the current average rate on an index of corporate obligations of comparable maturity; and (ii) the current average rate on outstanding marketable obligations of the United States of comparable maturity.'' Section 210(n)(9) of the Dodd-Frank Act provides that the FDIC must develop an Orderly Liquidation Plan (''OLP'') that is acceptable to the Secretary for each covered financial company for which the FDIC is appointed receiver, prior to funds in the OLF being made available to the FDIC with regard to such covered financial company. The FDIC may amend any OLP at any time with the concurrence of the Secretary. Section 210(n)(9) further requires that a mandatory repayment plan between the FDIC and Treasury be agreed to and in effect before Treasury may provide certain amounts to the FDIC within the limits defined in section 210(n)(6)(B) of the Dodd-Frank Act.

[9] Dodd Frank Act, section 210(n)(2).

The Maximum Obligation Limitation (''MOL''), as set forth in section 210(n)(6) of the Dodd-Frank Act, limits the aggregate amount of outstanding obligations that the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company. Specifically, the statute provides as follows:

> The [FDIC] may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection, for each covered financial company would exceed—
>
> (A) an amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the [FDIC] as receiver (or a shorter time period if the [FDIC] has calculated the amount described under subparagraph (B)); and
>
> (B) the amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in subparagraph (A).

On November 25, 2011, the Agencies issued a notice of proposed rulemaking regarding the calculation of the MOL as specified in section 210(n)(6) of the Dodd-Frank Act (76 FR 72645, November 25, 2011). The purpose of the proposed rule (the ''Proposed Rule'') was to define certain key terms and describe the manner in which the FDIC would calculate the MOL in the event that one or more covered financial companies are placed into receivership. The notice of proposed rulemaking published in the **Federal Register** requested comments on all aspects of the Proposed Rule as well as comments relating to certain specific questions. The comment period ended on January 24, 2012.

II. Summary of Comments on the Proposed Rule

The Agencies received two comments in response to the Proposed Rule. The first commenter was supportive of the Proposed Rule, noting that it is in close alignment with the statutory language of the Dodd-Frank Act. The commenter agreed with the proposed definitions, particularly the definitions of ''fair value'' and ''obligation.'' Further, this commenter observed that during extended periods of economic distress it may not be possible to credibly or reasonably determine ''fair value'' for some assets and that the Agencies should consider appropriate contingencies and responses. The Agencies acknowledge this point and believe that the definition of ''fair value'' in the Final Rule provides the FDIC with sufficient flexibility to implement the rule in a wide range of economic and market environments, including during periods of severe economic distress. This approach will enable the determination of the fair value of assets to be adapted to a variety of circumstances that may be encountered but that cannot be foreseen at present.

The second commenter questioned why brokered deposits are immediately paid off by the FDIC and suggested that brokered deposits be transferred to the acquiring institution as a zero-cost deposit. This comment addresses issues which are outside the scope of the Proposed Rule.

III. The Final Rule

A. Overview

Section 210(n)(7) of the Dodd-Frank Act requires the Agencies, in consultation with the Financial Stability Oversight Council (''FSOC''), to jointly prescribe regulations governing the calculation of the MOL. In accordance with this section, the Agencies consulted with the FSOC, considered the two comments received, and have decided to adopt regulations that closely follow the statutory language for calculating the MOL, while defining certain terms referenced in the statute. Because the two comments received did not suggest any changes to the regulatory text, the Final Rule is identical to the Proposed Rule. The terms in the Final Rule are defined solely for the purpose of calculating the MOL and are not applicable to any other statutory or regulatory requirements.

B. Section-by-Section Analysis of the Final Rule

Definitions. In the Proposed Rule, the Agencies defined terms that are necessary to calculate the MOL. The Proposed Rule defined the terms ''fair value,'' ''most recent financial statement available,'' ''obligation'' and ''total consolidated assets of each covered financial company that are available for repayment.'' The Dodd-Frank Act does not define these terms. The Agencies did not receive any comments that requested changes to the definitions. As a result, the definitions in the Final Rule are unchanged.

Only one comment was received on these definitions. That comment agreed with the proposed definitions, particularly the definitions of ''fair value'' and ''obligation.'' That comment also observed that it may not be possible to reasonably determine fair values during a systemic crisis and

recommended that the Agencies prepare appropriate contingencies. The Agencies believe that the comment is generally in accord with the discussion of ''fair value'' in the Proposed Rule insofar as it noted the FDIC's authority to conduct an orderly liquidation in order to maximize the value of assets of a covered financial company over a three-to five-year period. As noted above, the Agencies believe that the definition of ''fair value'' in the Final Rule provides the Agencies with sufficient flexibility to implement the rule in a wide range of economic and market environments, including during periods of severe economic distress. This approach will enable the determination of fair value of assets to be adapted to a variety of circumstances that may be encountered but that cannot be foreseen at present.

Maximum Obligation Limitation. In the Proposed Rule, the Agencies closely followed the statutory language in section 210(n)(6) of the Dodd-Frank Act for calculating the MOL. The Agencies did not receive any comments that suggested changes to the MOL. As a result, the MOL in the Final Rule is unchanged.

IV. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

The Final Rule provides, in part, the manner in which the Agencies will implement the maximum obligation limitation for FDIC borrowings from Treasury to fund the Orderly Liquidation Fund in the event that one or more covered financial companies are placed into receivership. The Final Rule will not involve any new collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information collection was submitted to the Office of Management and Budget for review. No comments were received in connection with the Paperwork Reduction Act analysis published as part of the Proposed Rule.

B. The Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Agencies hereby certify that the Final Rule will not have a significant economic impact on a substantial number of small entities and therefore a regulatory flexibility analysis is not required. The Final Rule governs the manner in which the FDIC will calculate the MOL for obligations incurred or issued by the FDIC in connection with the orderly liquidation of a covered financial company under Title II of the Dodd-Frank Act. Under Small Business Administration (SBA) size standards defining small entities, financial companies are generally considered small entities if their annual receipts do not exceed $7 million or their total assets do not exceed $175 million.[10] The Agencies do not expect that the OLA in the Dodd-Frank Act will be used to resolve financial companies that qualify as small entities, because the failure of such companies would be unlikely to have serious adverse effects on financial stability in the United States. No comments were received in connection with the Agencies' Regulatory Flexibility Act analysis published as part of the Proposed Rule.

C. Plain Language

Each Federal banking agency, such as the FDIC, is required to use plain language in all proposed and final rules published after January 1, 2000. 12 U.S.C. 4809. In addition, in 1998, the President issued a memorandum directing each agency in the Executive branch, such as Treasury, to use plain language for all new proposed and final rulemaking documents issued on or after January 1, 1999. The Agencies sought to present the Proposed Rule in a simple and straightforward manner. The Agencies received no comments on the use of plain language, and the Final Rule is identical to the Proposed Rule.

D. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct Treasury to assess 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. This Final 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.

E. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the Final Rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 801, *et seq.*).

As required by SBREFA, the FDIC and Treasury will file the appropriate reports with Congress and the Government Accountability Office so that the final rule may be reviewed.

[10] 13 CFR 121.201.

List of Subjects

12 CFR Part 380

Accounting, administrative practice and procedure, finance, and loan programs.

31 CFR Part 149

Accounting, administrative practice and procedure, finance, and loan programs.

Federal Deposit Insurance Corporation

Authority and Issuance

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation amends part 380 of title 12 of the Code of Federal Regulations as follows:

PART 380—ORDERLY LIQUIDATION AUTHORITY

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 12 U.S.C. 5301 *et seq.*

■ 2. Add § 380.10 to read as follows:

§ 380.10 Maximum Obligation Limitation

(a) *General rule.* The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(1) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (a)(2) of this section); and

(2) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a)(1) of this section.

(b) *Definitions:* For purposes of paragraph (a) of this section:

(1) The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio, of a covered financial company on a consolidated

basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

(2) The term ''most recent financial statement available'' means a covered financial company's:

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements. The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

(3) The term ''obligation'' means, with respect to any covered financial company:

(i) Any guarantee issued by the FDIC on behalf of the covered financial company;

(ii) Any amount borrowed pursuant to section 210(n)(5)(A) of the Dodd-Frank Act; and

(iii) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

(4) The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(i) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(ii) To the extent included in (b)(4)(i) of this section, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

Department of the Treasury

Authority and Issuance

■ For the reasons set forth in the preamble, Treasury amends Title 31, Chapter I of the Code of Federal Regulations by adding part 149 to read as follows:

PART 149—CALCULATION OF MAXIMUM OBLIGATION LIMITATION

Sec.
149.1 Authority and purpose.
149.2 Definitions.
149.3 Maximum obligation limitation.

Authority: 31 U.S.C. 321 and 12 U.S.C. 5390.

§ 149.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Deposit Insurance Corporation (FDIC) and the Secretary of the Department of the Treasury (Treasury) under section 210(n)(7) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act).

(b) *Purpose.* The purpose of this part is to issue implementing regulations as required by the Act. The part governs the calculation of the maximum obligation limitation which limits the aggregate amount of outstanding obligations the FDIC may issue or incur in connection with the orderly liquidation of a covered financial company.

§ 149.2 Definitions.

As used in this part:

Fair value. The term ''fair value'' means the expected total aggregate value of each asset, or group of assets that are managed within a portfolio of a covered financial company on a consolidated basis if such asset, or group of assets, was sold or otherwise disposed of in an orderly transaction.

Most recent financial statement available. (1) The term ''most recent financial statement available'' means a covered financial company's—

(i) Most recent financial statement filed with the Securities and Exchange Commission or any other regulatory body;

(ii) Most recent financial statement audited by an independent CPA firm; or

(iii) Other available financial statements.

(2) The FDIC and the Treasury will jointly determine the most pertinent of the above financial statements, taking into consideration the timeliness and reliability of the statements being considered.

Obligation. The term ''obligation'' means, with respect to any covered financial company—

(1) Any guarantee issued by the FDIC on behalf of the covered financial company;

(2) Any amount borrowed pursuant to section 210(n)(5)(A) of the Act; and

(3) Any other obligation with respect to the covered financial company for which the FDIC has a direct or contingent liability to pay any amount.

Total consolidated assets of each covered financial company that are available for repayment. The term ''total consolidated assets of each covered financial company that are available for repayment'' means the difference between:

(1) The total assets of the covered financial company on a consolidated basis that are available for liquidation during the operation of the receivership; and

(2) To the extent included in paragraph (1) of this definition, all assets that are separated from, or made unavailable to, the covered financial company by a statutory or regulatory barrier that prevents the covered financial company from possessing or selling assets and using the proceeds from the sale of such assets.

§ 149.3 Maximum obligation limitation.

The FDIC shall not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding for each covered financial company would exceed—

(a) An amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the FDIC as receiver (or a shorter time period if the FDIC has calculated the amount described under paragraph (b) of this section); and

(b) The amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in paragraph (a) of this section.

Dated at Washington, DC, this 23rd day of April 2012.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: June 15, 2012.

By the Department of the Treasury.

Rebecca H. Ewing,

Executive Secretary.

Dated: June 15, 2012.

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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2011–0040]

Disclosure of Certain Credit Card Complaint Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of final policy statement.

SUMMARY: The Bureau of Consumer Financial Protection (the ''Bureau'') is

issuing a final policy statement (the ''Policy Statement'') to provide guidance on how the Bureau plans to exercise its discretion to publicly disclose certain credit card complaint data that do not include personally identifiable information. The Bureau receives credit card complaints from consumers under the terms of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). The Policy Statement also identifies additional ways that the Bureau may disclose credit card complaint data but as to which it will conduct further study before finalizing its position.

DATES: This Policy Statement is effective on June 19, 2012.

FOR FURTHER INFORMATION CONTACT: Scott Pluta, Office of Consumer Response, Bureau of Consumer Financial Protection, at (202) 435–7306; or Will Wade-Gery, Division of Research, Markets and Regulations, Consumer Financial Protection Bureau, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Overview

A. Final Policy Statement

Under the final Policy Statement, the Bureau plans to disclose data associated with credit card complaints in two ways. These disclosures are intended to help provide consumers with ''timely and understandable information to make responsible decisions about financial transactions'' and to enhance the credit card market's ability to ''operate transparently and efficiently.'' [1] First, the Bureau plans to issue its own periodic reports about complaint data. The Bureau has already issued three such reports.[2] Second, the Bureau plans to provide public access to an electronic database containing certain fields for each unique [3] complaint.[4] As discussed further below, the Bureau has adjusted its plans to include certain fields in the public database in response to comments on the proposed Policy Statement published by the Bureau on December 8, 2011. The public database will initially include data from credit card complaints submitted on or after June 1, 2012.

B. Concurrent Notice

Concurrent with the publication of this Policy Statement, the Bureau is publishing a notice in the **Federal Register** seeking comment on a proposed extension of the disclosure system described in the Policy Statement to complaints about consumer financial products other than credit cards (the ''Concurrent Notice''). In addition to credit cards, the Bureau's complaint-handling system (the ''Complaint System'') now encompasses mortgages, bank products such as checking and savings accounts, and certain other consumer loans. The Bureau anticipates that the Complaint System will accept complaints about all consumer financial products and services within the Bureau's jurisdiction by the end of 2012. Comments in response to the Concurrent Notice are due by July 19, 2012.

II. Background

A. Complaint System

In the proposed Policy Statement, the Bureau generally described how the Office of Consumer Response (''Consumer Response'') accepts and processes credit card complaints. The Bureau has since revised the Complaint System in a number of respects, in part as a result of the comments received on the proposed Policy Statement. For example, the Bureau has adjusted the permissible entries for the ''issuer response category'' field, as summarized in part III.D.5.

B. Overview of Public Comments

The Bureau received seventeen sets of comments in response to the proposed Policy Statement. In some cases, several organizations submitted a single comment letter. Eleven industry groups submitted a total of nine comment letters. One credit union also commented. One financial reform organization, Americans for Financial Reform (''AFR''), submitted a single set of comments on behalf of twenty-one consumer, civil rights, privacy, and open government groups. Two privacy groups that joined that set of comments also submitted their own comments, as did one open government group, which submitted 840 substantially identical comment letters from consumers.[5] There was one additional consumer submission. Finally, one member of Congress commented on the proposed Policy Statement.

Almost all comments concerned the public database component of the proposed Policy Statement. Industry commenters generally opposed the public database. Although they endorsed the intended goals of the public database, many industry commenters asserted that the database would confuse consumers and unfairly damage the reputation of credit card issuers. The disclosure of issuer names in the public database was a particular focus of these comments. Some industry commenters further asserted that the Bureau lacks legal authority to disclose individual-level complaint data.

Consumer groups and consumers also endorsed the goals underlying the public database proposal. The AFR submission supported the public database, and urged the Bureau to include all narrative fields, subject to certain privacy protections. The two privacy groups that joined the AFR submission also offered their own written comments advising the Bureau to be mindful of the privacy risks associated with broader disclosure.

Many submissions included comments directed to the Bureau's process for handling credit card complaints. To the extent that these comments also relate to the Policy Statement, the Bureau addresses them below. To the extent that they relate only to the Complaint System and not to any associated impact on disclosure, the Bureau does not address them in this final Policy Statement.[6] In response to such feedback, however, Consumer Response has and will continue to refine and improve its Complaint System over time.[7]

III. Summary of Comments Received, Bureau Response, and Resulting Policy Statement Changes

This section provides a summary of the comments received by subject matter. It also summarizes the Bureau's assessment of the comments by subject matter and, where applicable, describes

[1] 12 U.S.C. 5511(b)(1) & (5).

[2] These are the *Consumer Response Annual Report for 2011* (March 31, 2012) at *http://files.consumerfinance.gov/f/201204_cfpb_ConsumerResponseAnnualReport.pdf,* the *Semi-Annual Report of the Consumer Financial Protection Bureau* (January 30, 2012) at *http://www.consumerfinance.gov/reports/semi-annual-report-of-the-consumer-financial-protection-bureau/,* and the *Consumer Response Interim Report on CFPB's Credit Card Complaint Data* (November 30, 2011) at *http://www.consumerfinance.gov/reports/consumer-response-interim-report-on-cfpbs-credit-card-complaint-data.*

[3] The database will not include duplicative complaints submitted by the same consumer.

[4] The Policy Statement concerns the Bureau's authority to make public certain consumer complaint data that it has decided to include in the public database in its discretion. The Policy Statement does not address the Bureau's authority or obligation to disclose additional complaint data pursuant to a request made under the Freedom of Information Act, 5 U.S.C. 552.

[5] One consumer submitted the same letter directly to the Bureau.

[6] To take one example, one credit union association commented that the Policy Statement should address the sanction that will apply to an issuer if it fails to respond to a complaint in a timely fashion.

[7] Consumer Response already maintains several feedback mechanisms for participants in the Complaint System.

the resulting changes that the Bureau is making in the final Policy Statement. All such changes concern the public database. There are no changes to the proposed policy for the Bureau to issue its own complaint data reports.

A. The Policy Statement Process

One trade association commented that the Bureau should engage in a public rulemaking under the Administrative Procedures Act to provide the public with an opportunity to comment on all aspects of the initiative. One issue that the rulemaking should address, according to this commenter, is the link between the availability of complaint information and informed consumer decision-making.

The Bureau is committed to transparency and to robust engagement with the public regarding its actions. Although not required by law, the Bureau solicited and received public comment on the proposed Policy Statement. The Bureau received substantial public feedback expressing a range of viewpoints, and it has carefully considered the comments received, as described in detail below. As stated in the final Policy Statement, the Bureau plans to study the effectiveness of its policy on an ongoing basis, and plans to continue to engage with the public, including regulated entities, as it assesses the efficacy of its complaint disclosure policy.

B. Legal Authority for Public Database

Several trade associations commented that the Dodd-Frank Act does not authorize the Bureau to create the proposed public consumer complaint. The associations make two arguments.

First, they contend that the Dodd-Frank Act expressly delineates the circumstances and manner in which the Bureau may collect, resolve, and share consumer complaints with others. The public database is not included. By negative inference, therefore, they argue that the Dodd-Frank Act does not authorize the database.

Section 1013(b)(3) of the Dodd-Frank Act requires the Director of the Bureau to establish a unit to collect, monitor, and respond to consumer complaints regarding consumer financial products and services.[8] This provision requires the Bureau to present an annual report to Congress that includes information and analysis of complaint numbers, types, and resolutions, and it authorizes the Bureau to share consumer complaint information with prudential regulators, the Federal Trade Commission, and other Federal and State agencies, subject to certain confidentially and data protection standards. According to the associations, by delineating entities with which the Bureau may share consumer complaint information,[9] Congress meant such entities to be the exclusive recipients of such information.[10] Furthermore, the associations argue, by specifying that the Bureau may share such information only to the extent that these specific recipients agree to protect the confidentiality of the information shared, Congress manifested its intention that this information should otherwise remain confidential.[11]

The associations also argue that Section 1034 of the Dodd-Frank Act, which requires the Bureau to establish ''reasonable procedures to provide a timely response to consumers * * * to complaints against, or inquiries concerning, a covered person,'' does not authorize the creation or publication of a public consumer complaint database that, instead of aiding complainants, enables data mining and market research.[12] The associations also contend that, by directing the Bureau in Section 1034(d) to enter into agreements with other affected federal agencies to facilitate the joint resolution of complaints, Congress intended for the Bureau to handle consumer complaints in accordance with the procedures of these other agencies, which publish only aggregated complaint data.

Second, the associations argue that the Dodd-Frank Act's restrictions on publishing confidential information block the implementation of the proposed public database. They contend that Section 1022(c), which authorizes the Bureau to ''monitor for risks to consumers in the offering or provision of consumer financial protects or services, including developments in markets for such products or services,''[13] and to ''make public such information * * * as is in the public interest,'' only permits the Bureau to make the resulting information public through aggregate reporting ''designed to protect confidential information.''[14] By using non-aggregated formats, the associations contend, the proposed database risks compromising the confidentiality of individual complaint information.

One commenter also argues that Section 1022(c)(4) prohibits the Bureau from collecting or sharing information like zip codes or the identities of card issuers. Although Section 1022(c)(4)(A) authorizes the Bureau to ''gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers,'' Section 1022(c)(4)(C) prohibits the Bureau from using this authority to ''obtain records from covered persons and service providers participating in consumer financial services markets for purposes of gathering or analyzing the personally identifiable financial information of consumers.''[15] The commenter asserts that zip codes and card issuer names constitute personally identifiable information that the Bureau may not collect or share. The same commenter cites Section 1022(c)(8), which requires the Bureau, in ''collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information,'' to ''take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under Section 552(b) or 552a of title 5, United States Code, or any other provision of law, is not made public under this title.''[16] The commenter asserts that this provision requires the Bureau to keep consumer complaint information confidential to the extent that any law, including but not limited to the Freedom of Information Act (''FOIA'') or the Privacy Act, requires such confidentiality. The commenter argues that credit card issuer narratives and complaint rates by zip codes constitute trade secrets of credit card issuers that the Trade Secrets Act, 18 U.S.C. 1905, prohibits the Bureau from disclosing.

The Bureau disagrees with these arguments. First, the Dodd-Frank Act expressly authorizes the disclosure addressed in the Policy Statement,

[8] *See* 12 U.S.C. 5493(b)(3).

[9] One commenter argues that, by specifying in Section 1013(b)(3) that the Bureau should report to Congress only complaint numbers, types, and resolutions, Congress intended to limit the Bureau to compiling that information. The commenter argues that the collection and reporting of other information—including narrative information from consumers—is not authorized.

[10] One commenter further asserts that Section 1022(c)(6), which authorizes and in some cases requires the Bureau to share confidential supervisory information with other agencies, demonstrates that Congress intended to exclude the public as an acceptable recipient of such information.

[11] To the same effect, the trade associations contend that by directing the Bureau to share consumer complaint information in a manner that protects data integrity, Congress manifested its intention that the Bureau share only information that is validated, reliable, and objective—standards that the associations argue are not met by the complaint data, including, in particular, complaint narratives.

[12] 12 U.S.C. 5534(a).

[13] 12 U.S.C. 5512(c)(1).

[14] 12 U.S.C. 5512(c)(3)(B).

[15] 12 U.S.C. 5512(c)(4)(A), 5512(c)(4)(C).

[16] 12 U.S.C. 5512(c)(8).

which cannot, therefore, be barred by negative inference. Second, there are no applicable confidentiality restrictions that apply to the data that will be disclosed in the public database.

Section 1022 of the Dodd-Frank Act permits the Bureau, in support of its rulemaking ''and other functions,'' to monitor and assess risks to consumers in the offering or provision of consumer financial products or services.[17] In monitoring and assessing such risks, this provision authorizes the Bureau to gather information regarding the ''business conduct'' of covered persons and service providers.[18] The provision expressly states that ''consumer complaints'' are among the types of information that the Bureau may gather for this purpose.[19]

Not only does section 1022 permit the Bureau to gather or compile consumer complaint information, it also contemplates that the Bureau may disclose such information to the public under certain circumstances. Section 1022(c)(3)(B) states that the Bureau ''may make public such information obtained by the Bureau under this section as is in the public interest, through aggregated reports or other appropriate formats designed to protect confidential information * * *''[20] Although commenters focus on the fact that this subparagraph permits the Bureau to disclose consumer complaint information in aggregated reports, they ignore the fact that the subparagraph also permits the Bureau to disclose such information in a non-aggregated format as long as it protects the confidentiality of certain information in accordance with the other provisions of Section 1022(c).

Nothing in Section 1013(b)(3) suggests that Congress, in describing one database containing consumer complaint information and the manner in which its contents are to be reported to Congress or shared with other Federal or State agencies, sought to limit the Bureau's authority to disclose information to the public. Likewise, there is no reason to interpret Section 1034, which requires the Bureau to establish procedures to provide a timely ''response'' to consumers to their complaints, to mean that the Bureau may only disclose consumer complaint information publicly to complainants, and even then, only to the extent necessary to ''respond'' to their complaints.

The Bureau also disagrees that subpart D of the Bureau's Interim Final Rules on the Disclosure of Records and Information,[21] which the Bureau promulgated pursuant to section 1022(c)(6), precludes the Bureau from disclosing publicly any information contained within a consumer complaint database. Commenters are correct to point out that subpart D generally restricts the authority of the Bureau to publicly disclose ''confidential information,'' including ''confidential consumer complaint information.''[22] However, such disclosure restrictions only apply to the extent that consumer complaint information is confidential in nature. The Bureau's regulations define ''confidential consumer complaint information'' to mean ''information received or generated by the [Bureau], pursuant to [sections 1013 and 1034 of the Dodd-Frank Act], that comprises or documents consumer complaints or inquiries concerning financial institutions or consumer financial products and services and responses thereto, to the extent that such information is exempt from disclosure pursuant to 5 U.S.C. 552(b) [the FOIA].''[23] Because the information to be disclosed in the public database is not exempt from disclosure under the FOIA, as discussed in more detail in part III.D.1.a below, such information does not constitute ''confidential consumer complaint information.'' As a result, there is no applicable rule that precludes the Bureau from making such information available to the public.

C. The Impact of the Public Database on Consumers

Consumer groups, privacy groups, and consumers commented that the public database would help consumers make more informed decisions and avoid ''bad actors.'' They also noted that consumers can draw their own conclusions from the public database. Several noted that data do not need to be fully verified or random to be of some use to outside parties. For example, the data might alert outside researchers and consumers to potentially harmful trends.

Industry commenters, by contrast, asserted that the public database would mislead consumers because its contents would be unverified, unrepresentative, lacking in context, and open to manipulation. Each of these general assertions is addressed below. Section D addresses industry comments that disclosure of particular data fields—issuer name, zip code, credit card complaint type, and discrimination fields—would be especially inappropriate or misleading.

1. Verification

Several trade associations commented that the Bureau should not disclose unverified data. Some argued that the Bureau should exclude complaints lacking factual foundation or legal merit. Others stated that consumer complaints were primarily statements of opinion, and not subject to objective verification. Several also argued that complaints resolved without any showing of company fault should be excluded as lacking foundation. One trade association stated that releasing unverified complaint data deprives issuers of due process. Privacy and consumer groups commented that the lack of verification presented only minimal risks to issuers because there are controls to ensure that complaints must come from actual cardholders, and issuers are given adequate time to dispute their identification.

The Bureau agrees with industry commenters that its complaint process does not provide for across the board verification of claims made in complaints. However, as it has previously indicated, the Bureau plans to specifically disclaim the accuracy of complaints when the data are made available to consumers. Outside of its own affirmative data reporting, the Bureau will allow the marketplace of ideas to determine what the data show.

While the Bureau does not validate the factual allegations of complaints, it does maintain significant controls to authenticate complaints. Issuer names are verified using card numbers and by other procedures. Each complaint is checked to ensure that it is submitted by the identified consumer or from his or her specifically authorized representative. Each submission is also reviewed to determine if it is a complaint, an inquiry, or feedback about the Bureau. Submissions in the latter two categories are not forwarded to the identified company for handling as complaints. Further, each complaint is checked to prevent duplicate submissions by a consumer who has already filed with the Bureau a complaint on the same issue. Complaints are only forwarded to companies when they contain all the required fields, including the complaint narrative, the consumer's narrative statement of his or her fair resolution, the consumer's contact information, and

[17] 12 U.S.C. 5512(c)(1).

[18] 12 U.S.C. 5512(c)(4)(A).

[19] 12 U.S.C. 5512(c)(4)(B)(i).

[20] 12 U.S.C. 5512(c)(3)(B).

[21] See 12 CFR 1070.40 through 1070.47.

[22] See 12 CFR 1070.41 (prohibiting Bureau employees from disclosing confidential information other than as provided in subpart D); 12 CFR 1070.2 (defining ''confidential information'' to include ''confidential consumer complaint information'').

[23] 12 CFR 1070.2(g).

the name of a card issuer within the scope of Section 1025 of the Dodd-Frank Act.

2. Representativeness

Several trade associations commented that it is inappropriate for the Bureau to publish data that is not randomly sourced. Non-random complaints, they contend, cannot provide consumers with useful information. One trade association commented that academics and researchers would not use such unreliable data.

The Bureau will inform consumers and any other public database users that the data reflect only the credit card complaints that consumers submit to the Bureau. Even though similar limitations apply to other public complaint databases, however, experience shows that outside parties have, in fact, made reasonable use of non-random complaint databases disclosed by other agencies. The trade associations did not offer any examples of misuse of currently available non-random data sets or challenge the utility of the examples cited by the Bureau. In addition to those examples, the Bureau notes that two outside companies have recently repackaged for consumer use drug and medical device data mined from the AERS and MAUDE public complaint databases maintained by the Food and Drug Administration.[24]

The trade associations also fail to acknowledge that consumers currently make credit card choices with little or no knowledge of consumer complaints. It is true that more robust data sets might, in theory, be assembled. Consumers would be better informed if the public database included complaint data from issuers' internal processes or even surveys of complainants and non-complainants. But that does not mean that less complete data sets worsen the status quo. So long as consumers are aware of the limitations of the data, there is little or no reason to believe that complaint data should make the market less informed and transparent.

Industry comments on representativeness also recognized that the Bureau is expressly authorized to use complaint data to set priorities in its supervision process. Some industry comments also recognized that the data could play a role with respect to other statutory obligations, such as fair lending enforcement or market monitoring. If complaint data can provide the Bureau with meaningful information, then logically they may also prove useful to consumers and other reviewers. If the data lacked such potential, Congress would not have pointed to public complaints as a basis to set important Bureau priorities.[25] Furthermore, credit card issuers have told Consumer Response on numerous occasions that they learn valuable information from consumer complaints. If the data inform issuers, they have the potential to inform consumers as well.

3. Context

Several trade associations commented that Bureau disclaimers about the lack of verification or representativeness will not effectively warn consumers about the limitations of the public database. The associations expressed concern that consumers and the media will inevitably see or portray the information as being endorsed by the Bureau, notwithstanding the Bureau's disclaimers. In addition, one trade group commented that the marketplace of ideas cannot prevent consumers from being misled by the public database. Another commented that the database fails to distinguish complaints of major and minor significance and that without that context, the data are open to misinterpretation.

The Bureau acknowledges the possibility that some consumers may draw (or be led to) erroneous conclusions from the data. That is true, however, for any market data. In addition, the Bureau's two-part disclosure policy—first, its own affirmative reports of data findings that it believes may inform consumers, and second, a public database that researchers and others can mine for possible data trends—is intended to minimize any consumer confusion about the scope of the Bureau's own conclusions with respect to the complaint data. The Bureau is open, however, to further suggestions from trade associations, issuers, and other concerned stakeholders on how best to provide additional context for the public database.

4. Manipulation

Several trade associations commented that third parties like debt negotiation companies could use complaint filing as a strategic tool to aid their clients. One trade association commented that outside parties may artificially inflate complaint counts for litigation purposes. Several trade associations claimed that one outside party has filed numerous fraud complaints about a single merchant, allegedly for improper purposes.

The Complaint System has a number of protections against manipulation. For one, the burden of submitting a complaint is not negligible. Consumers must affirm that the information is true to the best of their knowledge and belief. The consumer is asked for a verifiable account number. If none is provided and the consumer is unable to produce verifiable documentation of the account (such as a statement), the complaint is not pursued further. As described further at part III.D.1.b below, when an issuer offers a reasonable basis to challenge its identification, the Bureau does not plan to post the relevant complaint to the public database unless and until the correct issuer is identified. Furthermore, duplicate complaints from the same consumer are consolidated into a single complaint.

The Bureau maintains additional controls after complaints are submitted and issuers are able to alert the Bureau to any suspected manipulation. If issuers find this combined package of controls insufficient in practice, the Bureau will consider suggestions for addressing any problems identified, including enabling an issuer to flag in the public database any complaint entry that the issuer reasonably believes is not submitted in good faith by or on behalf of an individual consumer.

D. The Impact of Specific Public Database Fields on Consumers and Credit Card Issuers

1. Issuer Names

a. Legal Authority

Several trade associations commented that the Bureau lacks authority to include issuer names in the public database or its own data reporting. The associations argue that the disclosure of this information is prohibited by Section 1022(c)(8), which requires the Bureau to take steps to protect from public disclosure confidential proprietary information that is exempt from disclosure under the FOIA. Specifically, they argue that the names of issuers are properly subject to Exemption 4 of the FOIA, which permits agencies to withhold trade secrets or confidential commercial information that businesses provide to it, and that the Bureau must, therefore, withhold from publication the names of credit card issuers cited in complaints. Courts generally hold that Exemption 4 applies when the submission of confidential commercial information is required of a business and the disclosure of such information would result in competitive harm to the business or would impair the ability of

[24] M. Beck, *Searching for Side Effects,* Wall Street Journal Online, Jan. 31, 2012.

[25] *See* 12 U.S.C. 5493(b)(3)(D).

an agency to obtain similar information in the future. The associations argue that both of these prongs—competitive harm and impairment—are satisfied with respect to the disclosure of credit card issuer names. They argue that the disclosure of issuer names would make issuers reluctant to respond (and/or reticent in responding) to consumer complaints and would cause competitive harm if the disclosed complaints unfairly or misleadingly identify them as bad actors.

The Bureau does not agree that issuer names are subject to Exemption 4. As a threshold matter, Exemption 4 does not protect the names of credit card issuers because such information does not constitute ''confidential'' commercial information. The identities of the credit card issuers who do business with consumers are not typically secrets kept by the credit card issuers. By and large, consumers know this information and report it to the Bureau in their complaints. Even to the extent that the true names of credit card issues are not known to consumers when they file their complaints, this information typically becomes known to consumers as part of the complaint investigation and resolution process. Information which is in the public domain is not ''confidential'' and is therefore not subject to Exemption 4.[26]

Further, even if one assumed that the names of credit card issuers constitute ''confidential'' commercial information, this information still does not qualify for protection under Exemption 4. To qualify for such protection, information must be likely either: ''(1) To impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.''[27] The Bureau concludes that the information at issue does not satisfy either prong of this test.

First, the proposed disclosure of credit card issuer names is unlikely to impair the Bureau's ability to obtain similar information in the future. As noted above, it is usually consumers who provide the Bureau with the names of credit card issuers to which their complaints pertain. The decision by consumers to submit complaints against particular credit card issuers is not likely to be affected by the Bureau's policy of disclosing the names of the issuers to which complaints apply. The Bureau also finds unavailing arguments that its proposed policy of disclosing issuer names would make issuers reluctant to participate further in the resolution of consumer complaints. Section 1034 of the Dodd-Frank Act requires issuers to respond to consumer complaints. Courts generally agree that the disclosure of information will not impede an agency's efforts to obtain such information in the future when the information is provided pursuant to statutory obligation.[28]

Second, the Bureau disagrees with commenters that the proposed policy of disclosing credit card issuer names is likely to cause credit card issuers substantial competitive harm. It is conceivable that consumer complaints could contain false or misleading allegations against a particular credit card issuer and that publication of the names of credit card issuers associated with such complaints could expose those issuers to unwarranted public criticism, reputational harm, and perhaps even a loss of existing or prospective customers. However, such harms can be mitigated through the use of disclaimers that warn consumers that the public database contains data reflecting unverified complaints that consumers submit to the Bureau. Even to the extent that such disclaimers are not sufficient to mitigate these harms, courts are clear that Exemption 4 is designed to protect against harms that flow from competitors' use of the released information, not from any use made by the public at large or by customers.[29] Thus, even the prospect of unwarranted public criticism and harassment,[30] embarrassment,[31] or distortions of the disclosed information,[32] are not grounds for application of Exemption 4. Moreover, any harm that arises from publishing the names of credit card issuers is one that all issuers in the industry share. Harms shared among competitors do not constitute competitive harms for purposes of Exemption 4.[33]

The associations also argue that FOIA Exemption 8 requires the Bureau to protect the names of issuers from disclosure. Exemption 8 authorizes Federal financial regulators to protect information relating to the examination of financial institutions. The associations contend that consumer complaints constitute confidential supervisory information and that the disclosure of these complaints would threaten the regulatory relationship between financial institutions and the Bureau.

The Bureau disagrees. As noted, Exemption 8 protects information that is ''contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.''[34] The scope of this exemption is broad in that it applies not only to financial institution examination, operating, or condition reports, but also to all manner of information that relates, even indirectly, to the supervision process. Notwithstanding the breadth of Exemption 8, it typically applies only to information that supervisory agencies either generate themselves or receive from regulated financial institutions or from other supervisory agencies. Exemption 8 does not typically apply to information, like credit card issuer names, that consumers supply to supervisory agencies outside of the supervisory context, except to the extent that the agencies later utilize such information for supervisory purposes.

Commenters argue otherwise by citing a 1991 FOIA request response letter that the Office of the Comptroller of the Currency (''OCC'') sent to a FOIA requester.[35] In the letter, the OCC applies Exemption 8 to deny a request for the names of banks associated with consumer complaints received by the OCC. As its primary authority for its decision, the OCC cites an unpublished 1988 district court opinion in *Consumers Union* v. *Office of the Comptroller of the Currency*.[36] In that case, the court applied the following

[26] *See CNA Fin. Corp.* v. *Donovan,* 830 F.2d 1132, 1154 (D.C. Cir. 1987) (''To the extent that any data requested under FOIA are in the public domain, the submitter is unable to make any claim to confidentiality—a *sine qua non* of Exemption 4'') (italics in original); *Northwest Coal. for Alt. to Pesticides* v. *Browner,* 941 F. Supp. 197, 202 (D.D.C. 1996) (''If the information at issue is publicly available through other sources, no showing of competitive harm can be made.'').

[27] *Nat'l Parks and Conservation Ass'n* v. *Morton,* 498 F.2d 765, 770 (D.C. Cir. 1974).

[28] *See Ctr to Prevent Handgun Violence* v. *Dep't of the Treasury,* 981 F. Supp. 20, 23 (D.D.C. 1997).

[29] *See id.*

[30] *See id.*

[31] *See Gen. Elect. Co.* v. *Nuclear Regulatory Comm'n,* 750 F.2d 1394, 1402 (7th Cir. 1984) (''[T]he competitive harm that attends any embarrassing disclosure is not the sort of thing that triggers exemption 4.'').

[32] *See Silverberg* v. *Dep't of Health and Human Svcs,* Civ. A. No. 89–2743, 1991 WL 633740, at *4 (D.D.C. Jun. 14, 1991) (holding that business ''may suffer embarrassment from potential distortions of [the disclosed] information, but the case law is clear that the government can not withhold confidential information under Exemption Four of FOIA on the grounds it may cause embarrassment'').

[33] *See People for the Ethical Treatment of Animals* v. *Dep't of Agric.,* No. Civ. 03 C 195–SBC, 2005 WL 1241141, at *7 (D.D.C. May 24, 2005) (holding that competitive harm would not arise from disclosure of information where ''all banks would suffer the same alleged harm'').

[34] 5 U.S.C. 552(b)(8).

[35] OCC Interpretive Ltr., 1991 WL 338374 (Jan. 14, 1991).

[36] No. 86–1841, slip. op. (D.D.C. Mar. 11, 1988).

rationale to protect the identities of banks named in consumer complaints:

> Irrespective of the fact that consumers provided the information to defendant and that disclosure of the identities of the banks against which complaints were made probably would not undermine public confidence, the portion of the computer printout to which plaintiff seeks access falls under exemption 8 because this information is directly derived from and 'contained in * * * examination reports * * * prepared by, * * * or for the use of' defendant. The uncontroverted evidence shows that the bank charter numbers in the computer printout are contained in examination reports that fall within the meaning of Exemption 8 because the bank charter numbers are matters contained in larger reports, reflecting all consumer complaints against banks, which defendant forwards to its District offices. These larger reports are 'examination reports' within the meaning of Exemption 8 because they analyze and summarize information concerning consumer complaints.[37]

Unlike the complaint information at issue in *Consumers Union,* however, the information at issue here is not part of an examination report. Also, it is not presented within the context of a Bureau investigation of issuer conduct. Rather, the complaints exist in raw form as part of a database intended for public use and study. Accordingly, the Bureau does not believe that *Consumers Union* is analogous.

b. Other Comments on Issuer Name Disclosure

Consumer groups commented that the disclosure of issuer names represents a significant aspect of the Bureau's policy. They noted that other complaint databases that disclose the identity of specific companies—like NHTSA—have created pressure on companies to improve whatever metrics are measured by the public database. As a result, these groups expect the Bureau's public database to cause issuers to compete more effectively on customer service and product quality. Together with privacy and open government groups, consumer groups commented that outside groups can use the issuer data to help consumers make more informed decisions about credit card use, a factor also cited by the numerous consumers who submitted comments through the open government organization, OMB Watch.

Industry groups disputed that disclosing issuer names serves these or any policy purposes. They commented that this form of disclosure would unfairly damage issuers' reputation and competitive position. One trade association indicated that the inclusion of issuer names could implicate safety and soundness concerns, particularly in light of viral media. Another commented that disclosing issuer names would serve only as ''fodder for plaintiffs' lawyers.'' One noted that the public database would not take account of the size and nature of the credit card business at different financial services providers, which would cause consumer confusion. Another suggested that debt sellers would attract fewer complaints than issuers that collected their own debts.

Trade groups agreed that if issuer names were included, they should be verified. Several noted that consumers would be particularly likely to name the merchant or other partner in connection with private label or co-brand cards, and not the actual issuer. Some noted that card numbers would not be sufficient for verification because the system will accept complaints without a number, and some complaints—like declined application complaints—will arise even when there is no card number. Several trade associations argued that some complaints are really merchant disputes and that the issuer should not be named at all.

The Bureau believes that these industry comments fail to acknowledge the system controls that are in place to verify that a complaint is from a cardholder and that the issuer is properly identified. No issuer will be associated with a complaint if it offers a reasonable basis to dispute a commercial relationship with the consumer. Currently, the Complaint System provides issuers 15 days to contest issuer identity, which experience has shown to be sufficient. As noted earlier, there are also system controls to avoid double-counting duplicate complaints from the same consumer.

For many complaints, credit card account numbers provide a reliable method to verify the identity of the issuer. The Bureau agrees that some complaints may identify the issuer as the merchant or other partner associated with a co-brand or private label card. In such cases, the account number provided will not match to the name provided. As a result, the Bureau confirms the account number with the consumer, then substitutes the name of the correct issuer. The merchant or other partner is not named. The Bureau also recognizes that there are cases in which no credit card number is available to the consumer, such as declined application complaints. In these cases, the Bureau works directly with the consumer to identify the correct issuer from issuer correspondence. If the correct issuer cannot be identified in this manner, the case will be closed and no data added to the public database.

The Bureau acknowledges, as it did in connection with the proposed Policy Statement, that there are significantly varying views among stakeholders about whether this kind of data is useful to consumers. However, the Bureau continues to believe that this disclosure may allow researchers to inform consumers about potentially significant trends and patterns in the data. In addition, given that companies have made competitive use of other public databases, the Bureau anticipates that disclosure has the potential to sharpen competition over product quality and customer service.

Furthermore, as several trade associations conceded and as previously noted above, Congress itself recognized that the Bureau may properly use consumer complaint data to set supervision, enforcement, and market monitoring priorities.[38] If the Bureau is able to use complaint data in this way, there is good reason to allow consumers and outside researchers to weigh the importance of complaint data in their own research, analysis, and decision-making. Outside review of this kind will also help ensure that the Bureau remains accountable for tackling the complaints that it receives.

Finally, the Bureau notes the general acceptance by consumer and industry groups that normalization can improve data utility. Thus, although trade associations uniformly opposed the release of issuer names in the public database, many recognized the importance of normalizing the data that the Bureau decides to release. Only a minority of trade groups suggested that normalization was not workable and urged that issuer names not be disclosed for this reason as well. One association suggested that normalization cover open accounts, closed accounts with a balance, accounts without a balance that closed within the last year, and prospective accounts declined within the last year. Consumer groups also recognized the importance of normalizing data, but none offered any indication of the appropriate metrics for market share. The Bureau agrees with industry commenters that, if possible, normalization should make some account for closed accounts with a balance and declined applications because these may generate complaints. The Bureau intends to work further with commenters on specific normalization

[37] *Id.* at 2–3.

[38] *See, e.g.,* 12 U.S.C. 5493(b)(3)(D).

proposals, and welcomes further operational suggestions on the point.

2. Zip Codes

Consumer groups commented that the Bureau should add additional location fields, such as city and census tract. Several trade associations, however, commented that zip code disclosure created risks to privacy because zip codes can be combined with other data to identify consumers, particularly in sparsely-populated rural zip codes. Trade associations also commented that zip code data may be misunderstood to imply discriminatory conduct, leading to unfounded allegations of discrimination.

The Bureau is mindful of the privacy implications of zip code disclosure. As a result, it will limit zip code disclosures to 5 digits, even if a consumer provides the full 9-digit zip code. Furthermore, as it analyzes narrative disclosure, the Bureau will account for zip code disclosures in assessing privacy risks. The Bureau will also analyze whether there are ways to disclose more granular location fields without creating privacy risks, as suggested by some commenters.

The Bureau may, as one trade group noted, investigate zip code data for indications of ''improper trends.'' The Bureau believes that consumers and outside researchers should have the same opportunity.

3. Discrimination

Several trade associations warned against disclosure of any data that consumers submit in the discrimination field of the complaint form. These groups commented that in light of the seriousness of such allegations, the Bureau should not disclose this field unless and until it has investigated the allegations and determined that they have factual support. In support of their position, these commenters note that some consumers who check the discrimination field on the intake form fail to include any allegations of discrimination in the narrative field.

The Bureau is continuing to refine its methods for identifying discrimination allegations from consumers that submit complaints. Accordingly, the Bureau does not plan to disclose discrimination field data in the public database at this time. In the interim, the Bureau will continue to study the conditions, if any, necessary for the appropriate disclosure of such information at the individual complaint level. The Bureau may also report discrimination data at aggregated levels in its own periodic complaint data reports.

4. Type of Credit Card Issue

Trade and consumer groups agreed that the Bureau could improve this data field in several respects. First, a consumer should be able to select several issues for a given complaint. Second, the issue categories should be better explained and differentiated. One trade association also commented that the Bureau should not rely on consumers for this data point.

The Bureau agrees that a consumer should be able to ''tag'' a complaint as implicating more than one issue. It is working to develop the required functionality. In addition, the Bureau is weighing possible improvements to the issue categories and is considering the extent to which Bureau staff should ''tag'' complaints as raising certain issues. The Bureau welcomes further input from stakeholders on how to improve the issue categories.

5. Issuer Disposition

Consumer groups commented on the need to include data about the issuer's response, the consumer's assessment of that response, and the timing of each of those steps, so that a user of the public database would know how fast complaints are handled and how often an issuer response is disputed. Consumer groups also urged the addition of more resolution-related data categories, such as categories that would explain why a complaint remains unresolved.

Several trade associations commented that the ''Closed without relief'' issuer response category was not meaningful and should be revised. These groups claimed that the category suggests an inappropriate response even though certain complaints are appropriately closed without any form of relief, such as meritless complaints or complaints that have already been appropriately handled by means of the issuer's internal complaints process. In addition, there will be complaints appropriately closed with non-monetary relief, which, under the Bureau's current system, do not meet the monetary criteria for ''Closed with relief.'' As a result, trade groups expressed concern that resolution rates would be undercounted. On that basis, some trade groups asked the Bureau to restore its prior resolution-related categories: full, partial, and no resolution. Others urged that the Bureau subdivide the ''Closed with relief'' category into monetary and non-monetary relief subcategories.

In light of these comments, the Bureau has made several changes to the Complaint Systems' issuer response categories.[39] First, where an issuer provides relief to the consumer, the issuer may categorize the complaint as either ''Closed with monetary relief'' or ''Closed with non-monetary relief.'' To qualify for the ''Closed with monetary relief'' category, the company's response must provide objective and verifiable monetary relief that is measurable in dollars. To qualify for ''Closed with non-monetary relief,'' the response must provide the consumer with objective and verifiable relief that does not meet the definition of monetary relief. These categories reduce any risk that reviewers fail to accord appropriate significance to cases that issuers close with non-monetary relief. Second, the Bureau has added a ''Closed with explanation'' response category, which may be used when the issuer believes that the complaint does not merit substantive relief, and instead provides a full explanation to that effect to the consumer. This category recognizes that in some instances, a thorough explanation will serve to resolve the consumer's complaint. At the same time, it allows reviewers and consumers to see in more detail how issuers, collectively and separately, resolve the complaints filed against them.[40]

6. Date Fields

Finally, the Bureau agrees with the commenters who urged the inclusion of relevant dates in the public database. Initially, the Bureau will be able to include the date that a complaint is sent to the Bureau and the date that the Bureau forwards it to the relevant company.[41] The Bureau is currently developing the technical ability to publish other date fields including the date that a company responds. When this is feasible, the Bureau plans to include additional date fields in the public database.

[39] Consumer Response has provided detailed guidance to institutions participating in the Complaint System regarding these changes. Institutions should not rely on the summary description provided herein.

[40] If the company provides no substantive or explanatory response, it must designate the complaint as ''Closed.'' In conjunction with the ''Closed with explanation'' category, this residual category differentiates issuers that—having opted against substantive relief—choose not to explain their conduct to consumers.

[41] There may be a lag between the two dates in part because, as noted above, consumers do not always submit complaints with sufficient information. In addition, some complaints are received via channels that trigger additional processing steps at the Bureau. For example, a Web-based complaint will move to the relevant company faster than a hard-copy complaint received from another agency that must be input into the Bureau's Web-based system.

E. Potential Impacts of Undisclosed Fields

The Bureau received a number of comments about data fields that the proposed Policy Statement did not list for disclosure in the public database. The Bureau is not shifting any of these fields into the disclosed category in the final Policy Statement, though several fields remain under assessment for potential inclusion at a later date.

1. Consumer Narratives

The issue of disclosing consumer narratives generated the most comments. Each consumer comment letter submitted by OMB Watch requested access to narratives ''to help me make better financial decisions and avoid bad actors.'' Consumer, civil rights, open government, and privacy groups uniformly supported disclosure on the grounds that it would provide consumers with more useful information on which to base financial decisions and would allow reviewers to assess the validity of the complaint. As noted, these groups submitted a coordinated proposal that would give the consumer a default option to submit narrative information for public disclosure. Recognizing the need to protect privacy interests, the commenters' proposal calls for the Bureau to use algorithms to detect personally identifiable information in narratives slated for disclosure, with back-up manual review by staff and consumers of any narratives that the algorithm identifies. Subject to FOIA limitations, however, the proposal would also provide a consumer the chance to opt out of narrative disclosure, in whole or in part. Narratives that the consumer opts out would not be disclosed in the normal course.

The two privacy groups expounded on privacy risks in the most detail, echoing the Bureau's acknowledgment that a detailed narrative may enable re-identification even if it does not contain standard personally identifiable information like a name or account number. One privacy group noted that the privacy risk from ''non-identifiable'' data is increasing all the time. The other noted that after it established its own online complaint system, it received a number of ''extraordinarily detailed and unique complaints'' that would have been inappropriate to disclose without express consent and heavy redaction or summarization. Although this group supported disclosure on an opt-in basis, it urged the Bureau to study a large sample of complaint narratives before resolving on its final course.

Trade groups and industry commenters uniformly opposed disclosure of consumer narratives. Several suggested that if the Bureau resolved to disclose narratives, it might inadvertently disclose personally identifiable information, with potentially significant consequences to the affected individuals. These commenters also argued that narrative disclosure might undermine the Bureau's mission to the extent that consumers, fearing potential disclosure of their personal financial information, became reluctant to file complaints. Some industry commenters argued against narrative opt-ins or opt-outs, claiming that consumers would not take time to read them or to understand the consequences of their choices. One privacy group also cautioned against the use of opt-in or opt-out approaches on grounds that consumers do not generally understand them and will usually select the default option, undermining the notion that a consumer has thereby ''consented'' to publication. As a result, the privacy group urged that the Bureau explore the use of data agreements, whereby users could have access to select narratives subject to a contractual agreement not to attempt re-identification.

While acknowledging the general lack of consensus in this area, the Bureau notes that almost all commenters agreed that the privacy risks of narrative disclosure must be carefully addressed if narrative disclosure is to take place. Accordingly, the Bureau will not publish narrative data until such time as the privacy risks of doing so have been carefully and fully addressed. In addition to assessing the feasibility of redacting personally identifiable information (''PII'') and other re-identifying narrative information, by algorithmic and/or manual methods, the Bureau will carefully consider whether there are ways to give submitting consumers a meaningful choice of narrative disclosure options.

2. Responsive Issuer Narratives

Consumer groups argued that issuers should have the same ability as consumers to offer their responsive narratives for either public disclosure or private communication to the consumer. According to these commenters, this mechanism would protect consumer privacy, allow for effective communication between consumers and issuers, and permit issuers to respond publicly to public complaint narratives. Trade associations disagreed, arguing that the Gramm-Leach-Bliley Act prohibits them from publicly disclosing any PII about their customers. In light of the Bureau's current disclosure position on consumer narratives, however, the Bureau is not resolving this issue at this point.

F. Addition of New Data Fields

Several consumer groups requested the Bureau to add new data fields for collection and disclosure via the public database. One group suggested that the database identify the specific card product, not the issuer alone. As noted, several groups urged that location data be provided at the city or census tract level to help identify discriminatory practices. To that same end, several groups urged the collection of demographic data on a voluntary basis.

The Bureau is open to the inclusion of additional data fields and will continue to work with external stakeholders to address the value of adding such fields. The Bureau notes, however, that additional data categories will logically fall into one of two groups, each of which implicates different policy concerns and trade-offs. First, the Bureau can disclose new data fields by adding them to the intake form for consumers to complete. These fields impose additional burden on the consumer and may make the submission of a complaint that much less likely. Second, the Bureau can derive additional data fields from a complaint submitted on the existing intake form. Thus, the Bureau could tag complaints by issue or by other criteria. New fields of this type would not impose a burden on consumers, but they would impose an additional burden on the Complaint System and the Bureau's resources.

G. When Complaint Data Will Be Added to the Public Database

One consumer group commented that data should be uploaded 10 days after the submission of a complaint. This group also urged that the issuer be required to respond substantively to the complaint within that same 10-day window.[42] Several trade associations, however, noted that the complaint process may allow up to 60 days for a substantive response and, on that basis, argued that data for a given complaint should not be uploaded until the 60-day period has run. Finally, one privacy group endorsed the proposed 30-day lag between a consumer submitting a complaint and the Bureau adding the applicable data to the public database.

The Bureau's rationale for the 30-day lag was to ensure that issuers have

[42] Under the Bureau's current system, the company has 15 days from its receipt of the complaint to state its initial response to that complaint. That initial response can seek up to an additional 45 days to finalize the response.

sufficient time to determine whether they are the identified issuer before any data about the complaint is disclosed. Experience shows, however, that issuers do not need more than 15 days from their receipt of the complaint to make this determination. As a result, the Bureau proposes to revise the posting schedule. Under the revised approach, the Bureau will add field data subject to disclosure to the public database once the issuer has made a timely response within the 15-day window (''Closed with monetary relief,'' ''Closed with non-monetary relief,'' ''Closed with explanation,'' ''Closed'' or ''In progress'') or has failed to make any response within 15 days. This means that almost all complaints will be subject to posting at or before the 15-day mark, improving the timeliness of data in the public database. However, if the company can make a reasonable showing within the 15 days that the consumer's identification is incorrect, the complaint will not be published unless and until the correct issuer is identified.[43]

Once data for a given complaint has been posted to the public database, any new data fields for that complaint will be added to the public database as they become available. Thus, if a company makes a late response, its response will be included in the public database, but that response would also show as untimely. The Bureau currently proposes to update the public database once each day, subject to the initial lag period that applies to a given complaint.

H. Posting Data for Complaints Submitted to Other Regulators

One consumer group commented that the public database should include data on complaints that the Bureau forwards to other agencies. This group also commented that the Bureau should encourage other agencies to submit complaints to the same public database.[44]

The Bureau agrees that the utility of the public database would be improved by the inclusion of as many complaint records as possible. As a result, it is open to other regulators providing parallel complaint data for inclusion in the public database. Until that can be achieved, however, the Bureau does not believe it would be that useful to include referred complaints in the public database. The Bureau would not be able to describe how and when a referred complaint was responded to, or whether the consumer accepted or disputed the outcome. In addition, the Bureau would not have verified the existence of a commercial relationship between the company and the consumer.

I. Public Database Tools

Consumer groups recommended a number of particular tools for accessing the public database. One group urged that the tools directly generate ranking data. Another argued that the access system should be able to generate percentage shares for one variable in terms of another.

The Bureau will use a data platform to make the complaints publicly available. This platform has a number of important features. First, users can search and filter the data across any of the data fields.[45] Second, users can build their own data visualizations, which can then be embedded on other Web sites and shared via social media. These visualizations can stay up-to-date with the Bureau's public database as it receives new data. This makes it easy for reviewers to disseminate information from the database, reducing transaction costs in the marketplace of ideas. Third, the platform allows users to submit public comments for potential refinements and improvements to the public database. Fourth, the data will be provided in a machine-readable format via an Application Programming Interface. This will allow third parties to build their own tools for leveraging the data, further reducing transaction costs and improving dissemination.

J. Extension of Policy Statement to Complaint Data for Other Consumer Products and Services

The Concurrent Notice published in the **Federal Register** describes the Bureau's proposal to extend the Policy Statement to all consumer products and services within the Bureau's jurisdiction. Responsive comments are due on or before July 19.

IV. Final Policy Statement

The text of the final Policy Statement is as follows:

1. Purposes of Credit Card Complaint Data Disclosure

The Bureau receives credit card complaints from consumers. The Bureau intends to disclose certain information about credit card complaints in a public database and in the Bureau's own periodic reports.

The purpose of this disclosure is to provide consumers with timely and understandable information about credit cards and to improve the functioning of the credit card market. By enabling more informed decisions about credit card use, the Bureau intends for its complaint data disclosures to improve the transparency and efficiency of the credit card market.

2. Public Access to Data Fields

Data from complaints that consumers submit will be uploaded to a publicly accessible database, as described below.

a. Complaints Included in the Public Database

To be included in the public database, complaints must: (a) Not be duplicative of another complaint at the Bureau from the same consumer; (b) not be a whistleblower complaint; (c) within the scope of the Bureau's authority under section 1025 of the Consumer Financial Protection Act; and (d) be submitted by a consumer (or his or her authorized representative) with an authenticated commercial relationship with the identified issuer. The public database will initially include data from credit card complaints submitted on or after June 1, 2012.

b. Fields Included in the Public Database

For included complaints, the Bureau will upload to the public database certain non-narrative fields that do not call for PII. The Bureau plans to include these fields:

(i) Bureau-assigned unique ID number;
(ii) Channel of submission to Bureau;
(iii) Date of submission to Bureau;
(iv) Consumer's 5-digit zip code;
(v) Subject matter;
(vi) Date of submission to company;
(vii) Company name;
(viii) Company response category;
(ix) Whether the company response was timely; and
(x) Whether the consumer disputed the response.[46]

The consumer generates data for fields (iv), (v), (vii), and (x). The Bureau will authenticate the consumer's identification of the relevant company

[43] The Bureau will consider requests for more than 15 days to determine identity only on an exceptional, case-by-case basis. If the Bureau were to authorize such an extension, it would not post the relevant complaint to the database in the interim.

[44] Along the same lines, one trade group objected to the disclosure of issuer names in part because the Bureau's database would only include complaints against larger financial institutions.

[45] For example, the system will enable a user to know the 5-digit zip code distribution of all billing dispute claims, or the complaint-type distribution of all complaints associated with one issuer or one time period.

[46] Additional fields remain under consideration for potential inclusion.

in field (vii), and finalize the entry in that field as appropriate.[47] The Bureau intends to use the name of the issuer as disclosed in Nilson Report data on the credit card market. If a company demonstrates by the 15-day deadline that it has been wrongly identified, no data for that complaint will be posted unless and until the correct issuer is identified. At the 15-day mark, however, the Bureau will post the complaint data with the originally identified issuer in field (vii) so long as the Bureau has card number or documentary data to support the identification. If the Bureau cannot reasonably identify the company, however, the complaint will be closed without posting to the public database.

The complaint system automatically populates the two date fields, (iii) and (vi). The Bureau completes fields (i), (ii), and (ix).[48] The issuer completes field (viii). If it selects ''Closed with monetary relief'' for field (viii), the issuer will also enter the amount of monetary relief provided, although that information will not be included in the public database.[49] Field (viii) will show as ''In progress'' if the issuer responds with a request within 15 days for the full 60-day response period. The issuer's later response will then overwrite the ''In progress'' data entry.

c. When Data Is Included in the Public Database

The Bureau will generally add field data to the public database for a given complaint within 15 days of forwarding the complaint to the company in question. If the company responds ''Closed with monetary relief,'' ''Closed with non-monetary relief,'' ''Closed with explanation,'' ''Closed,'' or ''In progress'' before the 15-day deadline for response, the Bureau will then post applicable data for that complaint to the public database. If the company fails to respond at all by the 15-day deadline, the Bureau will also post data for that complaint at that point. In this case, the issuer response category field will be blank and the untimely response field will be marked. As noted above, if a company demonstrates by the 15-day deadline that it has been wrongly identified, no data for that complaint will be posted unless and until the correct issuer is identified. Once the Bureau discloses some data for a given complaint, it will add to the public database any new complaint data that are subject to disclosure as they become available. Subject to these various restrictions, data will be posted to the public database on a daily basis.

d. Public Access

A public platform for the public database will enable user-defined searches of the posted field data. Each complaint will be linked with a unique identifier, enabling reviewers to aggregate the data as they choose, including by complaint type, issuer, location, date, or any combination of these variables. The data platform will also enable users to save and disseminate their data aggregations. These aggregations can be automatically updated as the public database expands to include more complaints. Finally, users will be able to download the data or leverage it via an Application Programming Interface.

e. Excluded Fields

The public database will not include personally identifying fields such as a consumer's name, credit card number, or address information other than a 5-digit zip code. At least until it can conduct sufficient further study, the Bureau will not post to the public database the consumer's narrative description of ''what happened'' or his or her description of a ''fair resolution.'' The Bureau also will not post a company's narrative response. These narrative fields may contain personally identifiable information or other information that could enable identification. The possibility of disclosure may also suppress complaints and/or reduce the specificity of complaint narratives, potentially undermining the effectiveness of the complaint process. In addition, the company's response may contain material protected from disclosure under consumer privacy laws. The Bureau intends to study the potential inclusion of narrative fields as described further in section 4 of this Policy Statement.

3. Regular Bureau Reporting on Complaints

At periodic intervals, the Bureau intends to publish reports about complaint data, which may contain its own analysis of patterns or trends that it identifies in the complaint data. So far, the Bureau has published three reports containing aggregate complaint data.[50] The Bureau intends for its reporting to provide information that will be valuable to consumers and other market participants. Before determining what reports to issue beyond those relating to its own handling of complaints, the Bureau will study the volume and content of complaints that it has received in a given reporting period for patterns or trends that it is able to discern from the data. If the data will support it, the Bureau intends for its reports to include some standardized metrics that would provide comparisons across reporting periods. The reports will also describe the Bureau's use of complaint data across the range of its statutory authorities during a reporting period. Because monetary relief data will not be included in the individual-level public database, the Bureau anticipates such data will be included at non-individual levels in its own periodic reporting.

4. Matters for Further Study

Going forward, the Bureau intends to study the effectiveness of its credit card complaint disclosure policy in realizing its stated purposes. In addition, the Bureau will analyze the narrative fields submitted by consumers and issuers. The analysis will assess whether there are practical ways to disclose narrative data in a manner that will improve consumer understanding without undermining privacy interests or the effectiveness of the credit card complaint process and without creating unwarranted reputational injury to issuers.

5. Effect of Policy Statement

This Policy Statement is intended to provide guidance regarding the Bureau's exercise of discretion to publicly disclose certain data derived from consumer complaints. The Policy Statement does not create or confer any substantive or procedural rights on third parties that could be enforceable in any administrative or civil proceeding.

Authority: 12 U.S.C. 5492(a), 5493(b)(3)(C), 5496(c)(4), 5511(b)(1), (5), 5512(c)(3)(B).

[47] The consumer's card number generally will enable authentication of the correct issuer. If a card number is not available, the Bureau works directly with the consumer to identify the correct issuer from issuer correspondence such as statements or letters. If the correct issuer cannot be identified in this manner, no data is posted to the database.

[48] If a response is untimely, at either the 15 or 60-day mark, field (ix) will show that the issuer did not respond on a timely basis. The issuer's substantive response, if it eventually makes one, will still be shown in field (viii), but the untimeliness entry will remain.

[49] The Bureau is not planning to disclose the consumer's claimed amount of monetary loss and, as a result, believes it would be inappropriate to disclose, in the individual case, the amount of relief provided by the issuer. The Bureau, however, may include non-individual data on monetary relief in its own periodic reports. The Bureau has determined not to include the consumer's claimed amount of monetary relief because a review of complaints shows that consumers have had difficulty stating the amount and prefer to provide a narrative description of the relief that they believe to be appropriate.

[50] See note 2.

Dated: June 14, 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2012–15163 Filed 6–21–12; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0217; Airspace Docket No. 12–AEA–2]

Establishment of Class D Airspace and Amendment of Class E Airspace; East Hampton, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace and amends existing Class E airspace at East Hampton, NY, to accommodate the new mobile airport traffic control tower (ATCT) at East Hampton Airport. Controlled airspace enhances the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also updates the geographic coordinates of the airport's existing Class E airspace and eliminates Class E extensions that are no longer required.

DATES: Effective 0901 UTC, July 26, 2012. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On March 15, 2012, the FAA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) to establish Class D and E airspace and amend existing Class E airspace at East Hampton, NY, to accommodate a new air traffic control tower at East Hampton Airport (77 FR 15297). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two positive comments were received in support of the airspace. One negative comment letter was received.

One positive response was received from the Town of East Hampton. The other positive commenter, the East Hampton Aviation Association, observed that establishment of Class D airspace would provide greater safety to IFR operations during bad weather conditions. The FAA agrees with this observation.

The negative response comment was received from the Eastern Region Helicopter Council, Inc. (ERHC). ERHC made several observations in its comment letter. The FAA does not agree with this commenter's observations or conclusion. Each of the commenter's observations are outlined and addressed below.

The ERHC observed that the purpose of Class D airspace is to protect IFR operations; that the East Hampton tower will not have radar capabilities; that the tower will not have the authority to require helicopters to fly specific arrival/departure flight paths; and that most helicopter operations already comply with the voluntary noise abatement procedures; therefore, the commenter concludes that the airspace changes are not needed.

The FAA does not agree. The protection provided by Class D airspace to IFR operations is not based on the tower's ability to use radar to provide separation. Rather, the airspace establishes higher weather minima for VFR flights, thus restricting access of VFR flights to the airspace while IFR operations are in progress.

The ERHC commented that an unintended consequence of establishing Class D airspace would be increased noise impact from helicopters that are forced to wait outside the Class D airspace during adverse weather conditions.

While the FAA agrees that one-at-a-time Special VFR operations may have the potential for creating adverse effects, separation rules for Special VFR operations in Class D airspace allow for multiple helicopters to operate in Class D airspace at the same time, as long as they operate at a safe distance from IFR operations. Use of these rules requires the helicopter operators to enter into a Letter of Agreement (LOA) with the FAA. Use of these rules will allow the helicopter operators to minimize any delays they may experience due to the airspace, as well as provide a higher level of safety to all operations in adverse weather conditions.

The ERHC observed that one purpose of establishing a tower at East Hampton Airport is for helicopter noise mitigation purposes.

The FAA does not agree. The purpose of control towers and Class D airspace is the safe and efficient use of airspace. Class D airspace provides controlled airspace to contain IFR arrival and departure operations. Further, Class D enhances safety by setting VFR weather minima specified in 14 CFR § 91.155 and the communications and other operating requirements in 14 CFR 91.129.

The Proposed Rule included a Class E surface area to be in effect when the control tower is closed. One prerequisite for the establishment of controlled airspace at the surface of an airport is the availability of hourly and special weather observations. Currently this prerequisite is only met during the dates and times when the tower will be operating. Therefore, the Class E surface area has been removed from this rule action.

The current Class E5 Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth (E5) includes two extensions for the support of IFR approach procedures. The approaches published for East Hampton Airport have been modified since this airspace was established and these extensions are no longer required for safe IFR operations. Therefore, they are being removed as part of the rule.

Class D and E airspace designations are published in Paragraphs 5000 and 6005, respectively, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4.8-mile radius of East Hampton Airport, East Hampton, NY. Controlled airspace supports the new airport traffic control tower for continued safety and management of IFR operations at East Hampton Airport. This action also amends Class E airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the airport. The geographic coordinates of the airport are adjusted to be in concert with the FAA's current aeronautical database.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action''

under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes and amends controlled airspace at East Hampton Airport, East Hampton, NY.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

AEA NY D East Hampton, NY [NEW]

East Hampton Airport, NY
(Lat. 40°57′34″ N., long. 72°15′06″ W.)

That airspace extending upward from the surface up to and including 2,500 feet MSL within a 4.8-mile radius of East Hampton Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

* * * * *

AEA NY E5 East Hampton, NY [AMENDED]

East Hampton Airport, NY
(Lat. 40°57′34″ N., long. 72°15′06″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of East Hampton Airport.

Issued in College Park, Georgia, on June 14, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–15279 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2011–N–0526]

Effective Date of Requirement for Premarket Approval for a Pacemaker Programmer

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for pacemaker programmers. The Agency has summarized its findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring this device to meet the statute's approval requirements and the benefits to the public from the use of the devices. This action implements certain statutory requirements.

DATES: This rule is effective September 20, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Burns, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1646, Silver Spring, MD 20993–0002, 301–796–5616.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), and the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and

require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807.

A preamendments device that has been classified into class III may be marketed by means of premarket notification procedures (510(k) process) without submission of a PMA until FDA issues a final regulation under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval. Section 515(b)(1) of the FD&C Act establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or a notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. Also, a preamendments device subject to the rulemaking procedure under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see 21 CFR part 812) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA for the device. At that time, an IDE is required only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the FD&C Act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The regulation, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the FD&C Act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change in reclassification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the FD&C Act. Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

When a rule to require premarket approval for a preamendments device is finalized, section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of issuance of the final rule or 30 months after the final classification of the device under section 513 of the FD&C Act, whichever is later. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, commercial distribution of the device must cease because the device would be deemed adulterated under section 501(f) of the FD&C Act.

The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334), if its distribution continues. Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III device that is the subject of this regulation.

The FD&C Act does not permit an extension of the 90-day period after issuance of a final rule within which an application or notice is required to be filed. The House Report on the 1976 amendments states that ''* * * [t]he thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval'' (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976)).

The SMDA added section 515(i) to the FD&C Act requiring FDA to review the classification of preamendments class III devices for which no final rule requiring the submission of PMAs has been issued, and to determine whether or not each device should be reclassified into class I or class II or remain in class III. For devices remaining in class III, the SMDA directed FDA to develop a schedule for issuing regulations to require premarket approval. The SMDA does not, however, prevent FDA from proceeding immediately to rulemaking under section 515(b) of the FD&C Act on specific devices, in the interest of public health, independent of the procedures of section 515(i). Proceeding directly to rulemaking under section 515(b) of the FD&C Act is consistent with Congress' objective in enacting section 515(i), i.e., that preamendments class III devices for which PMAs have not been previously required either be reclassified to class I or class II or be subject to the requirements of premarket approval.

In the **Federal Register** of May 6, 1994 (59 FR 23731), FDA issued a notice of availability of a preamendments class III devices strategy document. The strategy document set forth FDA's plans for implementing the provisions of section 515(i) of the FD&C Act for preamendments class III devices for which FDA had not yet required premarket approval.

In the **Federal Register** of August 4, 2011 (76 FR 47085), FDA published a proposed rule to require the filing under section 515(b) of the FD&C Act of a PMA or notice of completion of a PDP for the pacemaker programmer (the August 2011 proposed rule). In accordance with section 515(b)(2)(A) of the FD&C Act, FDA included in the preamble of the August 2011 proposed rule the Agency's tentative findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the premarket approval requirements of the FD&C Act, and the benefits to the public from use of the device. The August 2011 proposed rule also provided an opportunity for

interested persons to submit comments on the proposed rule and the Agency's findings. Under section 515(b)(2)(B) of the FD&C Act, FDA provided an opportunity for interested persons to request a change in the classification of the devices based on new information relevant to its classification. Any petition requesting a change in classification for the pacemaker programmer was required to be submitted by August 19, 2011. The comment period for the pacemaker programmer electrode closed November 2, 2011.

FDA received one comment on the August 2011 proposed rule for the pacemaker programmer. The comment was a general statement supporting the requirements for filing of a PMA for this device. The comment did not recommend any changes to the proposed rule. FDA received no petitions requesting a change in the classification of the device.

II. Findings With Respect to Risks and Benefits

As required by section 515(b) of the FD&C Act, FDA published its findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that this device have an approved PMA or a declared completed PDP and (2) the benefits to the public from the use of the device. These findings were published in the August 2011 proposed rule.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) Order (April 9, 2009, 74 FR 16214), and any additional information that FDA has encountered. Additional information regarding the risks as well as classification associated with the pacemaker programmer can be found in the following proposed and final rules published in the **Federal Register** on these dates: March 9, 1979 (44 FR 13373); February 5, 1980 (45 FR 7904 at 7945); and May 11, 1987 (52 FR 17732 at 17736).

III. The Final Rule

Under section 515(b)(3) of the FD&C Act, FDA is adopting its findings as published in the preamble to the August 2011 proposed rule. FDA is issuing this final rule to require premarket approval of these generic types of devices for class III preamendments devices by revising part 870.

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before 90 days after the date of publication of the final rule in the **Federal Register**, for any of this class III preamendments device that were in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before 90 days after the date of publication of the final rule in the **Federal Register**. An approved PMA or a declared completed PDP is required to be in effect for any such devices on or before 180 days after FDA files the application. Any other class III preamendments device subject to this rule that was not in commercial distribution before May 28, 1976, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for any of these class III preamendments devices is not filed on or before the 90th day past the effective date of this regulation, that device will be deemed adulterated under section 501(f)(1)(A) of the FD&C Act, and commercial distribution of the device must cease immediately. In the August 2011 proposed rule, FDA mistakenly said that the PMAs and PDPs should be submitted by November 2, 2011. Rather, PMAs and PDPs should be submitted by September 20, 2012. The device may, however, be distributed for investigational use, if the requirements of the IDE regulations (part 812) are met.

IV. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 directs Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. There has been only one 510(k) submission assigned to this product code within the past 15 years. Upon review of this record, the Agency determined that this was done in error, and the record has been corrected. Accordingly, it has been determined that all of the affected devices have fallen into disuse and FDA has concluded that there is little or no interest in marketing these devices in the future. Therefore, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $139 million, using the most current (2011) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA has concluded that this final rule will not have a significant economic impact. We base this determination on an analysis of registration and listing and other data for the device.

There have been no 510(k) submissions for pacemaker programmers since 1995 with the exception of one 510(k) submission cleared in 2009 for a Pacing System Analyzer cleared for use with a PMA-approved programmer. This device was inappropriately reviewed as a 510(k) submission, because this device should have been regulated under PMA. Programmers currently marketed are capable of programming all implantable cardiac devices including pacemakers and defibrillators. Because these programmers interact with products covered under several class III product codes including adaptive rate pacemakers (LWP); implantable defibrillators (LWS); cardiac resynchronization pacemakers (CRT–P, NKE); and implantable defibrillators (CRT–D, NIK), they have been entirely reviewed within the PMA program for more than a decade.

This information is summarized in table 1 of this document as follows.

TABLE 1—SUMMARY OF ELECTRONIC REGISTRATION AND LISTING INFORMATION

Device name	Product code	Last listed	Last valid 510(k) cleared	Replaced by approved technology?
Pacemaker Programmer	KRG	2012	1995	Yes.[1]

[1] Current pacemaker programmers interact with products covered under several class III product codes and have been entirely reviewed within the PMA program for more than a decade.

Based on our review of electronic product registration and listing and other data, FDA concludes that there is currently little or no interest in marketing the affected devices and that the final rule would not have a significant economic impact.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that 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. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 870 is amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 870.3700 is amended by revising paragraphs (a) and (c) to read as follows:

§ 870.3700 Pacemaker programmers.

(a) *Identification.* A pacemaker programmer is a device used to noninvasively change one or more of the electrical operating characteristics of a pacemaker.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before September 20, 2012, for any pacemaker programmer that was in commercial distribution before May 28, 1976, or that has, on or before September 20, 2012, been found to be substantially equivalent to any pacemaker programmer that was in commercial distribution before May 28, 1976. Any other pacemaker programmer shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: June 18, 2012.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2012–15258 Filed 6–21–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 870

[Docket No. FDA–2011–N–0522]

Effective Date of Requirement for Premarket Approval for an Implantable Pacemaker Pulse Generator

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for implantable pacemaker pulse generators. The Agency has summarized its findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring this device to meet the statute's approval requirements and the benefits to the public from the use of the devices. This action implements certain statutory requirements.

DATES: This rule is effective September 20, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Burns, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1646, Silver Spring, MD 20993–0002, 301–796–5616.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629), the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), and the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), among other amendments, established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments

devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed by means of premarket notification procedures (510(k) process) without submission of a PMA until FDA issues a final regulation under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval. Section 515(b)(1) of the FD&C Act establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or a notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. Also, a preamendments device subject to the rulemaking procedure under section 515(b) is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA for the device. At that time, an IDE is required only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the FD&C Act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The regulation; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed rule and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the FD&C Act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change in reclassification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the FD&C Act. Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

When a rule to require premarket approval for a preamendments device is finalized, section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of issuance of the final rule or 30 months after the final classification of the device under section 513 of the FD&C Act, whichever is later. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, commercial distribution of the device must cease because the device would be deemed adulterated under section 501(f).

The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or notice of completion of a PDP is not filed by the latter of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334), if its distribution continues. Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for the class III device that is the subject of this regulation.

The FD&C Act does not permit an extension of the 90-day period after issuance of a final rule within which an application or notice is required to be filed. The House Report on the 1976 amendments states that ''* * * [t]he thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application of premarket approval'' (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976)).

The SMDA added section 515(i) to the FD&C Act requiring FDA to review the classification of preamendments class III devices for which no final rule requiring the submission of PMAs has been issued, and to determine whether or not each device should be reclassified into class I or class II or remain in class III. For devices remaining in class III, the SMDA directed FDA to develop a schedule for issuing regulations to require premarket approval. The SMDA does not, however, prevent FDA from proceeding immediately to rulemaking under section 515(b) of the FD&C Act on specific devices, in the interest of public health, independent of the procedures of section 515(i). Proceeding directly to rulemaking under section 515(b) of the FD&C Act is consistent with Congress' objective in enacting section 515(i), i.e., that preamendments class III devices for which PMAs have not been previously required either be reclassified to class I or class II or be subject to the requirements of premarket approval.

In the **Federal Register** of May 6, 1994 (59 FR 23731) (the May 6, 1994, notice), FDA issued a notice of availability of a preamendments class III devices strategy document. The strategy document set forth FDA's plans for implementing the provisions of section 515(i) of the FD&C Act for preamendments class III devices for which FDA had not yet required premarket approval.

In the **Federal Register** of July 27, 2011 (76 FR 44872) (the July 27, 2011, proposed rule), FDA published a proposed rule to require the filing under section 515(b) of the FD&C Act of a PMA or notice of completion of a PDP for the implantable pacemaker pulse generator. In accordance with section 515(b)(2)(A) of the FD&C Act, FDA included in the preamble of the proposed rule the Agency's tentative findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the devices to meet the premarket approval requirements of the FD&C Act, and the benefits to the public from use of the device. The July 27, 2011, proposed rule also provided an opportunity for interested persons to submit comments on the proposed rule and the Agency's findings. Under section 515(b)(2)(B) of the FD&C Act, FDA provided an opportunity for interested persons to request a change in the classification of the devices based on new information relevant to its classification. Any petition requesting a change in classification of the implantable pacemaker pulse generator was required to be submitted by August 11, 2011. The comment period for the implantable pacemaker pulse generator closed October 25, 2011.

FDA received one comment on the proposed rule for the implanted pacemaker pulse generator. The comment was a general statement supporting the requirements for filing of a PMA for this device. The comment did not recommend any changes to the proposed rule. FDA received no petitions requesting a change in the classification of the device.

II. Findings With Respect to Risks and Benefits

As required by section 515(b) of the FD&C Act, FDA published its findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that this device have an approved PMA or a declared completed PDP and (2) the benefits to the public from the use of the device. These findings were published in the July 27, 2011, proposed rule.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the 515(i) Order, (April 9, 2009 (74 FR 16214)), and any additional information that FDA has encountered. Additional information regarding the risks as well as classification associated with the implantable pacemaker pulse generator can be found in the following proposed and final rules published in the **Federal Register** on these dates: March 9, 1979 (44 FR 13373); February 5, 1980 (45 FR 7940); and May 11, 1987 (52 FR 17732 at 17736).

III. The Final Rule

Under section 515(b)(3) of the FD&C Act, FDA is adopting its findings as published in the preamble to the proposed rule. FDA is issuing this final rule to require premarket approval of these generic types of devices for class III preamendments devices by revising part 870 (21 CFR part 870).

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before 90 days after the date of publication of the final rule in the **Federal Register**, for any of these class III preamendments devices that were in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before 90 days after the date of publication of the final rule in the **Federal Register**. An approved PMA or a declared completed PDP is required to be in effect for any such devices on or before 180 days after FDA files the application. Any other class III preamendments device subject to this rule that was not in commercial distribution before May 28, 1976, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for any of the class III preamendments devices is not filed on or before the 90th day past the effective date of this regulation, that device will be deemed adulterated under section 501(f)(1)(A) of the FD&C Act, and commercial distribution of the device must cease immediately. The device may, however, be distributed for investigational use, if the requirements of the IDE regulations (part 812) are met.

IV. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule is not a significant regulatory action under Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. There have been no 510(k) submissions for implantable pacemaker pulse generators since 1999, and there is no record of pacemaker batteries ever being marketed. Accordingly, it has been determined that all of these devices are in a state of disuse, and FDA has concluded that there is little or no interest in marketing these devices in the future. Therefore, the Agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $139 million, using the most current (2011) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

FDA has concluded that this final rule will not have a significant impact. We base this determination on an analysis of our Registration and Listing, 510(k) and PMA database information.

There have been no 510(k) submissions for implantable pacemaker pulse generators since 1999, with the exception of one 510(k) submission cleared in 2001 that was erroneously coded as an implantable pacemaker pulse generator (product code DXY), but is actually for an external pacemaker. This record has been corrected. Current pacemakers have newer features and capabilities that have rendered them not substantially equivalent to the devices cleared under 510(k) prior to 1999, which are obsolete. Current pacemakers are marketed under a PMA; in some cases the product code DXY has been erroneously applied. In addition, there have been no valid 510(k) submissions

for pacemaker batteries for implantable pacemakers, which also fall under the product code DSZ also under § 870.3610. Two 510(k) submissions have been received for DSZ devices since 1976, but they were miscoded, which has been corrected. The Agency has no record of pacemaker batteries ever being marketed.

This information is summarized in table 1 of this document as follows:

TABLE 1—SUMMARY OF ELECTRONIC REGISTRATION AND LISTING INFORMATION

Device name	Product code	Last listed	Last valid 510(k) cleared	Replaced by approved technology?
Implantable Pacemaker Pulse Generator	DXY	2012	1999	Yes.[1]
Pacemaker Battery	DSZ	No Record	No Record	No.[2]

[1] Implantable pacemaker pulse generators have been submitted as PMAs since the early 1980s. The product code DXY has been erroneously applied to many of these PMA products.
[2] Pacemaker batteries are not separately marketed products. They are internal to implantable pacemakers.

Based on our review of electronic product registration and listing and other data, FDA concludes that there is currently little or no interest in marketing the affected devices and that the final rule would not have a significant economic impact.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that 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. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 812 have been approved under OMB control number 0910–0078; the collections of information in part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 870

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 870 is amended as follows:

PART 870—CARDIOVASCULAR DEVICES

■ 1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 870.3610 is amended by revising paragraphs (a) and (c) to read as follows:

§ 870.3610 Implantable pacemaker pulse generator.

(a) *Identification.* An implantable pacemaker pulse generator is a device that has a power supply and electronic circuits that produce a periodic electrical pulse to stimulate the heart. This device is used as a substitute for the heart's intrinsic pacing system to correct both intermittent and continuous cardiac rhythm disorders. This device may include triggered, inhibited, and asynchronous modes and is implanted in the human body.

* * * * *

(c) *Date PMA or notice of completion of PDP is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before September 20, 2012, for any implantable pacemaker pulse generator device that was in commercial distribution before May 28, 1976, or that has, on or before September 20, 2012, been found to be substantially equivalent to any implantable pacemaker pulse generator device that was in commercial distribution before May 28, 1976. Any other implantable pacemaker pulse generator device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: June 18, 2012.

Nancy K. Stade,

Deputy Director for Policy, Center for Devices and Radiological Health.

[FR Doc. 2012–15244 Filed 6–21–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9595]

RIN 1545–BH13

Treatment of Overall Foreign and Domestic Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations with respect to a provision of the Internal Revenue Code (Code) relating to the recapture of overall domestic losses that was enacted as part of the American Jobs Creation Act of 2004 (AJCA). These regulations provide guidance regarding these changes, as well as updated guidance with respect to overall foreign losses and separate limitation losses, and affect individuals and corporations claiming foreign tax credits.

DATES: *Effective Date:* These regulations are effective on June 22, 2012.

Applicability Dates: For dates of applicability, see §§ 1.904(f)–1(g), 1.904(f)–2(e), 1.904(f)–7(f), 1.904(f)–8(c), 1.904(g)–1(f), 1.904(g)–2(d), 1.904(g)–3(k), and 1.1502–9(e).

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Parry, (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2007, a notice of proposed rulemaking by cross-reference to temporary regulations (REG–141399–07) under section 904 of the Code and temporary regulations (TD 9371) (2007 temporary regulations) were published in the **Federal Register** at 72 FR 72645 and 72 FR 72592, respectively. No written comments were received. A public hearing was not requested and none was held. This Treasury decision adopts the proposed regulation with the changes discussed in this preamble.

Explanation of Changes

I. Dispositions of Property Under Section 904(f)(3)

Section 904(f)(3) provides that if a taxpayer disposes of certain property used or held for use predominantly without the United States in a trade or business, gain is recognized on that disposition and treated as foreign source income, regardless of whether the gain would otherwise be recognized, to the extent of any overall foreign loss account in the separate category of foreign source taxable income generated by the property. Section 1.904(f)–2(d) provides separate rules for dispositions in which gain is recognized irrespective of section 904(f)(3) and dispositions in which the gain would not otherwise be recognized.

A question has arisen regarding dispositions in which gain is recognized irrespective of section 904(f)(3) and the recognized gain is otherwise treated as U.S. source income under the Code. The Treasury Department and the IRS believe that the language of section 904(f)(3)(A) is clear that gain on such dispositions is recharacterized as foreign source income only to the extent of the applicable section 904(f)(3) recapture amount. Consistent with the statutory language, the regulations clarify that this limit on recharacterization applies. The amount of gain recharacterized as foreign source is equal to the lesser of the total recognized gain or the balance in the overall foreign loss account remaining after any other overall foreign loss recapture pursuant to section 904(f)(1) has been made.

II. Adjustments for Capital Gains and Losses and Qualified Dividend Income

The 2007 temporary regulations provide rules coordinating the application of section 904(b), which addresses the effect of capital gains and losses on the foreign tax credit limitation, and section 904(g), which addresses overall domestic losses and the recapture of such losses. Section 1.904(g)–1T(c)(2), which defines the term domestic loss, provides that if a taxpayer has any capital gains or losses, the amount of the domestic loss is determined by taking into account adjustments under section 904(b)(2) and § 1.904(b)–1. If the taxpayer has capital gains or losses, § 1.904(g)–1T(d)(3) provides that the amount by which an overall domestic loss reduces foreign source income in a taxable year is determined in accordance with § 1.904(b)–1(h)(1)(i) and (h)(1)(iii).

The 2007 temporary regulations followed the approach of the coordination rules in § 1.904(b)–1(h), which generally provide that adjustments under section 904(b) to capital gains and losses and qualified dividend income (section 904(b) adjustments) are taken into account first before applying the overall foreign loss provisions of section 904(f). These final regulations retain that basic approach; however, they revise several provisions of the 2007 temporary regulations and add new provisions to implement the mechanics of this coordination rule.

First, §§ 1.904(g)–1(c)(2) and (d)(3) are revised regarding the calculation of an overall domestic loss. These revisions reflect the fact that the regulations under section 904(b) do not provide specific adjustments to determine U.S. source loss on a stand-alone basis, but rather define the amount of U.S. source loss that offsets foreign source taxable income under section 904(f)(5)(D) as adjusted foreign taxable income, less adjusted worldwide taxable income. The calculation of the overall domestic loss is therefore expressly coordinated with the calculation of the section 904(f)(5)(D) amount as determined under § 1.904(b)–1(h)(1)(iii).

Second, § 1.904(g)–2(b) is revised to clarify that section 904(b) adjustments must be made for capital gains and losses and qualified dividend income before determining how much U.S. source taxable income is available to recapture an overall domestic loss account. Because the regulations under section 904(b) do not provide specific adjustments to determine U.S. source taxable income on a stand-alone basis, § 1.904(g)–2(b) provides that U.S. source taxable income available to recapture an overall domestic loss account is determined following the principles of § 1.904(b)–1(h)(1)(i), which provides rules on making the section 904(b) adjustments in determining foreign source taxable income.

Third, a new step is added to the ordering rules in § 1.904(g)–3 to provide that any section 904(b) adjustments for capital gains and losses and qualified dividend income are made after determining the amount of net operating loss carryover, if any, in Step One, but before allocating losses or recapturing loss accounts in steps 3 through 7.

Finally, the regulations have been revised to clarify that coordination with the section 904(b) provisions requires adjustments not only to capital gains and losses but to qualified dividend income as well.

III. Miscellaneous Revisions

Other revisions have been made to the 2007 temporary regulations that have no intended substantive effect beyond improving the readability of the provisions. These include clarifying the term ''section 904(f)(1) recapture amount'' in § 1.904(f)–2)(c)(1) and simplifying the definitions of ''separate limitation loss'' and ''separate limitation loss account'' in § 1.904(f)–7(b)(3) and (c). The explanation for the taxable year in which an overall domestic loss is sustained in § 1.904(g)–1(a)(2) is clarified as well.

Section 1.904(g)–3(i) is reserved. The Treasury Department and the IRS will promulgate guidance addressing adjustments required under section 904(f)(3) with respect to disposition of property.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Jeffrey L. Parry of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Section 1.904(g)–3 also issued under 26 U.S.C. 904(g)(4). * * *

■ **Par. 2.** Section 1.904(f)–0 is amended as follows:

■ 1. In § 1.904(f)–1, entries for paragraphs (a)(2), (d)(4), and (g) are added.

■ 2. In § 1.904(f)–2, entries for paragraphs (c), (c)(1), (d)(3)(i), (d)(3)(ii), and (e) are added.

■ 3. In §§ 1.904(f)–7 and 1.904(f)–8, paragraph entries are added.

The additions and revisions read as follows:

§ 1.904(f)–0 Outline of regulation provisions.

* * * * *

§ 1.904(f)–1 Overall foreign loss and the overall foreign loss account.

(a) * * *

(2) Application to post-1986 taxable years.

* * * * *

(d) * * *

(4) Adjustments for capital gains and losses.

* * * * *

(g) Effective/applicability date.

§ 1.904(f)–2 Recapture of overall foreign losses.

* * * * *

(c) Section 904(f)(1) recapture.

(1) In general.

* * * * *

(d) * * *

(3) * * *

(i) Foreign source gain.

(ii) U.S. source gain.

* * * * *

(e) Effective/applicability.

§ 1.904(f)–7 Separate limitation loss and the separate limitation loss account.

(a) Overview of regulations.

(b) Definitions.

(1) Separate category.

(2) Separate limitation income.

(3) Separate limitation loss.

(c) Separate limitation loss account.

(d) Additions to separate limitation loss accounts.

(1) General rule.

(2) Separate limitation losses of another taxpayer.

(3) Additions to separate limitation loss account created by loss carryovers.

(e) Reductions of separate limitation loss accounts.

(1) Pre-recapture reduction for amounts allocated to other taxpayers.

(2) Reduction for offsetting loss accounts.

(3) Reduction for amounts recaptured.

(f) Effective/applicability date.

§ 1.904(f)–8 Recapture of separate limitation loss accounts.

(a) In general.

(b) Effect of recharacterization of separate limitation income on associated taxes.

(c) Effective/applicability date.

§ 1.904(f)–0T [Removed]

■ **Par. 3.** Section 1.904(f)–0T is removed.

■ **Par. 4.** In § 1.904(f)–1, paragraphs (a)(2), (d)(4), and (g) are revised to read as follows:

§ 1.904(f)–1 Overall foreign loss and the overall foreign loss account.

(a) * * *

(2) *Application to post-1986 taxable years.* The principles of §§ 1.904(f)–1 through 1.904(f)–5 shall apply to any overall foreign loss sustained in taxable years beginning after December 31, 1986, modified so as to take into account the effect of statutory amendments.

* * * * *

(d) * * *

(4) *Adjustments for capital gains and losses and qualified dividend income.* If a taxpayer has capital gains or losses or qualified dividend income, as defined in section 1(h)(11), the taxpayer shall make adjustments to such capital gains and losses and qualified dividend income to the extent required under section 904(b)(2) and § 1.904(b)–1 before applying the provisions of § 1.904(f)–1. See § 1.904(b)–1(h).

* * * * *

(g) *Effective/applicability date.* Paragraphs (a)(2) and (d)(4) of this section shall apply to taxable years beginning on or after January 1, 2012. Taxpayers may choose to apply paragraphs (a)(2) and (d)(4) of this section to other taxable years beginning after December 21, 2007, including periods covered by 26 CFR 1.904(f)–1T (revised as of April 1, 2010).

§ 1.904(f)–1T [Removed]

■ **Par. 5.** Section 1.904(f)–1T is removed.

■ **Par. 6.** In § 1.904(f)–2, paragraphs (c)(1), (c)(5) *Example 4,* (d)(1), (d)(3), and (e) are revised to read as follows:

§ 1.904(f)–2 Recapture of overall foreign losses.

* * * * *

(c) * * *

(1) *In general.* In a taxable year in which a taxpayer elects the benefits of section 901 or section 30A, the section 904(f)(1) recapture amount is the amount of foreign source taxable income subject to recharacterization in a taxable year in which recapture of an overall foreign loss is required under paragraph (a) of this section. The section 904(f)(1) recapture amount equals the lesser of the aggregate amount of maximum potential recapture in all overall foreign loss accounts or fifty percent of the taxpayer's total foreign source taxable income. If the aggregate amount of maximum potential recapture in all overall foreign loss accounts exceeds fifty percent of the taxpayer's total foreign source taxable income, foreign source taxable income in each separate category with an overall foreign loss account is recharacterized in an amount equal to the section 904(f)(1) recapture amount, multiplied by the maximum potential recapture in the overall foreign loss account, divided by the aggregate amount of maximum potential recapture in all overall foreign loss accounts. The maximum potential recapture in an overall foreign loss account in a separate category is the lesser of the balance in that overall foreign loss account or the foreign source taxable income for the year in the same separate category as the loss account. If, in any taxable year, in accordance with sections 164(a) and 275(a)(4)(A), a taxpayer deducts rather than credits its foreign taxes, recapture is applied to the extent of the lesser of—

(i) The balance in the overall foreign loss account in each separate category; or

(ii) Foreign source taxable income (net of foreign taxes) in each separate category.

* * * * *

(5) * * *

Example 4. Y Corporation is a domestic corporation that does business in the United States and abroad. On December 31, 2007, the balance in Y's general category overall foreign loss account is $500, all of which is attributable to a loss incurred in 2007. Y has no other loss accounts subject to recapture. For 2008, Y has U.S. source taxable income of $400 and foreign source taxable income of $300 in the general category and $900 in the passive category. Under paragraph (c)(1) of this section, the amount of Y's general category income subject to recharacterization is the lesser of the aggregate maximum potential recapture or 50% of the total foreign source taxable income. In this case, Y's aggregate maximum potential recapture is $300 (the lesser of the $500 balance in the general category overall foreign loss account or $300 foreign source income in the general category for the year), which is less than 50% of Y's total foreign source taxable income ($1200 × 50% = $600). Therefore, pursuant

to paragraph (c) of this section, $300 of foreign source income in the general category is recharacterized as U.S. source income. The balance in Y's general category overall foreign loss account is reduced to $200 in accordance with § 1.904(f)–1(e)(2).

* * * * *

(d) * * *

(1) *In general.* If a taxpayer disposes of property used or held for use predominantly without the United States in a trade or business during a taxable year and that property generates foreign source taxable income subject to a separate limitation to which paragraph (a) of this section applies, the applicable overall foreign loss account shall be recaptured as provided in paragraphs (d)(2), (d)(3), and (d)(4) of this section. See paragraph (d)(5) of this section for definitions. See the ordering rules under § 1.904(g)–3(f) and (i) for coordination with other loss recapture under section 904(f) and (g).

* * * * *

(3) *Dispositions where gain is recognized irrespective of section 904 (f)(3)*—(i) *Foreign source gain.* If a taxpayer recognizes foreign source gain in a separate category on the disposition of property described in paragraph (d)(1) of this section, and there is a balance in a taxpayer's overall foreign loss account that is attributable to a loss in such separate category after applying paragraph (c) of this section, an additional portion of such balance shall be recaptured in accordance with paragraphs (a) and (b) of this section. The amount recaptured shall be the lesser of such balance or the full amount of the foreign source gain recognized on the disposition that was not previously recharacterized.

(ii) *U.S. source gain.* If a taxpayer recognizes U.S. source gain on the disposition of property described in paragraph (d)(1) of this section, and there is a balance in a taxpayer's overall foreign loss account that is attributable to a loss in the separate category to which the income generated by such property is assigned after applying paragraph (c) of this section, an amount of the gain shall be treated as foreign source and an additional portion of such balance equal to that amount shall be recaptured in accordance with paragraphs (a) and (b) of this section. The amount of gain treated as foreign source and the amount of overall foreign loss recaptured shall be the lesser of the balance in the overall foreign loss account or the full amount of the gain recognized on the disposition.

* * * * *

(e) *Effective/applicability date.* Paragraphs (c)(1), (c)(5) *Example 4,* (d)(1), and (d)(3) of this section shall apply to taxable years beginning on or after January 1, 2012. Taxpayers may choose to apply paragraphs (c)(1), (c)(5) *Example 4,* (d)(1), and (d)(3) of this section to other taxable years beginning after December 21, 2007, including periods covered by 26 CFR 1.904(f)–2T (revised as of April 1, 2010).

§ 1.904(f)–2T [Removed]

■ **Par. 7.** Section 1.904(f)–2T is removed.

■ **Par. 8.** Section 1.904(f)–7 is revised to read as follows:

§ 1.904(f)–7 Separate limitation loss and the separate limitation loss account.

(a) *Overview of regulations.* This section provides rules for determining a taxpayer's separate limitation losses, for establishing separate limitation loss accounts, and for making additions to and reducing such accounts for purposes of section 904(f). Section 1.904(f)–8 provides rules for recharacterizing the balance in any separate limitation loss account under the general recharacterization rule of section 904(f)(5)(C).

(b) *Definitions.* The definitions in paragraphs (b)(1) through (b)(4) of this section apply for purposes of this section and §§ 1.904(f)–8 and 1.904(g)–3.

(1) *Separate category* means each separate category of income described in section 904(d) and any other category of income described in § 1.904–4(m). For example, income subject to section 901(j) or section 904(h)(10) is income in a separate category.

(2) *Separate limitation income* means, with respect to any separate category, the taxable income from sources outside the United States, separately computed for that category for the taxable year. Separate limitation income shall be determined by taking into account any adjustments for capital gains and losses and qualified dividend income, as defined in section 1(h)(11), under section 904(b)(2) and § 1.904(b)–1. See § 1.904(b)–1(h)(1)(i).

(3) *Separate limitation loss* means, with respect to any separate category, the amount by which the foreign source gross income in that category is exceeded by the sum of expenses, losses and other deductions (not including any net operating loss deduction under section 172(a) or any expropriation loss or casualty loss described in section 907(c)(4)(D)(iii)) properly apportioned or allocated to that separate category for the taxable year. Separate limitation losses shall be determined by taking into account any adjustments for capital gains and losses and qualified dividend income under section 904(b)(2) and § 1.904(b)–1. See § 1.904(b)–1(h)(1)(i).

(c) *Separate limitation loss account.* Any taxpayer that sustains a separate limitation loss that is allocated to reduce separate limitation income in one or more other separate categories of the taxpayer under the rules of § 1.904(g)–3 must establish a separate limitation loss account for the loss with respect to each such other separate category. The balance in any separate limitation loss account represents the amount of such separate limitation loss that is subject to recapture in a given taxable year pursuant to § 1.904(f)–8 and section 904(f)(5)(F). From year to year, amounts may be added to or subtracted from the balance in such loss accounts, as provided in paragraphs (d) and (e) of this section.

(d) *Additions to separate limitation loss accounts*—(1) *General rule.* A taxpayer's separate limitation loss as defined in paragraph (b)(3) of this section shall be added to the applicable separate limitation loss accounts at the end of its taxable year to the extent that the separate limitation loss reduces separate limitation income in one or more other separate categories in that taxable year or in a year to which the loss has been carried back. For rules with respect to net operating loss carryovers, see paragraph (d)(3) of this section and § 1.904(g)–3.

(2) *Separate limitation losses of another taxpayer.* If any portion of any separate limitation loss account of another taxpayer is allocated to the taxpayer in accordance with § 1.1502–9 (relating to consolidated separate limitation losses) the taxpayer shall add such amount to its applicable separate limitation loss account.

(3) *Additions to separate limitation loss account created by loss carryovers.* The taxpayer shall add to each separate limitation loss account all net operating loss carryovers to the current taxable year to the extent that separate limitation losses included in the net operating loss carryovers reduced foreign source income in one or more other separate categories for the taxable year.

(e) *Reductions of separate limitation loss accounts.* The taxpayer shall subtract the following amounts from its separate limitation loss accounts at the end of its taxable year in the following order as applicable:

(1) *Pre-recapture reduction for amounts allocated to other taxpayers.* A separate limitation loss account is reduced by the amount of any separate limitation loss account that is allocated to another taxpayer in accordance with

§ 1.1502–9 (relating to consolidated separate limitation losses).

(2) *Reduction for offsetting loss accounts.* A separate limitation loss account is reduced to take into account any netting of separate limitation loss accounts under § 1.904(g)–3(d)(1).

(3) *Reduction for amounts recaptured.* A separate limitation loss account is reduced by the amount of any separate limitation income that is earned in the same separate category as the separate limitation loss and that is recharacterized in accordance with § 1.904(f)–8 (relating to recapture of separate limitation losses) or section 904(f)(5)(F) (relating to recapture of separate limitation loss accounts out of gain realized from certain dispositions).

(f) *Effective/applicability date.* This section applies to taxpayers that sustain separate limitation losses in taxable years beginning on or after January 1, 2012. Taxpayers may choose to apply this section to separate limitation losses sustained in other taxable years beginning after December 21, 2007, including periods covered by 26 CFR 1.904(f)–7T (revised as of April 1, 2010). For rules relating to taxable years beginning after December 31, 1986, and on or before December 21, 2007, see section 904(f)(5).

§ 1.904(f)–7T [Removed]

■ **Par. 8.** Section 1.904(f)–7T is removed.

■ **Par. 9.** Section 1.904(f)–8 is revised to read as follows:

§ 1.904(f)–8 Recapture of separate limitation loss accounts.

(a) *In general.* A taxpayer shall recapture a separate limitation loss account as provided in this section. If the taxpayer has a separate limitation loss account or accounts in any separate category (the ''loss category'') and the loss category has income in a subsequent taxable year, the income shall be recharacterized as income in that other category or categories. The amount of income recharacterized shall not exceed the aggregate balance in all separate limitation loss accounts for the loss category as determined under § 1.904(f)–7. If the taxpayer has more than one separate limitation loss account in a loss category, and there is not enough income in the loss category to recapture all of the loss accounts, then separate limitation income in the loss category shall be recharacterized as separate limitation income in the other separate categories on a proportionate basis. This is determined by multiplying the total separate limitation income subject to recharacterization by a fraction, the numerator of which is the amount in a particular separate limitation loss account and the denominator of which is the total amount in all separate limitation loss accounts for the loss category.

(b) *Effect of recharacterization of separate limitation income on associated taxes.* Recharacterization of income under paragraph (a) of this section shall not result in the recharacterization of any tax. The rules of § 1.904–6, including the rules that the taxes are allocated on an annual basis and that foreign taxes paid on U.S. source income shall be allocated to the separate category that includes that U.S. source income (see § 1.904–6(a)), shall apply for purposes of allocating taxes to separate categories. Allocation of taxes pursuant to § 1.904–6 shall be made before the recapture of any separate limitation loss accounts of the taxpayer pursuant to the rules of this section.

(c) *Effective/applicability date.* This section applies to taxpayers that sustain separate limitation losses in taxable years beginning on or after January 1, 2012. Taxpayers may choose to apply this section to separate limitation losses sustained in other taxable years beginning after December 21, 2007, including periods covered by 26 CFR § 1.904(f)–8T (revised as of April 1, 2010). For rules relating to taxable years beginning after December 31, 1986, and on or before December 21, 2007, see section 904(f)(5).

§ 1.904(f)–8T [Removed]

■ **Par. 10.** Section 1.904(f)–8T is removed:

■ **Par. 11.** Section 1.904(g)–0 is amended by adding the entries for §§ 1.904(g)–1, 1.904(g)–2, and 1.904(g)–3 to read as follows:

§ 1.904(g)–0 Outline of regulation provisions.

* * * * *

§ 1.904(g)–1 Overall domestic loss and the overall domestic loss account.

(a) Overview of regulations.
(b) Overall domestic loss accounts.
(1) In general.
(2) Taxable year in which overall domestic loss is sustained.
(c) Determination of a taxpayer's overall domestic loss.
(1) Overall domestic loss defined.
(2) Domestic loss defined.
(3) Qualified taxable year defined.
(4) Method of allocation and apportionment of deductions.
(d) Additions to overall domestic loss accounts.
(1) General rule.
(2) Overall domestic loss of another taxpayer.
(3) Adjustments for capital gains and losses.
(e) Reductions of overall domestic loss accounts.
(1) Pre-recapture reduction for amounts allocated to other taxpayers.
(2) Reduction for amounts recaptured.
(f) Effective/applicability date.

§ 1.904(g)–2 Recapture of overall domestic losses.

(a) In general.
(b) Determination of U.S. source taxable income for purposes of recapture.
(c) Section 904(g)(1) recapture.
(d) Effective/applicability date.

§ 1.904(g)–3 Ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for the recapture of separate limitation losses, overall foreign losses, and overall domestic losses.

(a) In general.
(b) Step One: Allocation of net operating loss and net capital loss carryovers.
(1) In general.
(2) Full net operating loss carryover.
(3) Partial net operating loss carryover.
(4) Net capital loss carryovers.
(c) Step Two: Section 904(b) adjustments.
(d) Step Three: Allocation of separate limitation losses.
(e) Step Four: Allocation of U.S. source losses.
(f) Step Five: Recapture of overall foreign loss accounts.
(g) Step Six: Recapture of separate limitation loss accounts.
(h) Step Seven: Recapture of overall domestic loss accounts.
(i) [Reserved].
(j) Examples.
(k) Effective/applicability date.

§ 1.904(g)–0T [Removed]

■ **Par. 12.** Section 1.904(g)–0T is removed:

■ **Par. 13.** Section 1.904(g)–1 is revised to read as follows:

§ 1.904(g)–1 Overall domestic loss and the overall domestic loss account.

(a) *Overview of regulations.* This section provides rules for determining a taxpayer's overall domestic losses, for establishing overall domestic loss accounts, and for making additions to and reducing such accounts for purposes of section 904(g). Section 1.904(g)–2 provides rules for recapturing the balance in any overall domestic loss account under the general recharacterization rule of section 904(g)(1). Section 1.904(g)–3 provides

ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and the recapture of separate limitation losses, overall foreign losses and overall domestic losses.

(b) *Overall domestic loss accounts*—(1) *In general.* Any taxpayer that sustains an overall domestic loss under paragraph (c) of this section must establish an overall domestic loss account for such loss with respect to each separate category, as defined in § 1.904(f)–7(b)(1), of the taxpayer in which foreign source income is offset by the domestic loss. The balance in each overall domestic loss account represents the amount of such overall domestic loss subject to recapture in a given taxable year. From year to year, amounts may be added to or subtracted from the balances in such loss accounts as provided in paragraphs (d) and (e) of this section.

(2) *Taxable year in which overall domestic loss is sustained.* When a domestic loss is carried back or carried forward as part of a net operating loss, and offsets foreign source income in a carryover year, the resulting overall domestic loss is treated as sustained in the later of the year in which the domestic loss was incurred or the year to which the loss was carried. Accordingly, when a taxpayer incurs a domestic loss that is carried back as part of a net operating loss to offset foreign source income in a qualified taxable year, as defined in paragraph (c)(3) of this section, the resulting overall domestic loss is treated as sustained in the later year in which the domestic loss was incurred and not in the earlier year in which the loss offset foreign source income. In addition, when a taxpayer incurs a domestic loss that is carried forward as part of a net operating loss and applied to offset foreign source income in a later taxable year, the resulting overall domestic loss is treated as sustained in the later year in which the domestic loss offsets foreign source income and not in the earlier year in which the loss was incurred. For example, if a taxpayer incurs a domestic loss in the 2007 taxable year that is carried back to the 2006 qualified taxable year and offsets foreign source income in 2006, the resulting overall domestic loss is treated as sustained in the 2007 taxable year. If a taxpayer incurs a domestic loss in a pre-2007 taxable year that is carried forward to a post-2006 qualified taxable year and offsets foreign source income in the post-2006 year, the resulting overall domestic loss is treated as sustained in the post-2006 year. An overall domestic loss account is established, or increased under paragraph (d) of this section, at the end of the taxable year in which the overall domestic loss is treated as sustained and will be recaptured from U.S. source income arising in subsequent taxable years.

(c) *Determination of a taxpayer's overall domestic loss*—(1) *Overall domestic loss defined.* For taxable years beginning after December 31, 2006, a taxpayer sustains an overall domestic loss—

(i) In any qualified taxable year in which its domestic loss for such taxable year offsets foreign source taxable income for the taxable year or for any preceding qualified taxable year by reason of a carryback; and

(ii) In any other taxable year in which the domestic loss for such taxable year offsets foreign source taxable income for any preceding qualified taxable year by reason of a carryback.

(2) *Domestic loss defined.* For purposes of this section and §§ 1.904(g)–2 and 1.904(g)–3, the term *domestic loss* means the amount by which the U.S. source gross income for the taxable year is exceeded by the sum of the expenses, losses, and other deductions properly apportioned or allocated to such income, taking into account any net operating loss carried forward from a prior taxable year, but not any loss carried back. If a taxpayer has any capital gains or losses or qualified dividend income, as defined in section 1(h)(11), the amount of the taxpayer's domestic loss that offsets foreign source income must be determined taking into account adjustments under section 904(b)(2). See § 1.904(g)–1(d)(3) for further guidance.

(3) *Qualified taxable year defined.* For purposes of this section and §§ 1.904(g)–2 and 1.904(g)–3, the term *qualified taxable year* means any taxable year for which the taxpayer chooses the benefits of section 901.

(4) *Method of allocation and apportionment of deductions.* In determining its overall domestic loss, a taxpayer shall allocate and apportion expenses, losses, and other deductions to U.S. source gross income in accordance with sections 861(b) and 865 and the regulations thereunder, including §§ 1.861–8 through 1.861–14T.

(d) *Additions to overall domestic loss accounts*—(1) *General rule.* A taxpayer's overall domestic loss as determined under paragraph (c) of this section shall be added to the applicable overall domestic loss account at the end of its taxable year to the extent that the overall domestic loss either reduces foreign source income for the year (but only if such year is a qualified taxable year) or reduces foreign source income for a qualified taxable year to which the loss has been carried back.

(2) *Overall domestic loss of another taxpayer.* If any portion of any overall domestic loss of another taxpayer is allocated to the taxpayer in accordance with § 1.1502–9 (relating to consolidated overall domestic losses) the taxpayer shall add such amount to its applicable overall domestic loss account.

(3) *Adjustments for capital gains and losses.* If the taxpayer has capital gains or losses or qualified dividend income, the amount by which a domestic loss is considered to reduce foreign source income in a taxable year shall equal the section 904(f)(5)(D) amount determined under § 1.904(b)–1(h)(1)(iii), regardless of the amount of domestic loss that was determined before taking any section 904(b)(2) adjustments into account.

(e) *Reductions of overall domestic loss accounts.* The taxpayer shall subtract the following amounts from its overall domestic loss accounts at the end of its taxable year in the following order, as applicable:

(1) *Pre-recapture reduction for amounts allocated to other taxpayers.* An overall domestic loss account is reduced by the amount of any overall domestic loss which is allocated to another taxpayer in accordance with § 1.1502–9 (relating to consolidated overall domestic losses).

(2) *Reduction for amounts recaptured.* An overall domestic loss account is reduced by the amount of any U.S. source income that is recharacterized in accordance with § 1.904(g)–2(c) (relating to recapture under section 904(g)(1)).

(f) *Effective/applicability date.* This section applies to taxpayers that sustain an overall domestic loss for a taxable year beginning on or after January 1, 2012. Taxpayers may choose to apply this section to overall domestic losses sustained in other taxable years beginning after December 31, 2006, including periods covered by 26 CFR § 1.904(g)–1T (revised as of April 1, 2010).

§ 1.904(g)–1T [Removed]

■ **Par. 14.** Section 1.904(g)–1T is removed.

■ **Par. 15.** Section 1.904(g)–2 is revised to read as follows:

§ 1.904(g)–2 Recapture of overall domestic losses.

(a) *In general.* A taxpayer shall recapture an overall domestic loss as provided in this section. Recapture is accomplished by treating a portion of the taxpayer's U.S. source taxable income as foreign source income. The

recharacterized income is allocated among and increases foreign source income in separate categories in proportion to the balances of the overall domestic loss accounts with respect to those separate categories. As a result, if the taxpayer chooses the benefits of section 901, the taxpayer's foreign tax credit limitation is increased. As provided in § 1.904(g)–1(e)(2), the balance in a taxpayer's overall domestic loss account with respect to a separate category is reduced at the end of each taxable year by the amount of loss recaptured during that taxable year. Recapture continues until the amount of U.S. source income recharacterized as foreign source income equals the amount in the overall domestic loss account.

(b) *Determination of U.S. source taxable income for purposes of recapture.* For purposes of determining the amount of an overall domestic loss subject to recapture, the taxpayer's taxable income from U.S. sources shall be computed in accordance with the rules set forth in § 1.904(g)–1(c)(4). U.S. source taxable income shall be determined by taking into account adjustments for capital gains and losses and qualified dividend income in a similar manner to the adjustments made to foreign source taxable income under section 904(b)(2) and § 1.904(b)–1, following the principles of § 1.904(b)–1(h)(1)(i).

(c) *Section 904(g)(1) recapture.* The amount of any U.S. source taxable income subject to recharacterization in a taxable year in which paragraph (a) of this section applies is the lesser of the aggregate balance of the taxpayer's overall domestic loss accounts or 50 percent of the taxpayer's U.S. source taxable income (as determined under paragraph (b) of this section).

(d) *Effective/applicability date.* This section applies to taxpayers that sustain an overall domestic loss for a taxable year beginning on or after January 1, 2012. Taxpayers may choose to apply this section to overall domestic losses sustained in other taxable years beginning after December 31, 2006, including periods covered by 26 CFR 1.904(g)–2T (revised as of April 1, 2010).

§ 1.904(g)–2T [Removed]

■ **Par. 16.** Section 1.904(g)–2T is removed.

■ **Par. 17.** Section 1.904(g)–3 is revised to read as follows:

§ 1.904(g)–3 Ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for the recapture of separate limitation losses, overall foreign losses, and overall domestic losses.

(a) *In general.* This section provides ordering rules for the allocation of net operating losses, net capital losses, U.S. source losses, and separate limitation losses, and for the recapture of separate limitation losses, overall foreign losses, and overall domestic losses. The rules must be applied in the order set forth in paragraphs (b) through (i) of this section.

(b) *Step One: Allocation of net operating loss and net capital loss carryovers*—(1) *In general.* Net operating losses from a current taxable year are carried forward or back to a taxable year in the following manner. Net operating losses that are carried forward pursuant to section 172 are combined with income or loss in the carryover year in the manner described in this paragraph (b). The combined amounts are then subject to the ordering rules provided in paragraphs (c) through (i) of this section. Net operating losses that are carried back to a prior taxable year pursuant to section 172 are allocated to income in the carryback year in the manner set forth in paragraphs (b)(2), (b)(3), (c), (d), and (e) of this section. The income in the carryback year to which the net operating loss is allocated is the foreign source income in each separate category and the U.S. source income after the application of sections 904(f) and 904(g) to income and loss in that previous year, including as a result of net operating loss carryovers or carrybacks from taxable years prior to the current taxable year.

(2) *Full net operating loss carryover.* If the full net operating loss (that remains after carryovers to other taxable years) is less than or equal to the taxable income in a particular taxable year (carryover year), and so can be carried forward in its entirety to such carryover year, U.S. source losses and foreign source losses in separate categories that are part of a net operating loss from a particular taxable year that is carried forward in its entirety shall be combined with the U.S. source income or loss and the foreign source income or loss in the same separate categories in the carryover year.

(3) *Partial net operating loss carryover.* If the full net operating loss (that remains after carryovers to other taxable years) exceeds the taxable income in a carryover year, and so cannot be carried forward in its entirety to such carryover year, the following rules apply:

(i) Any U.S. source loss (not to exceed the net operating loss carryover) shall be carried over to the extent of any U.S. source income in the carryover year.

(ii) If the net operating loss carryover exceeds the U.S. source loss carryover determined under paragraph (b)(3)(i) of this section, then separate limitation losses that are part of the net operating loss shall be tentatively carried over to the extent of separate limitation income in the same separate category in the carryover year. If the sum of the potential separate limitation loss carryovers determined under the preceding sentence exceeds the amount of the net operating loss carryover reduced by any U.S. source loss carried over under paragraph (b)(3)(i) of this section, then the potential separate limitation loss carryovers shall be reduced pro rata so that their sum equals such amount.

(iii) If the net operating loss carryover exceeds the sum of the U.S. and separate limitation loss carryovers determined under paragraphs (b)(3)(i) and (ii) of this section, then a proportionate part of the remaining loss from each separate category shall be carried over to the extent of such excess and combined with the foreign source loss, if any, in the same separate categories in the carryover year.

(iv) If the net operating loss carryover exceeds the sum of all the loss carryovers determined under paragraphs (b)(3)(i), (ii), and (iii) of this section, then any U.S. source loss not carried over under paragraph (b)(3)(i) of this section shall be carried over to the extent of such excess and combined with the U.S. source loss, if any, in the carryover year.

(4) *Net capital loss carryovers.* Rules similar to the rules of paragraphs (b)(1) through (3) of this section apply for purposes of determining the components of a net capital loss carryover to a taxable year.

(c) *Step Two: Section 904(b) adjustments.* The taxpayer shall make any required adjustments to capital gains and losses and qualified dividend income under section 904(b)(2).

(d) *Step Three: Allocation of separate limitation losses.* The taxpayer shall allocate separate limitation losses sustained during the taxable year (increased, if appropriate, by any losses carried over under paragraph (b) of this section), in the following manner—

(1) The taxpayer shall allocate its separate limitation losses for the taxable year to reduce its separate limitation income in other separate categories on a proportionate basis, and increase its

separate limitation loss accounts appropriately. To the extent a separate limitation loss in one separate category is allocated to reduce separate limitation income in a second separate category, and the second category has a separate limitation loss account from a prior taxable year with respect to the first category, the two separate limitation loss accounts shall be netted against each other.

(2) If the taxpayer's separate limitation losses for the taxable year exceed the taxpayer's separate limitation income for the year, so that the taxpayer has separate limitation losses remaining after the application of paragraph (d)(1) of this section, the taxpayer shall allocate those losses to its U.S. source income for the taxable year, to the extent thereof, and shall increase its overall foreign loss accounts to that extent in accordance with § 1.904(f)–1.

(e) *Step Four: Allocation of U.S. source losses.* The taxpayer shall allocate U.S. source losses sustained during the taxable year (increased, if appropriate, by any losses carried over under paragraph (b) of this section) to separate limitation income on a proportionate basis, and shall increase its overall domestic loss accounts to the extent of such allocation in accordance with § 1.904(g)–1.

(f) *Step Five: Recapture of overall foreign loss accounts.* If the taxpayer's separate limitation income for the taxable year (reduced by any losses carried over under paragraph (b) of this section) exceeds the sum of the taxpayer's U.S. source loss and separate limitation losses for the year, so that the taxpayer has separate limitation income remaining after the application of paragraphs (d)(1) and (e) of this section, then the taxpayer shall recapture prior year overall foreign losses, if any, and reduce overall foreign loss accounts in accordance with § 1.904(f)–2.

(g) *Step Six: Recapture of separate limitation loss accounts.* To the extent the taxpayer has remaining separate limitation income for the year after the application of paragraph (f) of this section, then the taxpayer shall recapture prior year separate limitation losses, if any, in accordance with § 1.904(f)–8 and reduce separate limitation loss accounts in accordance with § 1.904(f)–7.

(h) *Step Seven: Recapture of overall domestic loss accounts.* If the taxpayer's U.S. source income for the year (reduced by any losses carried over under paragraph (b) of this section or allocated under paragraph (d) of this section, but not increased by any recapture of overall foreign loss accounts under paragraph (f) of this section) exceeds the taxpayer's separate limitation losses for the year, so that the taxpayer has U.S. source income remaining after the application of paragraph (d)(2) of this section, then the taxpayer shall recapture its prior year overall domestic losses, if any, and reduce overall domestic loss accounts in accordance with § 1.904(g)–2.

(i) [Reserved]

(j) *Examples.* The following examples illustrate the rules of this section. Unless otherwise noted, all corporations use the calendar year as the U.S. taxable year.

Example 1. (i) *Facts.* (A) Z Corporation is a domestic corporation with foreign branch operations in Country B. For 2009, Z has a net operating loss of ($500), determined as follows:

General	Passive	U.S.
($300)	$0	($200)

(B) For 2008, Z had the following taxable income and losses after application of section 904(f) and (g) to income and loss in 2008:

General	Passive	U.S.
$400	$200	$110

(ii) *Net operating loss allocation.* Because Z's taxable income for 2008 exceeds its total net operating loss for 2009, the full net operating loss is carried back. Under Step 1, each component of the net operating loss is carried back and combined with its same category in 2008. See paragraph (b)(2) of this section. After allocation of the net operating loss, Z has the following taxable income and losses for 2008:

General	Passive	U.S.
$100	$200	($90)

(iii) *Loss allocation.* Under Step 4, the ($90) of U.S. loss is allocated proportionately to reduce the general category and passive category income. Accordingly, $30 ($90 × $100/$300) of the U.S. loss is allocated to general category income and $60 ($90 × $200/$300) of the U.S. loss is allocated to passive category income, with a corresponding creation or increase to Z's overall domestic loss accounts.

Example 2. (i) *Facts.* (A) X Corporation is a domestic corporation with foreign branch operations in Country C. As of January 1, 2007, X has no loss accounts subject to recapture. For 2007, X has a net operating loss of ($1400), determined as follows:

General	Passive	U.S.
($400)	($200)	($800)

(B) X has no taxable income in 2005 or 2006 available for offset by a net operating loss carryback. For 2008, X has the following taxable income and losses:

General	Passive	U.S.
$500	($100)	$1200

(ii) *Net operating loss allocation.* Under Step 1, because X's total taxable income for 2008 of $1600 ($1200 + $500 − $100) exceeds the total 2007 net operating loss, the full $1400 net operating loss is carried forward. Under paragraph (b)(2) of this section, each component of the net operating loss is carried forward and combined with its same category in 2008. After allocation of the net operating loss, X has the following taxable income and losses:

General	Passive	U.S.
$100	($300)	$400

(iii) *Loss allocation.* Under Step 3, $100 of the passive category loss offsets the $100 of general category income, resulting in a passive category separate limitation loss account with respect to general category income, and the other $200 of passive category loss offsets $200 of the U.S. source taxable income, resulting in the creation of an overall foreign loss account in the passive category.

Example 3. (i) *Facts.* Assume the same facts as in *Example 2,* except that in 2008, X had the following taxable income and losses:

General	Passive	U.S.
$200	($100)	$1200

(ii) *Net operating loss allocation.* Under Step 1, because the total net operating loss for 2007 of ($1400) exceeds total taxable income for 2008 of $1300 ($1200 + $200 − $100), X has a partial net operating loss carryover to 2008 of $1300. Under paragraph (b)(3)(i) of this section, first, the $800 U.S. source component of the net operating loss is allocated to U.S. income for 2008. The tentative general category carryover under paragraph (b)(3)(ii) of this section ($200) does not exceed the remaining net operating loss carryover amount ($500). Therefore, $200 of the general category component of the net operating loss is next allocated to the general category income for 2008. Under paragraph (b)(3)(iii) of this section, the remaining $300 of net operating loss carryover ($1300 − $800 − $200) is carried over proportionally from the remaining net operating loss components in the general category ($200, or $400 total general category loss −$200 general category loss already allocated) and passive category ($200). Therefore, $150 ($300 × $200/$400) of the remaining net operating loss carryover is carried over from the general category for 2007 and combined with the general category for 2008, and $150 ($300 × $200/$400) of the remaining net operating loss carryover is carried over from the passive category for 2007 and combined with the passive category for 2008. After allocation of the net operating loss carryover from 2007 to the appropriate categories for 2008, X has the following taxable income and losses:

General	Passive	U.S.
($150)	($250)	$400

(iii) *Loss allocation.* Under Step 3, the losses in the general and passive categories fully offset the U.S. source income, resulting in the creation of general category and passive category overall foreign loss accounts.

Example 4. (i) *Facts.* Assume the same facts as in *Example 2,* except that in 2008, X has the following taxable income and losses:

General	Passive	U.S.
$200	$200	($200)

(ii) *Net operating loss allocation.* Under Step 1, because the total net operating loss of ($1400) exceeds total taxable income for 2008 of $200 ($200 + $200 − $200), X has a partial net operating loss carryover to 2008 of $200. Because X has no U.S. source income in 2008, under paragraph (b)(3)(i) of this section no portion of the U.S. source component of the net operating loss is initially carried into 2008. Because the total tentative carryover under paragraph (b)(3)(ii) of this section of $400 ($200 in each of the general and passive categories) exceeds the net operating loss carryover amount, the tentative carryover from each separate category is reduced proportionately by $100 ($200 × $200/$400). Accordingly, $100 ($200 − $100) of the general category component of the net operating loss is carried forward and $100 ($200 − $100) of the passive category component of the net operating loss is carried forward and combined with income in the same respective categories for 2008. After allocation of the net operating loss carryover from 2007, X has the following taxable income and losses:

General	Passive	U.S.
$100	$100	($200)

(iii) *Loss allocation.* Under Step 4, the $200 U.S. source loss offsets the remaining $100 of general category income and $100 of passive category income, resulting in the creation of overall domestic loss accounts with respect to the general and passive categories.

Example 5. (i) *Facts.* Assume the same facts as in *Example 2,* except that in 2008, X has the following taxable income and losses:

General	Passive	U.S.
$800	($100)	$100

(ii) *Net operating loss allocation.* Under Step 1, because X's total net operating loss in 2007 of ($1400) exceeds its total taxable income for 2008 of $800 ($100 + $800 − $100), X has a partial net operating loss carryover to 2008 of $800. Under paragraph (b)(3)(i) of this section, $100 of the U.S. source component of the net operating loss is allocated to U.S. income for 2008. The tentative general category carryover under paragraph (b)(3)(ii) of this section does not exceed the remaining net operating loss carryover amount. Therefore, $400 of the general category component of the net operating loss is allocated to reduce general category income in 2008. Under paragraph (b)(3)(iii) of this section, of the remaining $300 of net operating loss carryover ($800 − $100 − $400), $200 is carried forward from the passive category component of the net operating loss and combined with the passive category for 2008. Under paragraph (b)(3)(iv) of this section, the remaining $100 ($300 − $200) of net operating loss carryover is carried forward from the U.S. source component of the net operating loss and combined with the U.S. source income (loss) for 2008. After allocation of the net operating loss carryover from 2007, X has the following taxable income and losses:

General	Passive	U.S.
$400	($300)	($100)

(iii) *Loss allocation.* (A) Under Step 3, the $300 passive category loss offsets the $300 of income in the general category, resulting in the creation of a passive category separate limitation loss account with respect to the general category.

(B) Under Step 4, the $100 U.S. source loss offsets the remaining $100 of the general category income, resulting in the creation of an overall domestic loss account with respect to the general category.

Example 6. (i) *Facts.* (A) Y Corporation is a domestic corporation with foreign branch operations in Country D. Y has no net operating losses and does not make an election to recapture more than the required amount of overall foreign losses. As of January 1, 2007, Y has a ($200) general category overall foreign loss (OFL) account and a ($200) general category separate limitation loss (SLL) account with respect to the passive category. For 2007, Y has $400 of passive category income that is fully offset by a ($400) domestic loss in that taxable year, giving rise to the creation of an overall domestic loss (ODL) account with respect to the passive category. As of January 1, 2008, Y has the following balances in its OFL, SLL, and ODL accounts:

General		U.S.
OFL	OFL SLL (Passive)	ODL (Passive)
$200	$200	$400

(B) In 2008, Y has the following taxable income and losses:

General	Passive	U.S.
$400	($100)	$600

(ii) *Loss allocation.* Under Step 3, the $100 of passive category loss offsets $100 of the general category income, creating a passive category SLL account of $100 with respect to the general category. Because there is an offsetting general category SLL account of $200 with respect to the passive category from a prior taxable year, the two accounts are netted against each other so that all that remains is a $100 general category SLL account with respect to the passive category.

(iii) *OFL account recapture.* Under Step 5, 50% of the remaining $300, or $150, of income in the general category is subject to recharacterization as U.S. source income as a recapture of part of the OFL account in the general category.

(iv) *SLL account recapture.* Under Step 6, $100 of the remaining $150 of income in the general category is recharacterized as passive category income as a recapture of the general category SLL account with respect to the passive category.

(v) *ODL account recapture.* Under Step 7, 50% of the $600, or $300, of U.S. source income is subject to recharacterization as foreign source passive category income as a recapture of a part of the ODL account with respect to the passive category. None of the $150 of general category income that was recharacterized as U.S. source income under Step 5 is included here as income subject to recharacterization in connection with recapture of the overall domestic loss account.

(vi) *Results.* (A) After the allocation of loss and recapture of loss accounts, X has the following taxable income and losses for 2008:

General	Passive	U.S.
$50	$400	$450

(B) As of January 1, 2009, Y has the following balances in its OFL, SLL and ODL accounts:

General		Passive	U.S.
OFL	SLL (Passive)	SLL (General)	ODL (Passive)
$50	$0	$0	$100

(k) *Effective/applicability date.* This section applies to taxable years beginning on or after January 1, 2012. Taxpayers may choose to apply this section to other taxable years beginning after December 31, 2006, including

periods covered by 26 CFR § 1.904(g)–3T (revised as of April 1, 2010).

§ 1.904(g)–3T [Removed]

■ **Par. 18.** Section 1.904(g)–3T is removed.

■ **Par. 19.** Section 1.1502–9 is revised to read as follows:

§ 1.1502–9 Consolidated overall foreign losses, separate limitation losses, and overall domestic losses.

(a) *In general.* This section provides rules for applying section 904(f) and (g) (including its definitions and nomenclature) to a group and its members. Generally, section 904(f) concerns rules relating to overall foreign losses (OFLs) and separate limitation losses (SLLs) and the consequences of such losses. Under section 904(f)(5), losses are computed separately in each category of income described in section 904(d)(1) or § 1.904–4(m) (separate category). Section 904(g) concerns rules relating to overall domestic losses (ODLs) and the consequences of such losses. Paragraph (b) of this section defines terms and provides computational and accounting rules, including rules regarding recapture. Paragraph (c) of this section provides rules that apply to OFLs, SLLs, and ODLs when a member becomes or ceases to be a member of a group. Paragraph (d) of this section provides a predecessor and successor rule. Paragraph (e) of this section provides effective dates.

(b) *Consolidated application of section 904(f) and (g).* A group applies section 904(f) and (g) for a consolidated return year in accordance with that section, subject to the following rules:

(1) *Computation of CSLI or CSLL and consolidated U.S.-source taxable income or CDL.* The group computes its consolidated separate limitation income (CSLI) or consolidated separate limitation loss (CSLL) for each separate category under the principles of § 1.1502–11 by aggregating each member's foreign-source taxable income or loss in such separate category computed under the principles of § 1.1502–12, and taking into account the foreign portion of the consolidated items described in § 1.1502–11(a)(2) through (a)(8) for such separate category. The group computes its consolidated U.S.-source taxable income or consolidated domestic loss (CDL) under similar principles.

(2) *Netting CSLLs, CSLIs, and consolidated U.S.-source taxable income.* The group applies section 904(f)(5) to determine the extent to which a CSLL for a separate category reduces CSLI for another separate category or consolidated U.S.-source taxable income.

(3) *Netting CDL and CSLI.* The group applies section 904(g)(2) to determine the extent to which a CDL reduces CSLI.

(4) *CSLL, COFL, and CODL accounts.* To the extent provided in section 904(f), the amount by which a CSLL for a separate category (the loss category) reduces CSLI for another separate category (the income category) will result in the creation of (or addition to) a CSLL account for the loss category with respect to the income category. Likewise, the amount by which a CSLL for a loss category reduces consolidated U.S.-source taxable income will create (or add to) a consolidated overall foreign loss account (a COFL account). To the extent provided in section 904(g), the amount by which a CDL reduces CSLI will result in the creation of (or addition to) a consolidated overall domestic loss (CODL) account for the income category reduced by the CDL.

(5) *Recapture of COFL, CSLL, and CODL accounts.* In the case of a COFL account for a loss category, section 904(f)(1) and section 904(f)(3) recharacterize some or all of the foreign-source income in the loss category as U.S.-source income. In the case of a CSLL account for a loss category with respect to an income category, section 904(f)(5)(C) and section 904(f)(5)(F) recharacterize some or all of the foreign-source income in the loss category as foreign-source income in the income category. In the case of a CODL account, section 904(g)(3) recharacterizes some of the U.S.-source income as foreign-source income in the separate category that was offset by the CDL. The COFL account, CSLL account, or CODL account is reduced to the extent income is recharacterized with respect to such account.

(6) *Intercompany transactions*—(i) *Nonapplication of section 904(f) disposition rules.* Neither section 904(f)(3) (in the case of a COFL account) nor section 904(f)(5)(F) (in the case of a CSLL account) applies at the time of a disposition that is an intercompany transaction to which § 1.1502–13 applies. Instead, section 904(f)(3) and section 904(f)(5)(F) apply only at such time and only to the extent that the group is required under § 1.1502–13 (without regard to section 904(f)(3) and section 904(f)(5)(F)) to take into account any intercompany items resulting from the disposition, based on the COFL or CSLL account existing at the end of the consolidated return year during which the group takes the intercompany items into account.

(ii) *Examples.* Paragraph (b)(6)(i) of this section is illustrated by the following examples. The identity of the parties and the basic assumptions set forth in § 1.1502–13(c)(7)(i) apply to the examples. Except as otherwise stated, assume further that the consolidated group recognizes no foreign source income other than as a result of the transactions described. The examples are as follows:

Example 1. (i) On June 10, year 1, S transfers nondepreciable property with a basis of $100 and a fair market value of $250 to B in a transaction to which section 351 applies. The property was predominantly used without the United States in a trade or business within the meaning of section 904(f)(3). B continues to use the property without the United States. The group has a COFL account in the relevant loss category of $120 as of December 31, year 1.

(ii) Because the contribution from S to B is an intercompany transaction, section 904(f)(3) does not apply to result in any gain recognition in year 1. See paragraph (b)(5)(i) of this section.

(iii) On January 10, year 4, B ceases to be a member of the group. Because S did not recognize gain in year 1 under section 351, no gain is taken into account in year 4 under § 1.1502–13. Thus, no portion of the group's COFL account is recaptured in year 4. For rules requiring apportionment of a portion of the COFL account to B, see paragraph (c)(2) of this section.

Example 2. (i) The facts are the same as in paragraph (i) of *Example 1.* On January 10, year 4, B sells the property to X for $300. As of December 31, year 4, the group's COFL account is $40. (The COFL account was reduced between year 1 and year 4 due to unrelated foreign-source income taken into account by the group.)

(ii) B takes into account gain of $200 in year 4. The $40 COFL account in year 4 recharacterizes $40 of the gain as U.S. source. See section 904(f)(3).

Example 3. (i) On June 10, year 1, S sells nondepreciable property with a basis of $100 and a fair market value of $250 to B for $250 cash. The property was predominantly used without the United States in a trade or business within the meaning of section 904(f)(3). The group has a COFL account in the relevant loss category of $120 as of December 31, year 1. B predominantly uses the property in a trade or business without the United States.

(ii) Because the sale is an intercompany transaction, section 904(f)(3) does not require the group to take into account any gain in year 1. Thus, under paragraph (b)(5)(i) of this section, the COFL account is not reduced in year 1.

(iii) On January 10, year 4, B sells the property to X for $300. As of December 31, year 4, the group's COFL account is $60. (The COFL account was reduced between year 1 and year 4 due to unrelated foreign-source income taken into account by the group.)

(iv) In year 4, S's $150 intercompany gain and B's $50 corresponding gain are taken into account to produce the same effect on consolidated taxable income as if S and B were divisions of a single corporation. See § 1.1502–13(c). All of B's $50 corresponding

gain is recharacterized under section 904(f)(3). If S and B were divisions of a single corporation and the intercompany sale were a transfer between the divisions, B would succeed to S's $100 basis in the property and would have $200 of gain ($60 of which would be recharacterized under section 904(f)(3)), instead of a $50 gain. Consequently, S's $150 intercompany gain and B's $50 corresponding gain are taken into account, and $10 of S's gain is recharacterized under section 904(f)(3) as U.S. source income to reflect the $10 difference between B's $50 recharacterized gain and the $60 recomputed gain that would have been recharacterized.

(c) *Becoming or ceasing to be a member of a group*—(1) *Adding separate accounts on becoming a member.* At the time that a corporation becomes a member of a group (a new member), the group adds to the balance of its COFL, CSLL or CODL account the balance of the new member's corresponding OFL account, SLL account or ODL account. A new member's OFL account corresponds to a COFL account if the account is for the same loss category. A new member's SLL account corresponds to a CSLL account if the account is for the same loss category and with respect to the same income category. A new member's ODL account corresponds to a CODL account if the account is with respect to the same income category. If the group does not have a COFL, CSLL or CODL account corresponding to the new member's account, it creates a COFL, CSLL or CODL account with a balance equal to the balance of the member's account.

(2) *Apportionment of consolidated account to departing member*—(i) *In general.* A group apportions to a member that ceases to be a member (a departing member) a portion of each COFL, CSLL and CODL account as of the end of the year during which the member ceases to be a member and after the group makes the additions or reductions to such account required under paragraphs (b)(4), (b)(5), and (c)(1) of this section (other than an addition under paragraph (c)(1) of this section attributable to a member becoming a member after the departing member ceases to be a member). The group computes such portion under paragraph (c)(2)(ii) of this section, as limited by paragraph (c)(2)(iii) of this section. The departing member carries such portion to its first separate return year after it ceases to be a member. Also, the group reduces each account by such portion and carries such reduced amount to its first consolidated return year beginning after the year in which the member ceases to be a member. If two or more members cease to be members in the same year, the group computes the portion allocable to each such member (and reduces its accounts by such portion) in the order that the members cease to be members.

(ii) *Departing member's portion of group's account.* A departing member's portion of a group's COFL, CSLL or CODL account for a loss category is computed based upon the member's share of the group's assets that generate income subject to recapture at the time that the member ceases to be a member. Under the characterization principles of §§ 1.861–9T(g)(3) and 1.861–12T, the group identifies the assets of the departing member and the remaining members that generate U.S.-source income (domestic assets) and foreign-source income (foreign assets) in each separate category. The assets are characterized based upon the income that the assets are reasonably expected to generate after the member ceases to be a member. The member's portion of a group's COFL or CSLL account for a loss category is the group's COFL or CSLL account, respectively, multiplied by a fraction, the numerator of which is the value of the member's foreign assets for the loss category and the denominator of which is the value of the foreign assets of the group (including the departing member) for the loss category. The member's portion of a group's CODL account for each income category is the group's CODL account multiplied by a fraction, the numerator of which is the value of the member's domestic assets and the denominator of which is the value of the domestic assets of the group (including the departing member). The value of the domestic and foreign assets is determined under the asset valuation rules of § 1.861–9T(g)(1) and (2) using either tax book value, fair market value, or alternative tax book value under the method chosen by the group for purposes of interest apportionment as provided in § 1.861–9T(g)(1)(ii). For purposes of this paragraph (c)(2)(ii), § 1.861–9T(g)(2)(iv) (assets in intercompany transactions) shall apply, but § 1.861–9T(g)(2)(iii) (adjustments for directly allocated interest) shall not apply. If the group uses the tax book value method, the member's portions of COFL, CSLL, and CODL accounts are limited by paragraph (c)(2)(iii) of this section. In addition, for purposes of this paragraph (c)(2)(ii), the tax book value of assets transferred in intercompany transactions shall be determined without regard to previously deferred gain or loss that is taken into account by the group as a result of the transaction in which the member ceases to be a member. The assets should be valued at the time the member ceases to be a member, but values on other dates may be used unless this creates substantial distortions. For example, if a member ceases to be a member in the middle of the group's consolidated return year, an average of the values of assets at the beginning and end of the year (as provided in § 1.861–9T(g)(2)) may be used or, if a member ceases to be a member in the early part of the group's consolidated return year, values at the beginning of the year may be used, unless this creates substantial distortions.

(iii) *Limitation on member's portion for groups using tax book value method.* If a group uses the tax book value method of valuing assets for purposes of paragraph (c)(2)(ii) of this section and the aggregate of a member's portions of COFL and CSLL accounts for a loss category (with respect to one or more income categories) determined under paragraph (c)(2)(ii) of this section exceeds 150 percent of the actual fair market value of the member's foreign assets in the loss category, the member's portion of the COFL or CSLL accounts for the loss category shall be reduced (proportionately, in the case of multiple accounts) by such excess. In addition, if the aggregate of a member's portions of CODL accounts (with respect to one or more income categories) determined under paragraph (c)(2)(ii) of this section exceeds 150 percent of the actual fair market value of the member's domestic assets, the member's portion of the CODL accounts shall be reduced (proportionately, in the case of multiple accounts) by such excess. This rule does not apply in the case of COFL or CSLL accounts if the departing member and all other members that cease to be members as part of the same transaction own all (or substantially all) the foreign assets in the loss category. In the case of CODL accounts, this rule does not apply if the departing member and all other members that cease to be members as part of the same transaction own all (or substantially all) the domestic assets.

(iv) *Determination of values of domestic and foreign assets binding on departing member.* The group's determination of the value of the member's and the group's domestic and foreign assets for a loss category is binding on the member, unless the Commissioner concludes that the determination is not appropriate. The common parent of the group must attach a statement to the return for the taxable year that the departing member ceases to be a member of the group that sets forth the name and taxpayer identification number of the departing

member, the amount of each COFL and CSLL for each loss category and each CODL that is apportioned to the departing member under this paragraph (c)(2), the method used to determine the value of the member's and the group's domestic and foreign assets in each such loss category, and the value of the member's and the group's domestic and foreign assets in each such loss category. The common parent must also furnish a copy of the statement to the departing member.

(v) *Anti-abuse rule.* If a corporation becomes a member and ceases to be a member, and a principal purpose of the corporation becoming and ceasing to be a member is to transfer the corporation's OFL account, SLL account or ODL account to the group or to transfer the group's COFL, CSLL or CODL account to the corporation, appropriate adjustments will be made to eliminate the benefit of such a transfer of accounts. Similarly, if any member acquires assets or disposes of assets (including a transfer of assets between members of the group and the departing member) with a principal purpose of affecting the apportionment of accounts under paragraph (c)(2)(i) of this section, appropriate adjustments will be made to eliminate the benefit of such acquisition or disposition.

(vi) *Examples.* The following examples illustrate the rules of this paragraph (c):

Example 1. (i) On November 6, year 1, S, a member of the P group, a consolidated group with a calendar consolidated return year, ceases to be a member of the group. On December 31, year 1, the P group has a $40 COFL account for the general category, a $20 CSLL account for the general category (that is, the loss category) with respect to the passive category (that is, the income category), and a $10 CODL account with respect to the passive category (that is, the income category). No member of the group has foreign-source income or loss in year 1. The group apportions its interest expense according to the tax book value method.

(ii) On November 6, year 1, the group identifies S's assets and the group's assets (including S's assets) expected to produce foreign-source general category income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, year 1. The group determines that S's relevant assets have a tax book value of $2,000 and a fair market value of $2,200. Also, the group's relevant assets (including S's assets) have a tax book value of $8,000. On November 6, year 1, S has no assets expected to produce U.S. source income.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a $10 COFL account for the general category ($40 × $2,000/$8,000) and a $5 CSLL account for the general category with respect to the passive category ($20 × $2,000/$8,000). S does not take any portion of the CODL account. The limitation described in paragraph (c)(2)(iii) of this section does not apply because the aggregate of the COFL and CSLL accounts for the general category that are apportioned to S ($15) is less than 150% of the actual fair market value of S's general category foreign assets ($2,200 × 150%).

Example 2. (i) Assume the same facts as in *Example 1,* except that the fair market value of S's general category foreign assets is $4 as of November 6, year 1.

(ii) Under paragraph (c)(2)(iii) of this section, S's COFL and CSLL accounts for the general category must be reduced by $9, which is the excess of $15 (the aggregate amount of the accounts apportioned under paragraph (c)(2)(ii) of this section) over $6 (150% of the $4 actual fair market value of S's general category foreign assets). S thus takes a $4 COFL account for the general category ($10 − ($9 × $10/$15)) and a $2 CSLL account for the general category with respect to the passive category ($5 − ($9 × $5/$15)).

Example 3. (i) Assume the same facts as in *Example 1,* except that S also has assets that are expected to produce U.S. source income.

(ii) On November 6, year 1, the group identifies S's assets and the group's assets (including S's assets) expected to produce U.S. source income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, year 1. The group determines that S's relevant assets have a tax book value of $3,000 and a fair market value of $2,500. Also, the group's relevant assets (including S's assets) have a tax book value of $6,000.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a $5 CODL account ($10 × $3,000/$6,000), in addition to the COFL and CSLL accounts determined in *Example 1.* The limitation described in paragraph (c)(2)(iii) of this section does not apply because the CODL account that is apportioned to S ($5) is less than 150% of the actual fair market value of S's U.S. assets ($2,500 × 150%).

(d) *Predecessor and successor.* A reference to a member includes, as the context may require, a reference to a predecessor or successor of the member. See § 1.1502–1(f).

(e) *Effective/applicability date.* This section applies to consolidated return years beginning on or after January 1, 2012, for which the return is due (without extensions) after June 22, 2012. Taxpayers may choose to apply the provisions of this section to other consolidated return years beginning after December 31, 2006, including periods covered by 26 CFR 1.1502–9T (revised as of April 1, 2010). For rules relating to overall foreign losses and separate limitation losses in consolidated return years beginning on or before December 21, 2007, see 26 CFR 1.1502–9 (revised as of April 1, 2007).

§ 1.1502–9T [Removed]

■ **Par. 20.** Section 1.1502–9T is removed.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: June 13, 2012.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2012–15230 Filed 6–21–12; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, and 1926

[Docket No. OSHA–2011–0184]

RIN 1218–AC65

Updating OSHA Standards Based on National Consensus Standards; Head Protection

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Direct final rule; request for comments.

SUMMARY: OSHA is issuing this direct final rule to revise the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring, and marine terminals standards regarding requirements for head protection. OSHA is updating the references in its standards to recognize the 2009 edition of the American National Standard for Industrial Head Protection, and is deleting the 1986 edition of that national consensus standard because it is out of date. OSHA also is including the construction industry in this rulemaking to ensure consistency among the Agency's standards. OSHA is publishing a proposed rule in today's **Federal Register** taking this same action.

DATES: This direct final rule will become effective on September 20, 2012 unless OSHA receives a significant adverse comment by July 23, 2012. If OSHA receives a significant adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register.** Submit comments to this direct final rule (including comments to the information-collection (paperwork) determination described under the section titled Procedural Determinations), hearing requests, and

other information by July 23, 2012. All submissions must bear a postmark or provide other evidence of the submission date. (The following section titled **ADDRESSES** describes methods available for making submissions.)

The Director of the Federal Register approved the incorporation by reference of specific publications listed in this direct final rule as of September 20, 2012.

ADDRESSES: Submit comments, hearing requests, and other information as follows:

• *Electronic.* Submit comments electronically to *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

• *Facsimile.* OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693–1648; OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (*e.g.,* studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.,* OSHA–2011–0184) so that the Agency can attach them to the appropriate document.

• *Regular mail, express delivery, hand (courier) delivery, and messenger service.* Submit comments and any additional material (*e.g.,* studies, journal articles) to the OSHA Docket Office, Docket No. OSHA–2011–0184 or RIN No. 1218–AC65, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA's TTY number is (877) 889–5627.) Note that security-related procedures may result in significant delays in receiving comments and other written materials by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

• *Instructions.* All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA Docket No. OSHA–2011–0184). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

OSHA requests comments on all issues related to this direct final rule. It also welcomes comments on its findings that this direct final rule would have no negative economic, paperwork, or other regulatory impacts on the regulated community. This direct final rule is the companion document to a notice of proposed rulemaking published in the ''Proposed Rules'' section of today's **Federal Register.** If OSHA receives no significant adverse comment on this direct final rule, it will publish a **Federal Register** notice confirming the effective date of this direct final rule and withdrawing the companion proposed rule. The confirmation may include minor stylistic or technical corrections to the document. For the purpose of judicial review, OSHA considers the date that it confirms the effective date of the direct final rule to be the date of issuance. However, if the Agency receives significant adverse comment on the direct final rule or proposal, OSHA will publish a timely withdrawal of this direct final rule and proceed with the proposed rule, which addresses the same revisions to its head protection standards.

• *Docket.* The electronic docket for this direct final rule established at *http://www.regulations.gov* lists most of the documents in the docket. However, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are accessible at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663.

SUPPLEMENTARY INFORMATION:

*Copies of this **Federal Register** notice.* Electronic copies of this **Federal Register** rule are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

Availability of Incorporated Standards. With the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51, OSHA is incorporating by reference into the section the standards published by the International Safety Equipment Association (ISEA) to which §§ 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), 1918.103(b)(1), and 1926.100(b) refer. To enforce any edition other than the editions specified by §§ 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), 1918.103(b)(1), and 1926.100(b), OSHA must publish a notice of change in the **Federal Register**, and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, telephone (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, the material is available for inspection at any OSHA Regional Office or the OSHA Docket Office (U.S. Department of Labor, 200 Constitution Ave. NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627)).

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I. Background

Subpart I of OSHA's general industry standards contains design requirements for head protection (*see* 29 CFR 1910.135). OSHA has similar requirements in subpart I of part 1915 (Shipyard Employment), subpart E of part 1917 (Marine Terminals), subpart J of part 1918 (Longshoring), and subpart E of part 1926 (Construction). The general industry and maritime rules require that the specified head protection comply with national consensus standards incorporated by reference into the OSHA standards unless the employer demonstrates that non-specified head-protection equipment is at least as effective in protecting workers as equipment that complies with the incorporated national consensus standard. (*See* 29 CFR 1910.135(b)(2); 1915.155(b)(2); 1917.93(b)(2); 1918.103(b)(2).) These design provisions are part of comprehensive requirements to ensure that employees use personal protective equipment that will protect them from hazards in the workplace.

As discussed in a previous **Federal Register** notice (69 FR 68283), OSHA is undertaking a series of projects to update its standards to incorporate the latest versions of national consensus and industry standards. These projects include updating or removing national consensus and industry standards referenced in existing OSHA standards, updating regulatory text of standards adopted directly by OSHA from the language of outdated consensus standards, and, when appropriate, replacing specific references to outdated national consensus and industry standards with performance-oriented requirements.

On May 17, 2007, OSHA published a Notice of Proposed Rulemaking (NPRM) (72 FR 27771) entitled ''Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment.'' The NPRM did not propose to revise construction industry standards covering personal protective equipment. The Agency received approximately 25 comments on the NPRM. On December 4, 2007, OSHA held an informal public hearing and received testimony from nine witnesses. Several of the commenters (Exs. OSHA–2007–0044–0021 and –0034) and witnesses (Tr. at 18–19 and 51–52) questioned the Agency's decision not to include the construction industry in this rulemaking. OSHA responded at the hearing that it decided not to include the construction industry because of the size of the undertaking and OSHA's limited resources (Tr. at 18–19; *see,* also, 74 FR 46352).

On September 9, 2009, OSHA published the final rule (74 FR 46350), which became effective October 9, 2009. However, OSHA did not include in the final rule a reference to the 2009 edition of the American National Standards Institute (ANSI) standard for industrial head protection (ANSI Z89.1) because this edition was not available to OSHA prior to the date (February 8, 2008) the administrative law judge who presided over the hearing closed the rulemaking record.

This direct final rule will update the references in 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) to recognize the 2009 edition of ANSI Z89.1, which is the most recent version of that standard. These revisions will allow use of helmets that comply with the three most recent editions of the consensus standard.

In addition, this direct final rule will remove the current references to ANSI Z89.1–1969 and ANSI Z89.2–1971 in 29 CFR 1926.100(b) and (c), and replace these outdated head protection references with the same three editions of ANSI Z89.1 referenced in the general industry and maritime industry standards. This action addresses the comments received during the initial rulemaking cited above, and will ensure consistency in the Agency's standards. By making the requirements of OSHA's head protection standards consistent with the Agency's other standards and with current industry practices, the direct final rule will eliminate confusion and clarify employer obligations, while providing up-to-date protection for workers exposed to falling objects.

II. Direct Final Rulemaking

In a direct-final rulemaking, an agency publishes a direct final rule in the **Federal Register** along with a statement that the rule will become effective unless the agency receives significant adverse comment within a specified period. The agency also publishes concurrently with the direct final rule an identical proposed rule. If the agency receives no significant adverse comment, the direct final rule becomes effective. If, however, the agency receives significant adverse comment, the agency withdraws the direct final rule and treats the comments as submissions on the proposed rule.

OSHA uses direct final rules because it expects the rulemaking to be noncontroversial; provide protection to employees that is at least equivalent to the protection afforded to them by the outdated standard development organization standard; and impose no significant new compliance costs on employers (69 FR 68283, 68285). OSHA used direct final rules previously to update or, when appropriate, revoke references to outdated national consensus standards in OSHA rules (*see, e.g.,* 69 FR 68283, 70 FR 76979, 71 FR 80843, and 76 FR 75782).

For purposes of the direct final rule, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach. In determining whether a comment necessitates withdrawal of the direct final rule, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. OSHA will not consider a comment recommending additional revisions to a rule to be a significant adverse comment unless the comment states why the direct final rule would be ineffective without the revisions. If OSHA receives a timely significant adverse comment, the Agency will publish a **Federal Register** notice withdrawing the direct final rule no later than 60 days after the publication date of the notice.

This direct-final rulemaking furthers the objectives of Executive Order 13563, which requires that the regulatory process ''promote predictability and reduce uncertainty'' and ''identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.'' As described below in this **Federal Register** notice, the revisions will make the requirements of OSHA's Head Protection standards consistent with current industry practices, thereby eliminating confusion and clarifying employer obligations. OSHA believes that these revisions do not compromise the safety of employees, but will enhance employee protection. Therefore, the Agency believes that updating and replacing the national consensus standards in its head protection standards is consistent with, and promotes the objectives of, Executive Order 13563.

III. Summary and Explanation of Revisions to the Head Protection Standards

A. Updating the General Industry and Maritime Industry Standards

OSHA published the previous revision of the general industry and maritime head protection standards on September 9, 2009 (74 FR 46350), which became effective October 9, 2009. These revised standards permit compliance

with ANSI Z89.1–2003, ANSI Z89.1–1997, or ANSI Z89.1–1986. Since OSHA published the previous revision, ANSI Z89.1–2009 has become available. This rulemaking will update the references in 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) to recognize the 2009 edition of ANSI Z89.1.

To determine the differences between the 2009 and 2003 editions of ANSI Z89.1, the Agency prepared a side-by-side comparison of the two editions; Table 1 provides the results of this comparison. As this table shows, the differences between these two editions of the consensus standard are the provisions in the 2009 edition permitting optional testing for helmets worn in the backwards position (''reverse wearing''), optional testing for helmets at colder temperatures than provided in previous editions, and optional testing for the high-visibility coloring of helmets. If manufacturers choose to evaluate their helmets using any of these three testing options, and the helmets pass the specified tests, then the manufacturer may mark the helmets accordingly. Section 7.3.1 of ANSI Z89.1–2009 adds the reverse-wearing testing option; various other sections include instructions regarding, or references to, the reverse-wearing testing option. Section 7.3.2 of the consensus standard adds the high-visibility testing option, and Table 1 of the consensus standard provides information about color measurements; various other sections of the consensus standard include instructions regarding, or references to, optional high-visibility testing. Section 8.4.1.2.1 of the consensus standard describes the preconditioning necessary to conduct helmet testing at lower temperatures than specified in previous editions of the consensus standard, and various other sections of the consensus standard contain additional information about such testing.

TABLE 1—DIFFERENCES BETWEEN ANSI Z89.1–2003 AND ANSI Z89.1–2009 [1]

Section No. in ANSI Z–89.1–2009	Description of differences
3	Adds definitions of ''manufacturer'' and ''test plaque.'' Removes definitions of ''cap'' and ''hat.''
4	Adds a requirement that manufacturers mark helmets that meet the reverse-wearing requirements with a reverse-wearing mark.
4.3	Adds a new, optional section, ''Reverse Wearing,'' that explains that reverse- wearing helmets must pass all testing requirements whether worn facing frontwards or backwards.
6.1	Adds a requirement that manufacturer's instructions for helmets include instructions for reverse wearing if applicable.
6.2	Adds instructions for marking helmets tested for reverse-donning, lower-temperature, and high-visibility capabilities.
7.3.1	Adds new, optional section, ''Reverse Wearing,'' that permits marking helmets with the reverse-wearing symbol if those helmets pass specified tests when mounted in the reverse-wearing position.
7.3.2	Adds new, optional section, ''High-Visibility,'' that permits marking helmets ''HV'' if those helmets have chromaticity and a total luminance factor at specified levels.
Table 1	Adds new table, ''Color, High-Visibility Helmets,'' specifying the levels of referenced by 7.3.2.
8.1.2	In this section, which addresses what headform size to use in testing, adds a provision that requires the testing facility to decide the most suitable size if the manufacturer does not do so.
8.1.3	Adds a requirement that the testing facility establish a separate dynamic test line (DTL) for samples tested in the reverse-wearing position.
8.2.1	Adds a requirement that the testing facility use a minimum of 36 test samples in compliance testing for helmets marked for reverse wearing.
8.3.1	Adds instructions for positioning reverse-wearing samples for DTL marking.
8.4.1.2.1	Adds new section, ''Lower Temperatures,'' that describes an optional procedure for preconditioning helmet samples at cold temperatures prior to testing.
9.2.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in force-transmission testing.
9.2.3	For mounting samples for force-transmission testing, adds an instruction that the sample shall be ''oriented in the normal wearing position.'' Also adds instructions for mounting samples in the reverse-wearing position in preparation for force-transmission testing.
9.3.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in apex-penetration testing.
9.4.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in impact-energy attenuation testing.
9.4.2.1	For mounting samples for impact-energy attenuation testing, adds an instruction that ''[t]he test sample shall be mounted in its normal wearing position on the headform with the STL parallel to the basic plane of the headform.'' Adds instructions for mounting samples in the reverse-wearing position in preparation for impact-energy attenuation testing.
9.5.3	For mounting samples before off-center penetration testing, adds an instruction that the sample shall be ''oriented in the normal wearing position.'' Adds instructions for mounting samples in the reverse-wearing position in preparation for off-center penetration testing.
9.8	Adds a new section, ''High-Visibility Testing,'' that explains how to prepare a test sample for high-visibility testing, and how to measure the color of that sample.
10	Moves the section ''Normative References,'' which appeared in ANSI Z89.1–2003 as Appendix E, to the main text. Adds ''ASTM E1164–02 Colorimetry—Standard Practice for Obtaining Spectrophotometric Data for Object-Color Evaluation'' to the list of referenced standards.
Table 3—Schedule of Tests.	Revises Table 2 of ANSI Z89.1–2003 by: Replacing various entries labeled ''Cold'' with ''Cold or Lower Temperature''; for samples tested in the reverse-wearing position, adding entries force-transmission, impact-energy attenuation, and off-center penetration testing; and adding to the second, narrative page information about testing in the reverse-wearing position for Type I and Type II helmets.
Appendices	Adds the title ''Appendices'' and a notation that ''[t]he following appendices [are] not part of American National Standard ANSI/ISEA Z89.1–2009, but are included for information only.''
Appendix A	Adds a statement to paragraph A7 that ''[h]elmet decorations should not be used to obscure dents, cracks, non-manufactured holes, other penetrations, burns or other damages.''

[1] This table provides only a summary of the differences between these two standards, and may not describe completely all of the differences between the standards or the content of any provision of the standards. Consult the published versions of the standards for an accurate determination of the differences between the standards.

As shown in the comparison provided in Table 1, ANSI Z89.1–2009 also includes other differences from ANSI Z89.1–2003. These differences include: (1) Removing the definitions of ''cap'' and ''hat'' from the 2003 edition and inserting definitions of ''manufacturer'' and ''test plaque'' in the 2009 edition; (2) permitting the testing facility to determine an appropriate size of the headform if the manufacturer did not specify the size; (3) requiring orientation of test samples in the normal wearing position when conducting various test procedures; and (4) removing vertical guard rails from the lists of necessary components for specified test equipment.

OSHA believes that it is consistent with the usual and customary practice of employers in the general and maritime industries to require use of head protection that complies with the 1997, 2003, or 2009 editions of ANSI Z89.1. Therefore, the Agency determined that incorporating ANSI Z89.1–2009 into 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) will not add a compliance burden for employers. OSHA invites the public to comment on whether the revisions in the 2009 edition of the consensus standard represent current industry practice.

B. Updating the Construction Industry Standard

The 2009 revision to the general industry and maritime industry personal protective equipment standards did not address the construction standards requiring personal protective equipment. Therefore, the construction standards at 29 CFR 1926.100(b) and (c) still require compliance with ANSI Z89.1–1969 and ANSI Z89.2–1971, respectively. These consensus standards, which set forth requirements regarding different types of helmets now both addressed in Z89.1, are out of date.[1]

In view of the limited useful life of protective helmets and the length of time (over 40 years) since OSHA last updated these standards, the Agency believes that no protective helmets currently are available or in use that manufacturers tested in accordance with the requirements of ANSI Z89.1–1969 and ANSI Z89.2–1971. To bring the construction standard up to date and to ensure consistency across OSHA standards, OSHA is amending 29 CFR 1926.6 and 1926.100 to permit compliance with ANSI Z89.1–1997, ANSI Z89.1–2003, or ANSI Z89.1–2009.

In reviewing ANSI Z89.1–2009, the Agency prepared side-by-side comparisons of the 2009 edition of ANSI Z89.1 with the 1969 edition of ANSI Z89.1 and the 1971 edition of ANSI Z89.2; Table 2 provides the results of these comparisons. Z89.1–1969 addresses protective helmets of all types, except those helmets that protect employees from high-voltage electric shock and burns. ANSI Z89.2–1971 addresses protective helmets that protect employees from high-voltage electric shock and burns. ANSI subsequently combined the testing requirements of these standards in the 1997, 2003, and 2009 editions of ANSI Z89.1; therefore, these editions of ANSI Z89.1 address all types of helmets, including helmets that protect employees from falling object and electrical hazards.

As Table 2 demonstrates, the 2009 edition of the ANSI Z89.1 differs from ANSI Z89.1–1969 and ANSI Z89.2–1971. The 2009 edition defines Type I and Type II helmets by the areas of the head to which the helmets afford protection, rather than by whether the helmets have a brim. The 2009 edition also renames the classes of helmets tested for protection against electrical hazards (*i.e.,* classes G, E, and C instead of A, B, and C), although it still bases helmet classification on the capacity of the helmet to protect employees from electrical hazards. In addition, the 2009 edition eliminates a fourth class of helmets used in fire fighting. Many requirements included in the 1969 and 1971 editions, such as requirements specifying the type of material manufacturers must use when making different components and specifications regarding helmet accessories, no longer appear in the 2009 edition. Most importantly, ANSI revised the performance requirements and test methods. Accordingly, the 2009 edition includes fundamental updates such as more and different types of test methods, and the use of different equipment for performing these test methods. Other variations between the 2009 and 1969 and 1971 editions emanate from these fundamental updates.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
1.1 Scope—Explains that the standard describes Types and Classes, as well as testing and performance requirements for protective helmets.	1 Scope—Explains that the standard establishes specifications for helmets that protect the heads of occupational workers from impact and penetration from falling and flying objects, and from limited electric shock and burn, but does not include high-voltage protective helmets.	1.1 Scope—Explains that the standard establishes specifications for helmets to protect the heads of electrical workers from impact and penetration from falling or flying objects, and from high-voltage electric shock and burn.
1.2 Purpose—Explains that the standard establishes minimum performance requirements for protective helmets that reduce the forces of impact and penetration, and that may provide protection from electric shock.	No purpose section.	1.2 Purpose—Explains that the standard contains general, detailed, and physical requirements for the procurement of helmets that afford optimum protection for electrical workers, and includes supplemental safety requirements recommended for authorities considering establishing regulations or codes concerning the use of protective helmets for electrical workers.
1.3 Limitations—Explains the limitations of protective helmets that meet the requirements of the standard in preventing injuries.	No limitations section.	No limitations section.

[1] As noted earlier in Section I (''Background'') in this **Federal Register** notice, OSHA did not include the construction industry in the previous rulemaking that updated the head-protection standards because of the size of the undertaking and OSHA's limited resources.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
2 Compliance—Provides that ''[a]ny statement(s) of compliance with this standard shall mean that the product meets all applicable requirements for the Type and Class. It is specifically intended that partial utilization of this standard is prohibited.''	No compliance section.	No compliance section.
3 Definitions—Does not define ''sweatband'' or ''winter liner.'' Modifies slightly the definitions of ''brim,'' ''crown strap,'' and ''headband.'' Modifies the definitions of ''chin straps,'' ''helmet,'' ''nape strap,'' ''peak,'' ''shell,'' and ''suspension.'' Adds definitions of ''accessory,'' ''apex,'' ''basic plane,'' ''dynamic test line (DTL),'' ''flammability,'' ''harness,'' ''manufacturer,'' ''midsagittal plane,'' ''positioning index,'' ''projection,'' ''protective padding,'' ''reference plane,'' ''reference headform,'' ''shall,'' ''should,'' ''static test line (STL),'' ''test line,'' and ''test plaque.'' Removes definitions of ''sweatband'' and ''winter liner.''	2 Definitions—Provides definitions for ''brim,'' ''chin strap,'' ''crown straps,'' ''headband,'' ''helmet,'' ''nape strap,'' ''peak,'' ''shell,'' ''suspension,'' ''sweatband,'' and ''winter liner.''	2 Definitions—Same definitions as ANSI Z89.1–1969.
4 Types and Classes—Classifies helmets as either as Type I or Type II, and either as meeting the Class G, E, or C electrical requirements. Also notes that manufacturers must mark helmets meeting the reverse-wearing requirements accordingly. 4.1 Defines Type 1—helmets as helmets ''intended to reduce the force of impact resulting from a blow only to the top of the head,'' and Type 2 helmets as helmets ''intended to reduce the force of impact resulting from a blow to the top or sides of the head.'' 4.2 Defines Class G (General) helmets as helmets ''intended to reduce the danger of contact with low voltage conductors,'' Class E (Electrical) helmets as helmets ''intended to reduce the danger of contact with higher voltage conductors,'' and Class C (Conductive) helmets as helmets ''not intended to provide protection against contact with electrical hazards.''	3 Types and Classes—Lists the following types and classes: Type 1—Helmet, full brim, Type 2—Helmet, brimless, with peak, Class A—Limited voltage protection, Class C—No voltage protection, and Class D—Limited voltage protection, Fire Fighters' Service, Type 1, only. No provisions comparable to 4.1 and 4.2 of ANSI Z89.1–2009.	3 Types and Classes—Lists the following types and class: Type 1—Helmet, full brim, Type 2—Helmet, brimless with peak, and Class B—High-voltage protection. No provisions comparable to 4.1 and 4.2 of ANSI Z89.1–2009.
4.3 Reverse Wearing—Helmets manufactured for reverse wearing must pass all optional testing requirements whether worn facing forward or backwards in accordance with the manufacturers' instructions.	No reverse wearing option.	No reverse wearing option.
No materials section.	4 Materials—Provides general specifications regarding materials used in helmets, such materials that are water resistant, slow burning, non-irritating to normal skin, and, for Class D helmets, fire resistant.	No materials section.
No recommended supplemental requirements section.	No recommended supplemental requirements section.	4 Recommended Supplemental Requirements—Describes requirements recommended for authorities considering establishing regulations or codes concerning the use of protective helmets for electrical workers, including when helmets are necessary, what minimum requirements they should meet, etc.
No general requirements section.	5 General Requirements—Sets forth requirements regarding pieces of protective helmets, including its shell (5.1), headband (5.2), sweatband (5.2.1), and crown straps (5.3).	5 General Requirements—Sets forth requirements regarding pieces of protective helmets, including its shell (5.2), headband (5.3), sweatband (5.3.1), and crown straps (5.4).
5 Accessories—Provides that ''[a]ccessories installed by the manufacturer shall not cause the helmet to fail the requirements of this standard.''	5.4 Accessories—Sets forth requirements regarding specific helmet accessories: chin strap and nape strap (5.4.1.), winter liners (5.4.2), face shields and welding helmets (5.4.3), and lamp brackets (5.4.4).	5.5 Accessories—Sets forth requirements regarding specific helmet accessories: chin strap and nape strap (5.5.1), winter liners (5.5.2), and face shields (5.5.3).

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
6.1 Instructions—Requires instructions "explaining the proper method of size adjustment, use, care, useful service life guidelines and, if applicable, reverse wearing." 6.2 Marking—Requires that manufacturers permanently mark helmets with the name of the manufacturer, the date of manufacture, "ANSI/ISEA Z89.1," the Type and Class designations and any applicable optional marking criteria, and the approximate headsize range. Specifies the minimum size of the markings.	5.5 Instructions—Provides that "[e]ach helmet shall be accompanied by instructions explaining the proper method of adjusting the suspension and headband." 5.6 Marking—Requires that manufacturers mark helmets with the name of the manufacturer, "ANSI Z89.1–1969," and the Class. Specifies the minimum size of the markings.	5.6 Instructions—Provides only that "[e]ach helmet shall be accompanied by instructions explaining the proper method of adjusting the suspension and headband." 5.7 Marking—Requires only that helmets be marked with the name of the manufacturer, "ANSI Z89.2–1971," and "Class B." Specifies the minimum size of the markings.
No separate, detailed requirements section.	6 Detailed Requirements—Provides additional, specific requirements regarding the helmet's shell (6.1), headband (6.2), sweatband (6.2.1), and crown straps (6.3).	6 Detailed Requirements—Provides additional, specific requirements regarding the helmet's shell (6.1), headband (6.2), sweatband (6.2.1), and crown straps (6.3).
7 Performance Requirements—Sets forth test results required when testing facilities test Type I and Type II helmets for flammability (7.1.1), force transmission (7.1.2), apex penetration (7.1.3), and electrical insulation properties for Class G (7.1.4.1) and Class E (7.1.4.2) ratings. Additional testing for Type II helmets for impact-energy attenuation (7.2.1), off-center penetration (7.2.2), and chin-strap retention (7.2.3). Requirements for optional testing of reverse-wearing helmets (7.3.1) and high-visibility helmets (7.3.2).	7 Physical Requirements—Sets forth test results required when testing facilities test Class A, Class C, and Class D helmets, as applicable, for insulation resistance (not applicable to Class C helmets) (7.1), impact resistance (7.2), penetration resistance (7.3), weight (7.4), flammability (7.5), and water absorption (7.6).	7 Physical Requirements—Sets forth test results required when testing facilities test Class B helmets for insulation resistance (7.1), impact resistance (7.2), penetration resistance (7.3), weight (7.4), flammability (7.5), and water absorption (7.6).
8 Selection and Preparation of Test Samples 8.1 Headforms—Provides instructions regarding the materials and size of headforms the testing facility is to use in each type of test; explains that reference test lines are necessary; and notes that various attached figures show the manner in which testing facilities are to mount headforms in preparation for each type of test. 8.2 Test Samples—Explains how many samples are necessary for testing, refers to Table 3 for the order of testing, and provides temperatures and, in cases of disagreements, humidity levels at which testing must occur. 8.3 Test Sample Markings—Requires the testing facility to mark test samples to indicate the location of reference test lines, and describes procedures for marking the dynamic test line (DTL) and static test line (STL). 8.4 Helmet Preconditioning—Describes procedures for preconditioning test samples in hot, cold, optional lower temperatures, and wet conditions; this section also provides time limits after preconditioning for the test facility to conduct impact, penetration, and chin-strap retention tests.	8 Methods of Test 8.1 Preparation of Samples—Requires that, for insulation resistance and water absorption tests, the testing facility remove any coating over the sample helmets. Provides temperatures and, in cases of disagreement, humidity levels at which testing must occur.	Methods of Test 8.1 Preparation of Samples—Requires that, for insulation resistance and water absorption tests, the testing facility remove any coating over the sample helmets. Provides temperatures and, in cases of disagreement, humidity levels at which testing must occur.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
9 Test Methods 9.1 Flammability—For flammability testing, describes the method for preparing (marking) test samples, components of the test apparatus, calibration, test procedures, and recording results. 9.2 Force Transmission—For force-transmission testing, describes the test method for preparing (conditioning) test samples, components of the test apparatus, mounting samples, calibration, test procedures, and recording results. 9.3 Apex Penetration—Describes the test method for preparing (conditioning) test samples, components of the test apparatus, mounting samples, calibration, test procedures, and recording results. 9.4 Impact Energy Attenuation—Describes methods for preparing (marking and conditioning) test samples, components of the test apparatus, methods for mounting samples, the impact anvil, the test headform, the accelerometer, calibration, test procedures, and recording results. 9.5 Off Center Penetration—Describes methods for preparing (marking and conditioning) test samples, components of the test apparatus, methods for mounting samples, calibration, test procedures, and recording results. 9.6 Chin Strap Retention (Type II only)—Describes methods for preparing (conditioning) test samples, components of the test apparatus, calibration, test procedures, and recording results.	8 Methods of Test—See Section 8.5 (''Flammability'') below. 8.2 Insulation Resistance Test—Describes components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.3 Impact Resistance Tests—Describes components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.4 Penetration Resistance—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.5 Flammability—Describes the test method to determine conformance with 7.5 (using ASTM D635–68), preparing specimens, mounting specimens, test procedure, and reporting results. 8.6 Water Absorption—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results.	8 Methods of Test—See Section 8.5 (''Flammability Test'') below. 8.2 Insulation Resistance Test—Describes components of the test apparatus, mounting of specimens, test procedures, and reporting results. 8.3 Impact Resistance Tests—Describes components of the test apparatus, mounting specimens, test procedures for the impact-absorption test and mechanical-proof test, and reporting results. 8.4 Penetration Resistance Test—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.5 Flammability Test—Describes the test method to determine conformance with 7.5 (using ANSI K.65.21–1969/ASTM D 635–1969, and provides instructions for reporting results. 8.6 Water Absorption Test—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results.
9.7 Electrical Insulation—Describes methods for preparing test samples (for Class E only, force-transmission test, one conditioned hot and one conditioned cold), components of the test apparatus, calibration, test procedures (separately for Class G and Class E helmets), and recording results. 9.8 High-Visibility Testing—Describes procedures for sampling and conditioning test plaques, and determining color.	See Section 8.2 (''Insulation Resistance Test'') above.	See Section 8.2 (''Insulation Resistance Test'') above.
10 Normative References—Provides complete citations for standards on colorimetry, headforms, and instrumentation referenced in ANSI Z89.1–2009.	No section on reference standards.	9 Revision of American National Standards Referred to in This Document—Notes that recently published ANSI standards supersede the ANSI standards on flammability testing, and eye and face protection, referenced in ANSI Z89.2–1971.
Table 1—Color, High-Visibility Helmets—Provides information about chromaticity and minimum total luminance factors.	No comparable table.	No comparable table.
Table 2—Sizing Chart—Provides sizing guidance for 17 head-band sizes ranging from 6½ to 8½ inches.	No comparable table.	Table 1—Comparative Hat and Cap Sizes—Provides sizing guidance for 13 head-band sizes ranging from 6½ to 8 inches.
No comparable tables.	Table 1—Transmitted Forces in Pounds—Provides force values based on Brinell hardness numbers and the diameter of the impression.	Table 2 Transmitted Forces in Pounds—Provides force values based on Brinell hardness numbers and the diameter of the impression.
Table 3—Schedule of Tests—Lists for each combination of test method and type of preconditioning, the minimum number of samples, test sample numbers, and test sequence for each helmet type and class. Also provides additional instructions regarding testing each type and class of helmet.	No comparable table.	No comparable table.
Figure 1—Diagram of the ISO headform, with dimensions for sizes E, J, and M of the headform.	No comparable figure.	No comparable figure.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
No comparable figure.	Figure 1—Schematic of a Brinell Hardness Penetrator Assembly.	Figure 1—Schematic of a Brinell Hardness Penetrator Assembly.
Figure 2—Diagram of the proper location of the Dynamic Test Line.	No comparable figure.[2]	No comparable figure.[2]
No comparable photograph.	Figure 2—Photograph of a suggested apparatus for the measurement of crown clearance.	Figure 2—Photograph of a suggested apparatus for the measurement of crown clearance.
Figure 3—Diagram of the headform used for force-transmission testing.	No comparable figure.	No comparable figure.
Figure 4—Diagram of a typical impact-energy attenuation headform fixture.	No comparable figure.	No comparable figure.
Figure 5—Diagram of a typical penetration headform fixture.	No comparable figure.	No comparable figure.
Figure 6—Diagram of a chin-strap-retention test apparatus.	No comparable figure.	No comparable figure.
Figure 7—Diagram of a typical force-transmission test apparatus.	No comparable figure.	No comparable figure.
Figure 8—Diagram of a typical penetration test apparatus.	No comparable figure.	No comparable figure.
Figure 9—Diagram of a typical penetrator.	No comparable figure.	No comparable figure.
Figure 10—Diagram of a typical impact-energy attenuation test apparatus.	No comparable figure.	No comparable figure.
Figure 11—Diagram of the proper location of the Static Test Line.	No comparable figure.[3]	No comparable figure.[3]
Figure 12—Diagram of a flammability test apparatus.	No comparable figure.	No comparable figure.
Appendix A—Recommendations, Cautions, Use, and Care—Provides guidance regarding instructions and warnings on helmets, fitting, cleaning, painting, and inspecting helmets, limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), precautions to use when handling helmets, and safe conditions (*i.e.,* that impact, penetration, and electrical-insulation testing does not indicate safe impact- and voltage-exposure levels for industrial workers).	Appendix A1—Recommendations Concerning Equipment—Provides guidance regarding tying laces, painting and cleaning shells, periodic inspection of shells and helmet components for damage and wear (including removal from service when necessary), limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), sizes (*i.e.,* the provision of extra-small and extra-large helmet sizes by manufacturers), and precautions to use when handling helmets.	Appendix—Recommendations and Precautions Concerning Helmet Use and Maintenance—Provides guidance regarding tying laces, cleaning shells, periodic inspection of shells and helmet components for damage and wear (including removal from service when necessary), limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), sizes (*i.e.,* the provision of extra-small and extra-large helmet sizes by manufacturers), precautions to use when handling helmets, safe voltages (*i.e.,* that the "mechanical proof test" and "minimum breakdown voltage test" do not indicate safe voltage levels for using insulating safety headgear), and inspection (*i.e.,* use of periodic visual inspections and electrical tests to detect conditions of helmets that may impair their dielectric strength).
Appendix B—Electrical Insulation Testing—Describes equipment guidelines and precautions for high-voltage test equipment.	No comparable appendix.	No comparable appendix.
Appendix C—Force Transmission Testing—Provides design and performance specifications for equipment used in force-transmission testing, calibration procedures for this test equipment (including force-measuring systems and velocity-measuring systems), and a procedure for determining the repeatability value of the impactor (and specifications for acceptable values).	No comparable appendix.	No comparable appendix.
Appendix D—Impact Energy Attenuation Testing—Provides design and performance specifications for equipment used in impact-energy attenuation testing.	No comparable appendix.	No comparable appendix.
Appendix E—Test Equipment Sources—Provides a list of sources for suitable test equipment.	No comparable appendix.	No comparable appendix.

[1] This table provides only a summary of the differences among these three standards, and may not describe completely all of the differences among the standards or the content of any provision of the standards. Consult the published versions of the standards for an accurate determination of the differences among the standards.

[2] No provision of the standard addresses the Dynamic Test Line.

[3] No provision of the standard addresses the Static Test Line.

OSHA believes that it is consistent with the usual and customary practice of employers in the construction industry to require use of head protection that complies with ANSI Z89.1–2009, ANSI Z89.1–2003, or ANSI Z89.1–1997. OSHA further believes that the provisions of ANSI Z89.1–1969 and ANSI Z89.2–1971 are outdated, and employers in the industry are not using head protection that complies with the testing requirements of these outdated standards. Accordingly, the Agency determined that incorporating these editions of ANSI Z89.1 consensus standards for head protection into 29 CFR 1926.100(b) does not add a compliance burden for employers. OSHA invites the public to comment on whether use of head protection compliant with ANSI Z89.1–2009, ANSI Z89.1–2003, or ANSI Z89.1–1997 represents current industry practice.

Paragraph (b)(2) of this direct final rule for head protection in construction (*see* § 1926.100 (Head protection) below) addresses the requirement for the employer to ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in paragraph (b)(1) of this section. This requirement updates paragraph (c) of existing § 1926.100, which references outdated ANSI Z89.2–1971 (''Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B''). ANSI subsequently discontinued this separate consensus standard and included its provisions in ANSI Z89.1 beginning with the 1981 edition of ANSI Z89.1. OSHA is including paragraph (b)(2) in this direct final rule to emphasize that employers must ensure that each employee exposed to the hazards of high-voltage electric shock and burns wears head protection that complies with the electrical-insulation testing requirements specified in Section 9.7 of the 1997, 2003, or 2009 editions of ANZI Z89.1, in addition to the requirements in those consensus standards that test helmets for protection against falling-object hazards under various conditions.

In addition to updating the references to ANSI Z89.1, OSHA is adding a provision to the construction standard that permits an employer to use head protection that is not manufactured in accordance with one of the incorporated ANSI Z89.1 consensus standards if the employer can demonstrate that the head protection it selects protects employees at least as effectively as head protection tested and constructed in accordance with one of the incorporated ANSI Z89.1 standards. Currently, the construction standard does not include such a provision. However, the general industry and maritime industry standards do include such a provision (*e.g.,* § 1910.135(b)(2)). Therefore, to allow flexibility and ensure consistency across standards, OSHA also is adding identical language to the construction standard.

In conclusion, OSHA examined the standards for head protection issued by ANSI over the last 40 years, and found that these standards reflect the state of the art in terms of design safety that existed when ANSI issued them. However, OSHA also found improvements in the design-safety requirements of each successive edition of these standards that would enhance employee protection from falling-object and electrical hazards.

IV. Procedural Determinations

A. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 651 *et seq.,* is to achieve to the extent possible safe and healthful working conditions for all employees. 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard that ''requires conditions, or the adoption or use of one or more practices, means, methods, operations, processes reasonably necessary or appropriate to provide safe or healthful employment or places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) of the OSH Act when a significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk. *See Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980). OSHA already determined that requirements for head protection, including design requirements, are reasonably necessary or appropriate within the meaning of Section 652(8).

This direct final rule neither reduces employee protection nor alters an employer's obligations under the existing standards. OSHA believes that, under this direct final rule, employers will be able to continue to use the same equipment they are using currently to meet their compliance obligation under the existing standards' design-criteria requirements. This direct final rule provides employers with additional options for meeting the design-criteria requirements for head protection—options most employers already are using. Therefore, this direct final rule does not alter the substantive protection that employers must provide to employees and the compliance burdens on employers. Accordingly, OSHA need not, in this rulemaking, determine significant risk or the extent to which this direct final rule will reduce that risk, as typically required by *Industrial Union Department.*

B. Final Economic Analysis and Regulatory Flexibility Act Certification

This direct final rule is not economically significant within the context of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. In addition, this direct final rule complies with Executive Order 13563. The rulemaking imposes no additional costs on any private or public sector entity, and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

This rulemaking allows employers increased flexibility in choosing head protection for employees. However, this direct final rule does not require an employer to update or replace its head protection solely as a result of this rule if the head protection currently in use meets the revised standards. Furthermore, because the rule imposes no costs, OSHA certifies that it will not have a significant economic impact on a substantial number of small entities.

C. OMB Review Under the Paperwork Reduction Act of 1995

This rulemaking does not impose new information-collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30. Accordingly, the Agency does not have to prepare an Information Collection Request in association with this rulemaking.

Members of the public may respond to this paperwork determination by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218–AC08), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to submit these comments to the rulemaking docket, along with their comments on other parts of this direct final rule. For instructions on submitting these comments and

accessing the docket, *see* the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES.** However, OSHA will not consider any comment received on this paperwork determination to be a ''significant adverse comment'' as specified above under Section II (''Direct Final Rulemaking'').

To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–2222.

D. Federalism

OSHA reviewed this direct final rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Agencies must limit any such preemption to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 667), Congress expressly provides that states may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; states that obtain Federal approval for such a plan are referred to as ''State-Plan States.'' (29 U.S.C. 667.) Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State-Plan States are free to develop and enforce under state law their own requirements for occupational safety and health standards.

While OSHA drafted this direct final rule to protect employees in every state, Section 18(c)(2) of the Act permits State-Plan States and U.S. Territories to develop and enforce their own standards for the design of head protection provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this direct final rule.

In summary, this direct final rule complies with Executive Order 13132. In states without OSHA-approved state plans, this rulemaking limits state policy options in the same manner as other OSHA standards. In State-Plan States, this rulemaking does not significantly limit state policy options because, as explained in the following section, State-Plan States do not have to adopt this direct final rule.

E. State-Plan States

When Federal OSHA promulgates a new standard or amends an existing standard to be more stringent than it was previously, the 27 states or U.S. territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing state standard covering this area is at least as effective as the new Federal standard or amendment. 29 CFR 1953.5(a). In this regard, the state standard must be at least as effective as the final Federal rule. State-Plan States must adopt the Federal standard or complete their own standard within six months of the publication date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard, State-Plan States need not amend their standards, although OSHA may encourage them to do so. The following 22 states and U.S. territories have OSHA-approved occupational safety and health plans that apply only to private-sector employers: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. In addition, Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply only to state and local government employees.

With regard to this direct final rule, it will not impose any additional or more stringent requirements on employers compared to existing OSHA standards. Through this rulemaking, OSHA is updating the references in its standards to recognize the recent edition of the applicable national consensus standard, and deleting outdated editions of the national consensus standards referenced in its existing head protection standards. This direct final rule does not require employers to update or replace their head-protection equipment solely as a result of this rulemaking if the equipment currently in use meets the requirements of this direct final rule. OSHA believes that removing references to ANSI Z89.1–1969 and –1986, and ANSI Z89.2–1971, will have no affect on employers because, in view of the limited useful life of protective helmets, the Agency assumes that no protective helmets currently are available or in use that manufacturers tested in accordance with these consensus standards.

Therefore, this direct final rule does not require action under 29 CFR 1953.5(a), and State-Plan States do not need to adopt this rule or show OSHA why such action is unnecessary. However, to the extent these State-Plan States have the same standards as the OSHA standards affected by this direct final rule, OSHA encourages them to adopt the amendments.

F. Unfunded Mandates Reform Act

OSHA reviewed this direct final rule according to the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (58 FR 58093, Oct. 28, 1993). 75 FR at 48130. As discussed above in Section IV.B (''Final Economic Analysis and Regulatory Flexibility Certification'') of this preamble, OSHA determined that this direct final rule imposes no additional costs on any private-sector or public-sector entity. Accordingly, this direct final rule requires no additional expenditures by either public or private employers.

As noted above under Section IV.E (''State-Plan States'') of this preamble, OSHA standards do not apply to state or local governments except in states that elected voluntarily to adopt an OSHA-approved state plan. Consequently, this direct final rule does not meet the definition of a ''Federal intergovernmental mandate'' (*see* Section 421(5) of the UMRA (2 U.S.C. 658(5)). Therefore, for the purposes of the UMRA, OSHA certifies that this direct final rule does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

G. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this direct final rule in accordance with Executive Order 13175, 65 FR 67,249 (Nov. 9, 2000), and determined that it does not have ''tribal implications'' as defined in that order. This direct final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

H. Consultation With the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (ACCSH or ''the Committee''), established pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), in setting standards for construction work. Specifically, § 1911.10(a) requires the Assistant Secretary to provide ACCSH with a draft proposed rule (along with pertinent factual information) and give the Committee an opportunity to submit recommendations. *See* also § 1912.3(a) (''[W]henever occupational safety or health standards for construction activities are proposed, the Assistant Secretary [for Occupational Safety and Health] shall consult the Advisory Committee.''). On December 15, 2011, OSHA presented a draft of this direct final rule to ACCSH, as well as tables comparing the provisions of the outdated reference standards with the provisions of the recent editions of ANSI Z89.1. OSHA then explained that the rule would update the references to ANSI Z89.1 and Z89.2 in the current construction standard. The ACCSH subsequently recommended that OSHA pursue this rulemaking and replace the outdated references to ANSI Z89.1–1969 in the current construction standard for head protection with references to the 1997, 2003, and 2009 editions of ANSI Z89.1, and replace the outdated reference to ANSI Z89.2–1971 with the 2009 edition of ANSI Z89.1. (A transcription of these proceedings is available at Ex. Docket No. OSHA–2011–0124–0025, pp. 237–245.)

V. Authority and Signature

David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210, authorized the preparation of this direct final rule. OSHA is issuing this direct final rule pursuant to 29 U.S.C. 653, 655, 657, 5 U.S.C. 553, Secretary of Labor's Order 1–2012 (77 FR 3912), and 29 CFR part 1911.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, and 1926

Head protection, Incorporation by reference, Occupational safety and health, Safety.

Signed at Washington, DC, on June 14, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated above in the preamble, the Occupational Safety and Health Administration is amending 29 CFR parts 1910, 1915, 1917, 1918, and 1926 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

■ 1. Revise the authority citation for subpart A of part 1910 to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Pub. L. 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.6 by revising paragraphs (e)(71) through (e)(73) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(e) * * *

(71) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1910.135(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(72) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1910.135(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(73) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1910.135(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

■ 3. Amend § 1910.135 by revising paragraph (b)(1) to read as follows:

§ 1910.135 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1910.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1910.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1910.6.

* * * * *

PART 1915—[AMENDED]

■ 4. The authority citation for part 1915 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Section 1915.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Sections 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR 1911.

Subpart A—[Amended]

■ 5. Amend § 1915.5 by revising paragraphs (d)(1)(ix)through (d)(1)(xi) to read as follows:

§ 1915.5 Incorporation by reference.

* * * * *

(d)(1) * * *

(ix) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1915.155(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment

Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(x) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1915.155(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(xi) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1915.155(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

■ 6. Amend § 1915.155 by revising paragraph (b)(1) to read as follows:

§ 1915.155 Head protection.

* * * * *

(b) *Criteria for protective helmets.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1915.5;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1915.5; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1915.5.

* * * * *

PART 1917—[AMENDED]

■ 7. Revise the authority citation for part 1917 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 7 FR 3912),as applicable; and 29 CFR 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart A—[Amended]

■ 8. Amend § 1917.3 by revising paragraphs (b)(9) through (b)(11) to read as follows:

§ 1917.3 Incorporation by reference.

(b) * * *

(9) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1917.93(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(10) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1917.93(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(11) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1917.93(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart E—[Amended]

■ 9. Amend § 1917.93 by revising paragraph (b)(1) to read as follows:

§ 1917.93 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1917.3;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1917.3; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1917.3.

* * * * *

PART 1918—[AMENDED]

■ 10. Revise the authority citation for part 1918 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR 1911.

Section 1918.90 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart A—[Amended]

■ 11. Amend § 1918.3 by revising paragraphs (b)(9) through (b)(11) to read as follows:

§ 1918.3 Incorporation by reference.

* * * * *

(b) * * *

(9) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1918.103(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(10) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1918.103(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(11) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1918.103(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone:

703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart J—[Amended]

■ 12. Amend § 1918.103 by revising paragraph (b)(1) to read as follows:

§ 1918.103 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1918.3;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1918.3; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1918.3.

* * * * *

PART 1926—[AMENDED]

A—General [Amended]

■ 13. Revise the authority citation for subpart A of part 1926 to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 6–96 (62 FR 111), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 14. Amend § 1926.6 as follows:

■ a. Revise paragraphs (h)(28) and (h)(29).

■ b. Add new paragraph (h)(30).

§ 1926.6 Incorporation by reference.

* * * * *

(h) * * *

(28) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1926.100(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(29) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1926.100(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(30) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1926.100(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart E—[Amended]

■ 15. Revise the authority citation for subpart E of part 1926 to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 16. Amend § 1926.100 as follows:

■ a. Add paragraphs (b)(1) through (b)(3).

■ b. Remove paragraph (c).

§ 1926.100 Head protection.

* * * * *

(b) * * *

(1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

[FR Doc. 2012–15030 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0508]

RIN 1625–AA00

Safety Zone; Arctic Drilling and Support Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around the nineteen vessels associated with Arctic drilling as well as their lead towing vessels while those vessels are underway in the Puget Sound Captain of the Port Zone. The safety zone is necessary to ensure the safety of the maritime public and specified vessels while they transit and will do so by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or a Designated Representative.

DATES: This rule is effective with actual notice from June 7, 2012, until June 22, 2012. This rule is effective in the Code of Federal Regulations from June 22, 2012 through August 1, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0508. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or

email Ensign Anthony P. LaBoy, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206–217–6323, email *SectorPugetSoundWWM@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. Due to the hazardous conditions discussed below, it is necessary to make this regulation effective immediately in order to ensure the safety of the maritime public while the named vessels are transiting.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. It is impracticable to have a delayed effective date because some of the specified vessels are currently in Puget Sound. Immediate action is necessary to protect the public from the threat to navigational safety posed by such tactics or activities as described above.

B. Basis and Purpose

In June 2011, Greenpeace protestors illegally boarded Cairn Energy's drilling platform off Greenland. Greenpeace has identified that both Shell and British Petroleum are possible future targets in 2012 and 2013. On February 16, 2012, the environmental advocacy organization Alaska Wilderness League made local inquiries and chartered a vessel to observe the mobile offshore drilling unit (MODU) KULLUK, which is currently undergoing retro-fit at Vigor shipyard in Seattle. On February 26, 2012, actress Lucy Lawless and six Greenpeace activists illegally boarded the drilling vessel NOBLE DISCOVERER in New Zealand. On March 16 2012, Greenpeace activists boarded the Finnish icebreaker FENNICA, a Shell-contracted vessel, and hung banners from the vessel's cranes. On May 1–4, 2012, Greenpeace activists conducted multi-faceted direct action operations aimed at delaying the transit of the Finnish icebreaker NORDICA, a Shell-contracted vessel. Activists boarded the vessel while moored, blocked the vessel with kayaks and swimmers as it got underway, and boarded the vessel while underway at sea via small boats. Further on 31 May 2012, the Greenpeace motor vessel ESPERANZA entered Elliott Bay. While the Coast Guard respects the First Amendment rights of protesters, it is clear that certain unlawful protest activity poses a danger to the life and safety of protesters, target vessels, and other legitimate waterway users. The Coast Guard must take swift action to prevent such harm.

The following vessels associated with exploratory drilling in the Arctic may be transiting into, out of, or around the Sector Puget Sound Captain of the Port (COTP) Zone from now until August 1st 2012: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, Z BIG 1, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, POINT OLIKTOK and any towing vessel actively engaged in the towing or escorting of these vessels. Based on a recent history of unsafe demonstration tactics and vessel boardings of some of these vessels in New Zealand and Finland within the past six months, the Coast Guard finds it necessary to establish this temporary safety zone in order to allow for safe and lawful on-water protests without endangering the lives or safety of any person or vessel, and to keep the waterways unrestricted to all legitimate users.

Persons or vessels positioned in the path of the specified vessels, all of which are extremely large, and many of which transit with tow or tug assistance, would present an extremely hazardous situation. Named vessels could be forced to deviate from their routes into more shallow water, out of an established traffic scheme or International Maritime Organization established Traffic Separation Scheme, or into otherwise unsafe conditions. This could create a hazardous situation where the aforementioned vessels would be at risk of collision or grounding or break down the good order and predictability of vessel traffic flow in the Vessel Traffic Service area of operations. Additionally, persons in the water and small vessels coming within 500 yards of one of the oncoming named vessels may be injured or killed in a collision, especially since the larger of the named vessels, including those vessels in tow, may be unable to see such persons or small vessels, and would not be able to stop, reduce speed, or turn quickly enough to avoid a collision. In addition, blocking of the waterway or portions of the waterway, and maneuvering close to large vessels underway could expose other legitimate waterway users to similar risks of grounding or collision, and expose persons or vessels engaged in such tactics to collisions with other waterway users. This risk is exacerbated by areas of congestion within the Puget Sound COTP Zone. Tacoma and Seattle together comprise the 3rd largest container ship port in the United States. In addition, the Puget Sound COTP Zone has the largest ferry system in the United States. As such, persons and small vessels in Puget Sound must contend with numerous large container ships and ferries transiting Puget Sound, in addition to other waterway users such as recreational vessels, construction vessels, public vessels, and others.

C. Discussion of the Final Rule

In order to improve safety in light of the considerations above, the Coast Guard is establishing a temporary safety zone to restrict vessel movement around the vessels specified in the *Background* section of this notice. The safety zone established by this rule will prohibit any person or vessel from entering or remaining within 500 yards of the following specified vessels, unless authorized by the COTP or his Designated Representative, while in the Sector Puget Sound COTP Zone: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, TUUQ, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, and POINT OLIKTOK. This safety zone includes any associated towing and assist vessels, and associated towing equipment, including the towline. The COTP has granted general permission for vessels to enter the outer 400 yards of the safety zone, aft of the pilot house of these vessels, or the lead towing vessel for those vessels in tow, as long as those vessels within the outer 400 yards of the safety zone operate at the minimum

speed necessary to maintain course unless required to maintain speed by the navigation rules.

It is noted that in March of 2012, the U.S. District Court for the District of Alaska issued a preliminary injunction order in a civil case between Shell Oil, Inc., and Greenpeace. This civil injunction generally requires Greenpeace to remain 500–1000 yards away from the named vessels. The Coast Guard is not required to enforce this injunction, and will not do so. This regulation is separate and distinct from the civil injunction, and is applicable to all vessels, whether or not they are acting on behalf of Greenpeace, and whether or not the persons aboard are engaged in any sort of protests or demonstration. The purpose of the present regulation is to protect the safety of all legitimate waterway users.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the fact that the safety zone will be in place for a limited period of time and vessel traffic will be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zones from the COTP, Puget Sound, or Designated Representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities; the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. The rule will not have a significant economic impact on a substantial number of small entities because the safety zone will be in place for a limited period of time and maritime traffic will still be able to transit around the safety zone. Maritime traffic may also request permission to transit though the zone from the COTP, Puget Sound, or Designated Representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves an emergency safety zone for all waters encompassed within 500 yards of the Arctic drilling and support vessels. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–221 to read as follows:

§ 165.T13–221 Safety Zone; Arctic Drilling and Support Vessels, Puget Sound, Washington.

(a) *Location.* The following area is a safety zone: All waters encompassed within 500 yards of the following vessels: NOBLE DISCOVERER, KULLUK, NORDICA, FENNICA, TOISA DAUNTLESS, TOR VIKING II, HARVEY EXPLORER, HARVEY SPIRIT, HARVY SISUAQ, AIVIQ, NANUQ, GUARDSMAN, KALMATH, ARCTIC CHALLENGER, TUUQ, LAUREN FOSS, CORBIN FOSS, ARCTIC ENDEAVOR, and POINT OLIKTOK, to include the lead towing vessels and assist tugs, and associated towing gear, including the towline, while these vessels are transiting in the Sector Puget Sound Captain Of The Port (COTP) Zone as defined in 33 CFR 3.65–10.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the COTP or his Designated Representative. A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP to act on his or her behalf. The COTP has granted general permission for persons or vessels to enter the outer 400 yards of the safety zone, aft of the pilot house of the vessel or lead towing vessels, as applicable, as long as those vessels within the outer 400 yards of the safety zone operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules. The COTP may be assisted by other federal, state, or local agencies with the enforcement of the safety zone.

(c) *Authorization.* All vessel operators who desire to enter the inner 100 yards of the safety zone or transit the outer 400 yards at greater than minimum speed necessary to maintain course unless required to maintain speed by the navigation rules must obtain permission from the COTP or a Designated Representative by contacting the on-scene Coast Guard patrol craft on VHF 13 or Ch 16. Requests must include the reason why movement within this area is necessary. Vessel operators granted permission to enter the safety zone will be escorted by the on-scene Coast Guard patrol craft until they are outside of the safety zone.

(d) *Enforcement Period* This rule will be enforced through August 1, 2012, unless canceled sooner by the Captain of the Port.

Dated: June 7, 2012.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2012–15156 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2012–0416]

Safety Zone; San Francisco Independence Day Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones for the San Francisco Independence Day Fireworks Display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 9 a.m. on July 3, 2012 through 10:15 p.m. on July 4, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–7442, email *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the San Francisco Independence Day Fireworks Display safety zones from 9 a.m. on July 3, 2012 through 10:15 p.m. on July 4, 2012.

For Location 1, during the loading of the fireworks barges, while the barges are being towed to the display location, and until the start of the fireworks display, the safety zone applies to the navigable waters around and under the fireworks barges within a radius of 100 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to take place from 9 a.m. until 2 p.m. on July 3, 2012, and will take place at Pier 50 in San Francisco, CA. Towing of the barge from Pier 50 to the display location is scheduled to take place from 8 p.m. until 8:45 p.m. on July 4, 2012. During the 25 minute fireworks display, scheduled to take place from 9:30 p.m. until 9:55 p.m. on July 4, 2012, the fireworks barge will be located 1,000 feet off of Pier 39 in position 37°48′49″ N, 122°24′46″ W (NAD 83) for the San

Francisco Independence Day Fireworks Display in 33 CFR 165.1191. This safety zone will be in effect from 9 a.m. on July 3, 2012 to 10:15 p.m. on July 4, 2012.

For Location 2, the fireworks will be launched from the San Francisco Municipal Pier. During the 25 minute fireworks display, scheduled to take place from 9:30 p.m. until 9:55 p.m. on July 4, 2012, the safety zone will apply to the navigable waters around and under the fireworks launch site within a radius of 1,000 feet in position 37°48′38″ N, 122°25′28″ W (NAD 83) for the San Francisco Independence Day Fireworks Display in 33 CFR 165.1191. This safety zone will be in effect from 9:30 p.m. to 10:15 p.m. on July 4, 2012.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so. This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 6, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–15266 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0266]

Safety Zone; Fourth of July Fireworks, Berkeley Marina, Berkeley, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Berkeley Marina Fourth of July Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 9:30 p.m. to 10:15 p.m. on July 4, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a 1,000 foot safety zone around the Berkeley Pier in position 37°51′40″ N, 122°19′19″ W (NAD 83) from 9:30 p.m. until 10:15 p.m. on July 4, 2012. Upon the commencement of the 30 minute fireworks display, scheduled to take place from 9:30 p.m. to 10 p.m. on July 4, 2012, the safety zone will encompass the navigable waters around and under the Berkeley Pier within a radius 1,000 feet in position 37°51′40″ N, 122°19′19″ W (NAD83) for the Berkeley Marina Fourth of July Fireworks display in 33 CFR 165.1191. This safety zone will be in effect from 9:30 p.m. to 10:15 p.m. on July 4, 2012.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 6, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–15265 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2012–0461]

Safety Zone; Fourth of July Fireworks, City of San Francisco, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the City of Sausalito's Fourth of July Fireworks in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 9 a.m. to 9:45 p.m. on July 4, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, U.S. Coast Guard Sector San Francisco;

telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a 100 foot safety zone around the fireworks barge during the loading, transit, and arrival of the fireworks barge to the display location and until the start of the fireworks display. From 9 a.m. until 2 p.m. on July 4, 2012, the barge will be loading off of Pier 50 in position 37°46′28″ N, 122°23′06″ W (NAD 83). From 7 p.m. to 8:30 p.m. on July 4, 2012 the loaded barge will transit from Pier 50 to the launch site near Sausalito, CA in position 37°51′30″ N, 122°28′29″ W (NAD83). Upon the commencement of the fireworks display, scheduled to take place from 9:15 p.m. to 9:30 p.m. on July 4, 2012, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius 1,000 feet around the launch site near Sausalito, CA in position 37°51′30″ N, 122°28′29″ W (NAD83) for the City of Sausalito's Fourth of July Fireworks Display in 33 CFR 165.1191. This safety zone will be in effect from 9 a.m. to 9:45 p.m. on July 4, 2012.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so. This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 6, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–15264 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2012–6]

Registration of Claims to Copyright

AGENCY: Copyright Office, Library of Congress.

ACTION: Statement of Policy; Registration of Compilations.

SUMMARY: The Copyright Office issues this statement of policy to clarify the practices relating to the examination of claims in compilations, and particularly in claims of copyrightable authorship in selection and arrangement of exercises or of other uncopyrightable matter. The statement also clarifies the Office's policies with respect to registration of choreographic works.

DATES: *Effective* June 22, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8380; fax (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Office is issuing a statement of policy to clarify its examination practices with respect to claims in ''compilation authorship,'' or the selection, coordination, or arrangement of material that is otherwise separately uncopyrightable. The Office has long accepted claims of registration based on the selection, coordination, or arrangement of uncopyrightable elements, because the Copyright Act specifically states that copyrightable authorship includes compilations. 17 U.S.C. 103.

The term ''compilation'' is defined in the Copyright Act:

> A ''compilation'' is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.

17 U.S.C. 101 (''compilation''). This definition's inclusion of the terms ''preexisting material'' or ''data'' suggest that individually uncopyrightable elements may be compiled into a copyrightable whole. The legislative history of the 1976 Act supports this interpretation, stating that a compilation ''results from a process of selecting, bringing together, organizing, and arranging previously existing material of all kinds, *regardless of whether the individual items in the material have been or ever could have been subject to copyright.*'' H.R. Rep. 94–1476, at 57 (emphasis added).

Viewed in a vacuum, it might appear that *any* organization of preexisting material may be copyrightable. However, the Copyright Act, the legislative history and the Supreme Court's decision in *Feist Publications, Inc.* v. *Rural Tel. Serv. Co.,* 499 U.S. 340, 346 (U.S. 1991), lead to a different conclusion.

In *Feist,* interpreting the congressional language in the section 101 definition of ''compilation,'' the Supreme Court found protectable compilations to be limited to ''a work formed by the collection and assembling of preexisting material or data that are selected, coordinated, or arranged *in such a way that* the resulting work as a whole constitutes an original work of authorship.'' *Feist* at 356, *quoting* 17 U.S.C. 101 (''compilation'') (emphasis by the Court). The Court stated:

> The purpose of the statutory definition is to emphasize that collections of facts are not copyrightable per se. It conveys this message through its tripartite structure, as emphasized above by the italics. The statute identifies three distinct elements and requires each to be met for a work to qualify as a copyrightable compilation: (1) The collection and assembly of pre-existing material, facts, or data; (2) the selection, coordination, or arrangement of those materials; and (3) the creation, by virtue of the particular selection, coordination, or arrangement, of an ''original'' work of authorship * * *.
>
> Not every selection, coordination, or arrangement will pass muster. This is plain from the statute. * * * [W]e conclude that the statute envisions that there will be some fact-based works in which the selection, coordination, and arrangement are not sufficiently original to trigger copyright protection.

Feist, 499 U.S. at 357–358 (U.S. 1991)

The Court's decision in *Feist* clarified that some selections, coordinations, or arrangements will not qualify as works of authorship under the statutory definition of ''compilation'' in section 101. However, a question that was not present in the facts of *Feist* and therefore not considered by the Court, is whether the selection, coordination, or arrangement of preexisting materials must relate to the section 102 categories of copyrightable subject matter.

In *Feist,* Rural Telephone's alphabetical directory was found deficient due to a lack of originality, i.e.,

of sufficient creativity. Had the items contained in the directory (names, addresses and telephone numbers) been selected, coordinated, or arranged in a sufficiently original manner, there is no question that the resulting compilation would have fit comfortably within the category of literary works—the first category of copyrightable authorship recognized by Congress in section 102. But what if an original selection, coordination, or arrangement of preexisting material did not fall within a category of section 102 authorship? For instance, is a selection and arrangement of a series of physical movements copyrightable, if the resulting work as a whole does not fit within the categories of pantomime and choreographic works or dramatic works, or any other category?

Although the *Feist* decision did not address this question, the Copyright Office concludes that the statute and relevant legislative history require that to be registrable, a compilation must fall within one or more of the categories of authorship listed in section 102. In other words, if a selection and arrangement of elements does not result in a compilation that is subject matter within one of the categories identified in section 102(a), the Copyright Office will refuse registration.

The Office arrives at this conclusion in accordance with the instruction of the Supreme Court in *Feist:* ''the established principle that a court should give effect, if possible, to every clause and word of a statute,'' citing *Moskal* v. *United States,* 498 U.S. 103, 109–110 (1990). Applying this principle, the Office finds that in addition to the statutory definition of ''compilation'' in section 101, Congress also provided clarification about the copyrightable authorship in compilations in section 103(a) of the Copyright Act:

> The *subject matter of copyright as specified by section 102 includes compilations* and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

17 U.S.C. 103(a). (emphasis added).

Section 103 makes it clear that compilation authorship is a subset of the section 102(a) categories, not a separate and distinct category. Section 103 and the definition of ''compilation'' in Section 101 also mark a departure from the treatment of compilations under the 1909 Act, which listed composite works and compilations as falling within the class of ''books.'' The 1976 Act significantly broadened the scope of compilation authorship to include certain selection, coordination, or arrangement that results in a work of authorship. But that expansion also makes it clear that not every selection, coordination, or arrangement of material is copyrightable. Only selection, coordination, or arrangement that falls within section 102 authorship is copyrightable, i.e., is selected, coordinated, or arranged *in such a way* that the resulting work as a whole constitutes an original work of authorship. Moreover, section 103 provides that compilations fall within ''[t]he subject matter of copyright as specified by section 102,'' and the legislative history of the 1976 Act confirms what this means: ''Section 103 complements section 102: A compilation or derivative work is copyrightable if it represents an 'original work of authorship' *and falls within one or more of the categories listed in section 102.*'' H.R. Rep. 94–1476 at 57 (1976) (emphasis added).

This requirement indicates that compilation authorship is limited not only by the tripartite structure of the statutory definition of ''compilation,'' but that in addition, a creative selection, coordination, or arrangement must *also* result in one or more congressionally recognized categories of authorship.

Although the statute together with the legislative history warrant this conclusion, it is far from obvious when the statutory definition of ''compilation'' is read in isolation. Moreover, other portions of the legislative history have obscured this interpretation.

The legislative history states that the term ''works of authorship'' is said to ''include'' the seven categories of authorship listed in section 102 (now eight with the addition of ''architectural works''), but that the listing is ''illustrative and not limitative.'' H.R. Rep 94–1476, at 53. If these categories of authorship are merely illustrative, may courts or the Copyright Office recognize new categories of copyrightable authorship? Given that Congress chose to include some categories of authorship in the statute, but not other categories, did Congress intend to authorize the courts or the Copyright Office to recognize authorship that Congress did not expressly include in the statute? For instance, the decision to include ''pantomimes and choreographic works'' as a new category of authorship that did not exist under the 1909 Act was the subject of much deliberation, including a commissioned study and hearings. Copyright Office Study for Congress. Study No. 28, ''Copyright in Choreographic Works,'' by Borge Varmer; Copyright Law Revision, Part 2, Discussion and Comments on Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law, House Comm. on the Judiciary (February 1963) at 8–9. Similarly, the decision not to include typeface as copyrightable authorship was a deliberate decision. H.R. Rep 94–1476, at 55. Could Congress have intended the courts or the Office to second-guess such decisions, or accept forms of authorship never considered by Congress?

Again, the answer lies in the legislative history. First, the legislative history states that ''In using the phrase 'original works of authorship,' rather than 'all the writings of an author,' the committee's purpose was to avoid exhausting the constitutional power of Congress to legislate in this field, and to eliminate the uncertainties arising from the latter phrase.'' H.R. Rep 94–1476, at 51. Thus, one goal of the illustrative nature of the categories was to prevent foreclosing the congressional creation of new categories:

> The history of copyright law has been one of gradual expansion in the types of works accorded protection, and the subject matter affected by this expansion has fallen into one of two categories. In the first, scientific discoveries and technological developments have made possible new forms of creative expression that never existed before. In some of these cases the new expressive forms—electronic music, filmstrips, and computer programs, for example—could be regarded as an extension of copyrightable subject matter Congress had already intended to protect, and were thus considered copyrightable from the outset without the need of new legislation. In other cases, such as photographs, sound recordings, and motion pictures, statutory enactment was deemed necessary to give them full recognition as copyrightable works.
>
> Authors are continually finding new ways of expressing themselves, but it is impossible to foresee the forms that these new expressive methods will take. The bill does not intend either to freeze the scope of copyrightable technology or to allow unlimited expansion into areas completely outside the present congressional intent. Section 102 implies neither that that subject matter is unlimited nor that new forms of expression within that general area of subject matter would necessarily be unprotected.
>
> The historic expansion of copyright has also applied to forms of expression which, although in existence for generations or centuries, have only gradually come to be recognized as creative and worthy of protection. The first copyright statute in this country, enacted in 1790, designated only ''maps, charts, and books''; major forms of expression such as music, drama, and works of art achieved specific statutory recognition only in later enactments. Although the coverage of the present statute is very broad, and would be broadened further by explicit recognition of all forms of choreography,

there are unquestionably other areas of existing subject matter that this bill does not propose to protect but that future Congresses may want to.

Id. (emphasis added.)

This passage suggests that Congress intended the statute to be flexible as to the scope of established categories, but also that Congress also intended to retain control of the designation of entirely new categories of authorship. The legislative history goes on to state that the illustrative nature of the section 102 categories of authorship was intended to provide ''sufficient flexibility to free the courts from rigid or outmoded concepts of *the scope of particular categories.'' Id.* at 53 (emphasis added). The flexibility granted to the courts is limited to *the scope* of the categories designated by Congress in section 102(a). Congress did not delegate authority to the courts to create new categories of authorship. Congress reserved this option to itself.

If the federal courts do not have authority to establish new categories of subject matter, it necessarily follows that the Copyright Office also has no such authority in the absence of any clear delegation of authority to the Register of Copyrights.

Interpreting the Copyright Act as a whole, the Copyright Office issues this policy statement to announce that unless a compilation of materials results a work of authorship that falls within one or more of the eight categories of authorship listed in section 102(a) of title 17, the Office will refuse registration in such a claim.

Thus, the Office will not register a work in which the claim is in a ''compilation of ideas,'' or a ''selection and arrangement of handtools'' or a ''compilation of rocks.'' Neither ideas, handtools, nor rocks may be protected by copyright (although an expression of an idea, a drawing of a handtool or a photograph of rock may be copyrightable).

On the other hand, the Office would register a claim in an original compilation of the names of the author's 50 favorite restaurants. While neither a restaurant nor the name of a restaurant may be protected by copyright, a list of 50 restaurant names may constitute a literary work—a category of work specified in section 102(a)—based on the author's original selection and/or arrangement of the author's fifty favorite restaurants.

An example that has occupied the attention of the Copyright Office for quite some time involves the copyrightability of the selection and arrangement of preexisting exercises, such as yoga poses. Interpreting the statutory definition of ''compilation'' in isolation could lead to the conclusion that a sufficiently creative selection, coordination or arrangement of public domain yoga poses is copyrightable as a compilation of such poses or exercises. However, under the policy stated herein, a claim in a compilation of exercises or the selection and arrangement of yoga poses will be refused registration. Exercise is not a category of authorship in section 102 and thus a compilation of exercises would not be copyrightable subject matter. The Copyright Office would entertain a claim in the selection, coordination or arrangement of, for instance, photographs or drawings of exercises, but such compilation authorship would not extend to the selection, coordination or arrangement of the exercises themselves that are depicted in the photographs or drawings. Rather such a claim would be limited to selection, coordination, or arrangement of the photographs or drawings that fall within the congressionally-recognized category of authorship of pictorial, graphic and sculptural works.

As another example, Congress has stated that the subject matter of choreography does not include ''social dance steps and simple routines.'' H.R. Rep. 94–1476 at 54 (1976). A compilation of simple routines, social dances, or even exercises would not be registrable unless it results in a category of copyrightable authorship. A mere compilation of physical movements does not rise to the level of choreographic authorship unless it contains sufficient attributes of a work of choreography. And although a choreographic work, such as a ballet or abstract modern dance, may incorporate simple routines, social dances, or even exercise routines as elements of the overall work, the mere selection and arrangement of physical movements does not in itself support a claim of choreographic authorship.

A claim in a choreographic work must contain at least a minimum amount of original choreographic authorship. Choreographic authorship is considered, for copyright purposes, to be the composition and arrangement of a related series of dance movements and patterns organized into an integrated, coherent, and expressive whole.

Simple dance routines do not represent enough original choreographic authorship to be copyrightable. *Id.* Moreover, the selection, coordination or arrangement of dance steps does not transform a compilation of dance steps into a choreographic work unless the resulting work amounts to an integrated and coherent compositional whole. The Copyright Office takes the position that a selection, coordination, or arrangement of functional physical movements such as sports movements, exercises, and other ordinary motor activities alone do not represent the type of authorship intended to be protected under the copyright law as a choreographic work.

In addition to the requirement that a compilation result in a section 102(a) category of authorship, the Copyright Office finds that section 102(b) precludes certain compilations that amount to an idea, procedure, process, system, method of operation, concept, principle or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work. In the view of the Copyright Office, a selection, coordination, or arrangement of exercise movements, such as a compilation of yoga poses, may be precluded from registration as a functional system or process in cases where the particular movements and the order in which they are to be performed are said to result in improvements in one's health or physical or mental condition. *See, e.g, Open Source Yoga Unity* v. *Choudhury,* 2005 WL 756558, *4, 74 U.S.P.Q.2d 1434 (N.D. Cal. 2005) (''Here, Choudhury claims that he arranged the asanas in a manner that was both aesthetically pleasing and in a way that he believes is best designed to improve the practitioner's health.'').[1] While such a functional system or process may be aesthetically appealing, it is nevertheless uncopyrightable subject matter. A film or description of such an exercise routine or simple dance routine may be copyrightable, as may a compilation of photographs of such movements. However, such a copyright will not extend to the movements themselves, either individually or in combination, but only to the expressive description, depiction, or illustration of the routine that falls within a section 102(a) category of authorship.

The relationship between the definition of compilations in section 101 and the categories of authorship in section 102(a) has been overlooked even by the Copyright Office in the past. The Office has issued registration certificates that included ''nature of authorship'' statements such as ''compilations of exercises'' or ''selection and arrangement of exercises.'' In retrospect, and in light of the Office's closer analysis of legislative intent, the

[1] The court in *Open Source Yoga Unity* did not address section 102(b). *See also* the discussion of *Open Source Yoga Unity* below.

Copyright Office finds that such registrations were issued in error.

The Office recognizes that in one unreported decision, a district court concluded, albeit with misgivings, that there were triable issues of fact whether a sufficient number of individual yoga asanas were arranged in a sufficiently creative manner to warrant copyright protection. See *Open Source Yoga Unity,* discussed above. However, that court did not consider whether section 102(a) or (b) would bar a copyright claim in such a compilation.

The Copyright Office concludes that the section 102(a) categories of copyrightable subject matter not only establish what is copyrightable, but also necessarily serve to limit copyrightable subject matter as well. Accordingly, when a compilation does not result in one or more congressionally-established categories of authorship, claims in compilation authorship will be refused.

Dated: June 18, 2012.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2012–15235 Filed 6–21–12; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

EPA–HQ–OPPT–2011–0577; FRL–9352–7]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances; Withdrawal of Significant New Use Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is withdrawing significant new use rules (SNURs) promulgated under the Toxic Substances Control Act (TSCA) for seven chemical substances which were the subject of premanufacture notices (PMNs). EPA published these SNURs using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on the rule. Therefore, the Agency is withdrawing these SNURs, as required under the expedited SNUR rulemaking process. EPA intends to publish in the near future proposed SNURs for these seven chemical substances under separate notice and comment procedures.

DATES: This final rule is effective June 26, 2012.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@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. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of April 27, 2012 (77 FR 25236) (FRL–9343–4). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the Federal Register of April 27, 2012 (77 FR 25236), EPA issued several direct final SNURs, including SNURs for seven chemical substances that are the subject of this withdrawal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with § 721.160(c)(3)(ii), EPA is withdrawing these rules issued for seven chemical substances which were the subject of PMNs P–10–548, P–10–550, P–10–551, P–10–552, P–10–553, P–10–554, and P–10–555 because the Agency received notice of intent to submit adverse comments. EPA intends to publish proposed SNURs for these chemical substances under separate notice and comment procedures.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for these chemical substances that are being withdrawn was established at EPA–HQ–OPPT–2011–0577. That record includes information considered by the Agency in developing this rule and the notice of intent to submit adverse comments.

III. How do I access the docket?

To access the electronic docket, please go to *http://www.regulations.gov* and follow the on-line instructions to access docket ID number EPA–HQ–OPPT–2011–0577. Additional information about the Docket Facility is provided under **ADDRESSES** in the **Federal Register** of April 27, 2012 (77 FR 25236). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

IV. Statutory and Executive Order Reviews

This final rule revokes or eliminates existing regulatory requirements and does not contain any new or amended requirements. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** of April 27, 2012 (77 FR 25236). Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

V. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 15, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1,

300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by removing under the undesignated center heading ''Significant New Uses of Chemical Substances'' §§ 721.10402, 721.10403, 721.10404, 721.10405, 721.10406, and 721.10407.

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§§ 721.10402, 721.10403, 721.10404, 721.10405, 721.10406, and 721.10407 [Removed]

■ 4. Remove §§ 721.10402, 721.10403, 721.10404, 721.10405, 721.10406, and 721.10407.

[FR Doc. 2012–15221 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0182; FRL–9353–2]

RIN 2070–AB27

Significant New Use Rule on Certain Chemical Substances; Withdrawal of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is withdrawing a significant new use rule (SNUR) promulgated under the Toxic Substances Control Act (TSCA) for chemical substances identified generically as complex strontium aluminum, rare earth doped, which were the subject of premanufacture notices (PMNs) P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26. EPA published this SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on the rule. Therefore, the Agency is withdrawing this SNUR, as required under the expedited SNUR rulemaking process. Elsewhere in today's **Federal Register**, EPA is publishing (under separate notice and comment procedures) a proposed SNUR for these chemical substances.

DATES: This final rule is effective June 25, 2012.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@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. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of April 25, 2012 (77 FR 24613) (FRL–9345–4). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the **Federal Register** of April 25, 2012 (77 FR 24613), EPA issued several direct final SNURs, including a SNUR for the chemical substances that are the subject of this withdrawal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with § 721.160(c)(3)(ii), EPA is withdrawing the rule issued for chemical substances identified generically as complex strontium aluminum, rare earth doped, which were the subject of PMNs P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26, because the Agency received a notice of intent to submit adverse comments. Elsewhere in today's **Federal Register**, EPA is proposing a SNUR for these chemical substances via notice and comment rulemaking.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for these chemical substances that is being withdrawn was established at EPA–HQ–OPPT–2012–0182. That record includes information considered by the Agency in developing this rule and the notice of intent to submit adverse comments.

III. How do I access the docket?

To access the electronic docket, please go to *http://www.regulations.gov* and follow the online instructions to access docket ID number EPA–HQ–OPPT–2012–0182. Additional information about the Docket Facility is provided under **ADDRESSES** in the **Federal Register** of April 25, 2012 (77 FR 24613). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Statutory and Executive Order Reviews

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** of April 25, 2012 (77 FR 24613). Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

V. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 14, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,*

6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

§ 9.1 [Amended]

■ 2. The table in § 9.1 is amended by removing under the undesignated center heading ''Significant New Uses of Chemical Substances'' § 721.10423.

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.10423 [Removed]

■ 4. Remove § 721.10423.

[FR Doc. 2012–15227 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2010–0605; FRL–9679–2]

RIN 2060–AQ38

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of trans-1,3,3,3-tetrafluoropropene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises the EPA's definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA). This revision adds *trans*-1,3,3,3-tetrafluoropropene (also known as HFO-1234ze) to the list of compounds excluded from the definition of VOC on the basis that this compound makes a negligible contribution to tropospheric ozone formation. As a result, if you are subject to certain federal regulations limiting emissions of VOCs, your emissions of HFO-1234ze may not be regulated for some purposes. This action may also affect whether HFO-1234ze is considered a VOC for state regulatory purposes, depending on whether the state relies on the EPA's definition of VOC.

DATES: The final rule is effective on July 23, 2012.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0605. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information (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 either electronically in *www.regulations.gov* or in hard copy at the Docket ID No. EPA–HQ–OAR–2010–0605, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue Northwest, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket ID No. EPA–HQ–OAR–2010–0605 is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: David Sanders, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–01, Research Triangle Park, NC 27711; telephone: (919) 541–3356; fax number: 919–541–0824; email address: *sanders.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final rule include, but are not necessarily limited to, states (typically state air pollution control agencies) that control VOCs, and industries involved in the manufacture or use of refrigerants, aerosol propellants and blowing agents for insulating foams. Table 1 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 the types of entities that the 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. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. This action has no substantial direct effects on industry because it does not impose any new mandates on these entities, but, to the contrary, removes HFO-1234ze from the regulatory definition of VOC.

TABLE 1—POTENTIALLY AFFECTED REGULATED CATEGORIES AND ENTITIES

Industry group	SIC [a]	NAICS [b]
Refrigerants	2869, 3585	238220, 336111, 336391
Aerosol propellants	2869	325998
Blowing agents	2869, 3086	326140, 326150

[a] Standard Industrial Classification.
[b] North American Industry Classification System.

The use of this compound remains subject to other restrictions under the CAA. Specifically, the use of this compound as an aerosol propellant, blowing agent, or refrigerant or any other use in which it would substitute for chlorofluorocarbons, hydrochlorofluorocarbons, or their substitutes, is subject to regulation under the Significant New Alternatives Policy (SNAP) program (CAA § 612; 40 CFR 82 subpart G). The SNAP program has issued final listings for HFO-1234ze as an acceptable foam and refrigerant substitute and as an aerosol propellant (74 FR 50129, September 30, 2009; 75 FR 34017, June 16, 2010).

B. How is this preamble organized?

The information presented in this preamble is organized as follows:

I. General Information
  A. Does this action apply to me?
  B. How is this preamble organized?
II. Background
  A. The EPA's VOC Exemption Policy
  B. Petition to List HFO-1234ze as Exempt
III. Proposed Action and Response to Comments
IV. Final Action
V. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act
  E. Executive Order 13132: Federalism
  F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act
L. Judicial Review

II. Background

A. The EPA's VOC Exemption Policy

Tropospheric ozone, commonly known as smog, is formed when VOCs and nitrogen oxides (NO_X) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, the EPA and state governments limit the amount of VOCs that can be released into the atmosphere. The VOCs are those organic compounds of carbon which form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity—that is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly or form less ozone; therefore, changes in their emissions have limited effects on local or regional ozone pollution episodes. It has been the EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory VOC definition so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists compounds that it has determined to be negligibly reactive in its regulations (at 40 CFR 51.100(s)) as being excluded from the definition of VOC.

The CAA requires the regulation of VOCs for various purposes. Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of ''VOC,'' and hence what compounds shall be treated as VOCs for regulatory purposes. The policy of excluding negligibly reactive compounds from the VOC definition was first laid out in the ''Recommended Policy on Control of Volatile Organic Compounds'' (42 FR 35314, July 8, 1977) and was supplemented most recently with the ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans'' (Interim Guidance) (70 FR 54046, September 13, 2005). The EPA uses the reactivity of ethane as the threshold for determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and therefore suitable for exemption from the VOC definition. Compounds that are more reactive than ethane continue to be considered VOCs for regulatory purposes and therefore subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

The EPA has used three different metrics to compare the reactivity of a specific compound to that of ethane: (i) The reaction rate constant (known as k_{OH}) with the hydroxyl radical (OH); (ii) the maximum incremental reactivity (MIR) on a reactivity per unit mass basis; and (iii) the MIR expressed on a reactivity per mole basis. Differences between these three metrics are discussed below.

The k_{OH} is the reaction rate constant of the compound with the OH radical in the air. This reaction is typically the first step in a series of chemical reactions by which a compound breaks down in the air and participates in the ozone-forming process. If this step is slow, the compound will likely not form ozone at a very fast rate. The k_{OH} values have long been used by the EPA as a metric of photochemical reactivity and ozone-forming activity, and they have been the basis for most of the EPA's previous exemptions of negligibly reactive compounds from the regulatory definition of VOC. The k_{OH} metric is inherently a molar comparison, i.e., it measures the rate at which molecules react.

The MIR values, both by mole and by mass, are a more recently developed metric of photochemical reactivity derived from a computer-based photochemical model. This metric considers the complete ozone forming activity of a compound on a single day, and not merely the first reaction step.

The MIR values for compounds are typically expressed as grams of ozone formed per gram of VOC (mass basis), but may also be expressed as grams of ozone formed per mole of VOC (molar basis). For comparing the reactivities of two compounds, using the molar MIR values considers an equal number of molecules of the two compounds. Alternatively, using the mass MIR values compares an equal mass of the two compounds, which will involve different numbers of molecules, depending on the relative molecular weights. The molar MIR comparison is consistent with the original smog chamber experiments that underlie the original selection of ethane as the threshold compound, in that these experiments compared equal molar concentrations of individual VOCs. It is also consistent with previous reactivity determinations based on k_{OH} values, which are inherently molar. By contrast, the mass MIR comparison is more consistent with how MIR values and other reactivity metrics have been applied in reactivity-based emission limits, such as the national VOC emissions standards for aerosol coatings (73 FR 15604). Many other VOC regulations contain limits based upon a weight of VOC per volume of product, such as the EPA's regulations for limiting VOC emissions from architectural and industrial maintenance coatings (40 CFR part 59 subpart D). However, the fact that regulations are structured to measure VOC content by weight for ease of implementation and enforcement does not necessarily control whether VOC exemption decisions should be made on a weight basis as well.

The choice of the molar basis versus the mass basis for the ethane comparison can be significant. In some cases, a compound might be considered less reactive than ethane under the mass basis but not under the molar basis. For compounds with a molecular weight higher than that of ethane, use of the mass basis results in more VOCs being classified as less reactive than ethane than does use of the molar basis.

The EPA has considered the choice between a molar or mass basis for the comparison to ethane in past rulemakings and guidance. In the Interim Guidance, the EPA stated:

> [A] comparison to ethane on a mass basis strikes the right balance between a threshold that is low enough to capture compounds that significantly affect ozone concentrations and a threshold that is high enough to exempt some compounds that may usefully substitute for more highly reactive compounds.
>
> When reviewing compounds that have been suggested for VOC-exempt status, EPA will continue to compare them to ethane using k_{OH} expressed on a molar basis and MIR values expressed on a mass basis.

The EPA's 2005 Interim Guidance also noted that concerns have sometimes been raised about the potential impact of a VOC exemption on environmental endpoints other than ozone concentrations, including fine particle formation, air toxics exposures, stratospheric ozone depletion and climate change. The EPA has recognized, however, that there are existing regulatory and non-regulatory programs that are specifically designed to address these issues, and the EPA

continues to believe that the impacts of VOC exemptions on environmental endpoints other than ozone formation will be adequately addressed by these programs. The VOC exemption policy is intended to facilitate attainment of the ozone NAAQS, and questions have been raised as to whether the agency has authority to use its VOC exemption policy to address concerns that are unrelated to ground-level ozone. Thus, in general, VOC exemption decisions will continue to be based solely on consideration of a compound's contribution to ozone formation. However, if the EPA determines that a particular VOC exemption is likely to result in a significant increase in the use of a compound and that the increased use would pose a significant risk to human health or the environment that would not be addressed adequately by existing programs or policies, the EPA reserves the right to exercise its judgment in deciding whether to grant an exemption.

B. Petition To List HFO-1234ze as Exempt

Honeywell, Inc. submitted a petition to the EPA on December 2, 2009, requesting that HFO-1234ze (CAS 29118–24–9) be exempted from VOC control based on its low reactivity relative to ethane. The petitioner indicated that HFO-1234ze may be used in a variety of applications including as a refrigerant, an aerosol propellant, and a blowing agent for insulating foam. This molecule has diverse applications including as a blowing agent for polyurethanes, polystyrene and other polymers, and as an aerosol propellant.

Honeywell submitted several documents, including several peer-reviewed journal articles, to support its petition, and we made these available in the docket for this action. These documents contained k_{OH} values and MIR reactivity rates for ethane and HFO-1234ze. This information is reproduced below in Table 2. From the data in Table 2, it can be seen that the MIR for HFO-1234ze on a grams of ozone formed per gram of VOC basis is 0.098 which is only 35 percent that for ethane at 0.28 on the same basis. However, HFO-1234ze has a higher k_{OH} value than ethane, meaning that it initially reacts more quickly in the atmosphere than ethane. A molecule of HFO-1234ze is also more reactive than a molecule of ethane, as shown by the molar MIR (gO_3/mole VOC) values, since equal numbers of moles have equal numbers of molecules.

TABLE 2—REACTIVITIES OF ETHANE AND HFO-1234ZE

Compound	k_{OH} (cm^3/molecule-sec)	MIR (gO_3/mole VOC)	MIR (gO_3/gram VOC)
Ethane	2.4×10^{-13}	8.4	0.28
HFO-1234ze	9.25×10^{-13}	11.2	0.098

Notes:

1. k_{OH} value for ethane is from: R. Atkinson, D. L. Baulch, R. A. Cox, J. N. Crowley, R. F. Hampson, Jr., R. G. Hynes, M. E. Jenkin, J. A. Kerr, M. J. Rossi, and J. Troe (2004), Summary of evaluated kinetic and photochemical data for atmospheric chemistry. The reference cited in Note 3 gives a k_{OH} value of 2.54×10^{-13} for ethane, slightly different than the value shown in the table.
2. k_{OH} value for HFO-1234ze is from: R. Sondergaard, O. J. Nielsen, M. D. Hurley, T. J. Wallington, and R. Singh, "Atmospheric chemistry of *trans*-CF3CH=CHF: kinetics of the gas-phase reactions with Cl atoms, OH radicals, and O3." Chemical Physics Letters, 443 (2007) 199–204.
3. Maximum incremental reactivity or MIR (gO3/g VOC) values for ethane (page 177) and HFO-1234ze (page 201) are from: William P. L. Carter, "Development of the SAPRC–07 chemical mechanism and updated ozone reactivity scales" (updated 1/27/10).
4. Molar MIR (gO3/mole VOC) values were calculated from the mass MIR (gO3/g VOC) values by determining the number of moles per gram of the relevant organic compound.

III. Proposed Action and Response to Comments

Based on the mass MIR (gO3/g VOC) value for HFO-1234ze being equal to or less than that of ethane, the EPA proposed to find that HFO-1234ze is "negligibly reactive" and to exempt HFO-1234ze from the regulatory definition of VOC at 40 CFR 51.100(s). In the proposal, the EPA noted that the EPA's New Chemicals program under the Toxic Substances Control Act (TSCA) and the EPA's SNAP program under the CAA have both reviewed HFO-1234ze for potential risks to human health and the environment. After considering all relevant data currently available, the EPA was unable to find any unreasonable risks to human health or the environment from the expected use of HFO-1234ze. Based on this finding, the EPA did not find it necessary to take any actions to prevent unreasonable risk under TSCA. The SNAP program has issued determinations of acceptability for HFO-1234ze as an acceptable substitute for certain ozone depleting substances in a number of foam blowing end uses, as a refrigerant in non-mechanical heat transfer and as a propellant as stated in Section I.

There were four comments submitted to the docket during the public comment period. One comment was from the petitioning manufacturer Honeywell. One comment came from a manufacturer of products containing the compound. This commenter wrote that as a manufacturer of high quality specialty chemicals and supplies for electronic maintenance and repair, it considers HFO-1234ze to be a potential alternative to products containing higher global-warming potential compounds such as HFC-134a and HFC-152a. It further stated that in order for this product to be marketed in all parts of the U.S., it is essential that it be classified as a non-VOC. Separate comments came from two trade associations. All comments were in favor of exempting HFO-1234ze. None of the comments opposed using the gO_3/g VOC basis. The one comment which addressed that issue supported the use of the MIR on a gO_3/g VOC basis for granting exemptions.

IV. Final Action

The EPA is amending its definition of VOC at 40 CFR 51.100(s) to exclude HFO-1234ze as a VOC for ozone SIP and ozone control purposes. States are not obligated to exclude HFO-1234ze from control as a VOC. However, states may not take credit for controlling HFO-1234ze in their ozone control strategies.

In our October 17, 2011, proposal (76 FR 64059), we also proposed to exempt 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf) from the definition of VOC. We are not taking final action on that proposal at this time.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of

Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). It does not contain any recordkeeping or reporting requirement.

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 final 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 notice on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (*See* 13 CFR 121.201); (2) A governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of 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 this 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 final rule will not impose any requirements on 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. The action imposes no enforceable duty on any state, local or tribal governments, or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action addresses the exemption of a chemical compound from the VOC definition. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. While this final rule is not subject to the Executive Order, the EPA has reason to believe that ozone has a disproportionate effect on active children who play outdoors (62 FR 38856; 38859, July 18, 1997). The EPA has not identified any specific studies on whether or to what extent this chemical compound may affect children's health.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action revises the EPA's definition of VOCs for purposes of preparing SIPs to attain the NAAQS for ozone under title I of the CAA.

I. National Technology Transfer and Advancement Act

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 the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (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.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it will not affect the level of protection provided to human health or the environment.

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 Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular application; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure or practice that do not substantially affect the rights or obligations of non-agency parties, 5 U.S.C. 804(3). The EPA is not required to submit a rule report

regarding this action under section 801 because this is a rule of particular applicability to manufacturers and users of these specific exempt chemical compounds. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on July 23, 2012.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit Court within 60 days from the date the final action is published in the **Federal Register**. Filing a petition for review by the Administrator of this final action 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 must be final, and shall not postpone the effectiveness of such action. Thus, any petitions for review of this action related to the exemption of HFO-1234ze from the definition of VOC must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 7, 2012.

Lisa P. Jackson,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51, subpart F, continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

§ 51.100 [Amended]

■ 2. Section 51.100 is amended at the end of paragraph (s)(1) introductory text by removing the words ''and perfluorocarbon compounds which fall into these classes:'' and adding in their place the words ''*trans*-1,3,3,3-tetrafluoropropene; and perfluorocarbon compounds which fall into these classes:''.

[FR Doc. 2012–15347 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; FCC 11–161]

Tariffs (Other Than Tariff Review Plan); Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of 3 years, revisions to an information collection associated with the Commission's *Connect America Fund,* Report and Order (*Order*). The Commission submitted revisions to this information collection under control number 3060–0298 to OMB for review and approval, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), 77 FR 20629, April 5, 2012. OMB approved the revisions on May 29, 2012.

DATES: The amendments to 47 CFR 61.3(bbb)(2) and 69.3(e)(12) published at 76 FR 73830, November 29, 2011, were approved by OMB on May 29, 2012, and are effective on June 22, 2012.

FOR FURTHER INFORMATION CONTACT: Belinda Nixon, Wireline Competition Bureau, (202) 418–1520 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This document announces that, on May 29, 2012, OMB approved, for a period of 3 years, information collection requirements contained in the Commission's *Order,* FCC 11–161, published at 76 FR 73830, November 29, 2011. The OMB Control Number is 3060–0298. The Commission publishes this notice as an announcement of the effective date rules requiring OMB approval. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 29, 2012, for the information collection requirements contained in the Commission's rules at §§ 61.3(bbb)(2) and 69.3(e)(12).

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0298.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

Estimated Annual Burden: 7,350 responses; 20 hours to 50 hours; 215,500 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 201, 202, 203, and 251(b)(5) of the Communications Act of 1934, as amended.

Needs and Uses: On November 18, 2011, the Commission adopted the *Order,* FCC 11–161, published at 76 FR 73830, November 29, 2011, that requires or permits incumbent and competitive local exchange carriers as part of transitioning regulation of interstate and intra-state switched access rates and reciprocal compensation rates to bill-and-keep under section 251(b)(5) of the Communications Act of 1934, as amended, to file tariffs with state commissions and the FCC. This transition affects different switched access rates at specified timeframes and establishes an Access Recovery Charge by which carriers will be able to assess end uses a monthly charge to recover some or all of the revenues they are permitted to recover resulting from reductions in intercarrier compensation rates. The information collected through a carrier's tariff is used by the Commission and state commissions to determine whether services offered are just and reasonable as the Act requires. The tariffs and any supporting documentation are examined in order to

determine if the services are offered in a just and reasonable manner.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–14600 Filed 6–21–12; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 77, No. 121
Friday, June 22, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2012–0023]

Disclosure of Consumer Complaint Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of proposed policy statement.

SUMMARY: The Bureau of Consumer Financial Protection (the ''Bureau'') is requesting comment on a proposed policy statement regarding the Bureau's disclosure of data from consumer complaints about financial products and services other than credit cards. Concurrent with the present notice, the Bureau is separately finalizing a Policy Statement (the ''Policy Statement'') describing its plans to disclose consumer credit card complaint data. The present notice (the ''Concurrent Notice'') describes the Bureau's plan to duplicate the data disclosure practices described in the Policy Statement for consumer complaints about other consumer financial services products and services within the Bureau's jurisdiction.

DATES: Comments in response to the Concurrent Notice are due on or before July 19, 2012.

ADDRESSES: You may submit comments in response to the Concurrent Notice, identified by Docket No. CFPB–2012–0023, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: The Bureau encourages the early submission of information and other comments. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all submissions received will be posted without change to *http://www.regulations.gov.* In addition, submissions will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All submissions, including attachments and other supporting materials, will become part of the public record and will be subject to public disclosure. Do not include sensitive personal information, such as account numbers or Social Security numbers. Comments will not be edited to remove any identifying or contact information, such as name and address information, email addresses, or telephone numbers.

FOR FURTHER INFORMATION CONTACT: Scott Pluta, Office of Consumer Response, Bureau of Consumer Financial Protection, at (202) 435–7306; or Will Wade-Gery, Division of Research, Markets and Regulations, Consumer Financial Protection Bureau, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

A. Credit Card Policy Statement

On December 8, 2011, the Bureau of Consumer Financial Protection (the ''Bureau'') published in the **Federal Register** a proposed policy statement describing its plans to disclose data about the credit card complaints that consumers submit to the Bureau. After receiving and considering a number of comments, the Bureau has now finalized its plans for credit card complaint disclosure. To provide guidance to the public, including industry participants, those credit card-specific plans are being published in final form (the ''Policy Statement'') at the same time as this Concurrent Notice.

As described in the Policy Statement, the Bureau will disclose data about credit card complaints in two ways. First, the Bureau will issue its own periodic reports about credit card complaint data. Second, the Bureau will provide public access to an electronic database (the ''public database'') containing certain fields for each unique credit card complaint. Together these disclosures are intended to help provide consumers and others with ''timely and understandable information to make responsible decisions about financial transactions'' and to enhance the credit card market's ability to ''operate transparently and efficiently.'' [1] It is this two-part system that the present Concurrent Notice proposes to duplicate for other consumer complaints.

B. Complaint System

The Bureau's Office of Consumer Response (''Consumer Response'') launched a system for accepting and processing credit card complaints in July 2011.[2] In December 2011, Consumer Response expanded this system (the ''Complaint System'') to include mortgages. This year, Consumer Response has further expanded the Complaint System to cover certain other consumer loans as well as bank products such as checking and savings accounts, check cashing services, and remittance services. The Bureau expects that the Complaint System, before the end of 2012, will accept and handle complaints about all consumer financial products and services within the Bureau's jurisdiction.

Consumers submit complaints to Consumer Response in several ways, including via the Bureau's Web site, *http://www.consumerfinance.gov.* The different methods of submission do not vary by the product or service identified in a complaint. Thus, the online intake process is common across complaints addressed to different products, with consumers asked to complete an effectively identical series of data fields, including contact information, the name of the financial services company involved, and the type of issue involved. The process for handling the complaints that are received is also common across complaints directed to different products and services. Complaints are authenticated and forwarded to the company involved. Companies may then respond in detail, and are instructed to categorize the nature of their response pursuant to detailed guidance that Consumer Response provides institutions participating in the Complaint System. Consumers may dispute the adequacy of

[1] 12 U.S.C. 5511(b)(1) & (5).

[2] The Bureau receives consumer complaints under the terms of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

a company's response and can log on to the Complaint System to review the progress of their complaints through the system.[3] These procedures do not vary by the product or service that is the subject of a complaint.

II. Proposed Extension of Policy Statement To Apply to Other Complaint Data

As a general matter, the Bureau believes that the basic structure of the credit card complaint data disclosure policy, including the public database, can appropriately be duplicated for other consumer products and services in addition to credit cards.[4] As a result, the Bureau is proposing that the two-part complaint data disclosure system described in the Policy Statement be extended to cover complaint data about these other products and services.

The same purposes underlying the credit card complaint data Policy Statement apply to its extension to complaint data about other products. The authority to disclose the data in the public database and in the Bureau's own reporting is also the same. The Bureau's plans to publish its own reports on complaint data apply, without any needed adjustment, across all products and services.[5] In addition, as discussed above, the Complaint System is effectively identical across products, which means that the same fields can be disclosed in the public database without regard to the precise product or service that is the subject of a given complaint.

The general issues raised by narrative field disclosure are also common across products or services. The same privacy concerns that led the Bureau to withhold credit card complaint narratives pending further analysis exist for complaint narratives involving other products and services. Thus, the only public database field that the Bureau plans to develop further in connection with extending its disclosure policy to complaints about other products and services would be the field to identify the type of product or service involved.[6] With that one development, the existing policy can be extended to complaint data about other products and services.

As a result, the Bureau proposes to duplicate the existing credit card complaint data disclosure system—which is described in detail in the Policy Statement—for all other consumer financial products and services within the Bureau's jurisdiction. This Concurrent Notice, therefore, does not provide any separate text for a proposed policy statement to apply to complaint data across all products or services.

Comments received in connection with finalizing the Policy Statement will be considered with respect to the application of the Policy Statement to other products. The Bureau has carefully considered all comments that would apply to disclosure of complaint information generally, and has addressed them in the final Policy Statement.[7] The Bureau therefore seeks comments that are specific to the proposed extension of the policy for one or more new product areas.

Finally, the Bureau notes that any extension of the disclosure system for other complaint data would not be finalized until the Bureau is able to consider whatever adjustments might be necessary in light of operational experience and to address comments received in response to this Concurrent Notice. In addition, any such extension might be phased in at different times for different products.

Authority: 12 U.S.C. 5492(a), 5493(b)(3)(C), 5496(c)(4), 5511(b)(1), (5), 5512(c)(3)(B).

Dated: June 15, 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2012–15161 Filed 6–21–12; 8:45 am]

BILLING CODE 4810–AM–P

[3] Complaints may also be subject to further investigation by Consumer Response or follow-up by other parts of the Bureau. The Complaint System is described in more detail in a number of Bureau reports, including the *Consumer Response Annual Report for 2011* (March 31, 2012) at *http://files.consumerfinance.gov/f/201204_cfpb_ConsumerResponseAnnualReport.pdf,* the *Semi-Annual Report of the Consumer Financial Protection Bureau* (January 30, 2012) at *http://www.consumerfinance.gov/reports/semi-annual-report-of-the-consumer-financial-protection-bureau/,* and the *Consumer Response Interim Report on CFPB's Credit Card Complaint Data* (November 30, 2011) at *http://www.consumerfinance.gov/reports/consumer-response-interim-report-on-cfpbs-credit-card-complaint-data.*

[4] In comments made in response to the proposed credit card complaint data disclosure policy statement, several consumer and privacy groups supported expanding the policy to cover other products as well.

[5] Several of the Bureau's published reports on complaints already include data on mortgage-related complaints.

[6] Technically, this field already exists in the public database. At this point, however, it does not give reviewers meaningful information because all the complaints in the public database concern a single product, namely credit cards.

[7] Although trade groups opposed the current system, several noted that their comments applied generally to the public disclosure of any consumer complaint data. In fact, the Bureau received comments from several mortgage trade associations, which noted the Bureau's indication that credit card complaint disclosures might provide a model for subsequent disclosure of complaint data about other products.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR parts 1910, 1915, 1917, 1918, and 1926

[Docket No. OSHA–2011–0184]

RIN 1218–AC65

Updating OSHA Standards Based on National Consensus Standards; Head Protection

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: OSHA is proposing to revise the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring, and marine terminals standards regarding requirements for head protection. OSHA is updating the references in its standards to recognize the 2009 edition of the American National Standard for Industrial Head Protection, and is deleting the 1986 edition of that national consensus standard because it is out of date. OSHA also is including the construction industry in this rulemaking to ensure consistency among the Agency's standards. OSHA is publishing a direct final rule in today's **Federal Register** taking this same action.

DATES: Submit comments to this proposal (including comments to the information-collection (paperwork) determination described under the section titled Procedural Determinations), hearing requests, and other information by July 23, 2012. All submissions must bear a postmark or provide other evidence of the submission date. (The following section titled **ADDRESSES** describes methods available for making submissions.)

ADDRESSES: Submit comments, hearing requests, and other information as follows:

- *Electronic.* Submit comments electronically to *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.
- *Facsimile.* OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693–1648; OSHA does not require hard copies of these documents. Instead of transmitting

facsimile copies of attachments that supplement these documents (*e.g.,* studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210. These attachments must clearly identify the sender's name, date, subject, and docket number (*i.e.,* OSHA–2011–0184) so that the Agency can attach them to the appropriate document.

• *Regular mail, express delivery, hand (courier) delivery, and messenger service.* Submit comments and any additional material (*e.g.,* studies, journal articles) to the OSHA Docket Office, Docket No. OSHA–2011–0184 or RIN No. 1218–AC65, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA's TTY number is (877) 889–5627.) Note that security-related procedures may result in significant delays in receiving comments and other written materials by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

• *Instructions.* All submissions must include the Agency name and the OSHA docket number (*i.e.,* OSHA Docket No. OSHA–2011–0184). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

OSHA requests comments on all issues related to this proposal. It also welcomes comments on its findings that this proposal would have no negative economic, paperwork, or other regulatory impacts on the regulated community. This proposal is the companion document to a direct final rule published in the ''Rules'' section of today's **Federal Register**. If OSHA receives no significant adverse comment on the proposal or direct final rule, it will publish a **Federal Register** notice confirming the effective date of the direct final rule and withdrawing this companion proposed rule. The confirmation may include minor stylistic or technical corrections to the document. For the purpose of judicial review, OSHA considers the date that it confirms the effective date of the direct final rule to be the date of issuance. However, if the Agency receives significant adverse comment on the proposal or direct final rule, OSHA will publish a timely withdrawal of the direct final rule and proceed with the proposed rule, which addresses the same revisions to its head protection standards.

• *Docket.* The electronic docket for this proposal established at *http://www.regulations.gov* lists most of the documents in the docket. However, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are accessible at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663.

SUPPLEMENTARY INFORMATION: *Copies of this Federal Register* notice. Electronic copies of this **Federal Register** proposed rule are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

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I. Background

Subpart I of OSHA's general industry standards contains design requirements for head protection (*see* 29 CFR 1910.135). OSHA has similar requirements in subpart I of part 1915 (Shipyard Employment), subpart E of part 1917 (Marine Terminals), subpart J of part 1918 (Longshoring), and subpart E of part 1926 (Construction). The general industry and maritime rules require that the specified head protection comply with national consensus standards incorporated by reference into the OSHA standards unless the employer demonstrates that non-specified head-protection equipment is at least as effective in protecting workers as equipment that complies with the incorporated national consensus standard. (*See* 29 CFR 1910.135(b)(2); 1915.155(b)(2); 1917.93(b)(2); 1918.103(b)(2).) These design provisions are part of comprehensive requirements to ensure that employees use personal protective equipment that will protect them from hazards in the workplace.

As discussed in a previous **Federal Register** notice (69 FR 68283), OSHA is undertaking a series of projects to update its standards to incorporate the latest versions of national consensus and industry standards. These projects include updating or removing national consensus and industry standards referenced in existing OSHA standards, updating regulatory text of standards adopted directly by OSHA from the language of outdated consensus standards, and, when appropriate, replacing specific references to outdated national consensus and industry standards with performance-oriented requirements.

On May 17, 2007, OSHA published a Notice of Proposed Rulemaking (NPRM) (72 FR 27771) entitled ''Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment.'' The NPRM did not propose to revise construction industry standards covering personal protective equipment. The Agency received approximately 25 comments on the NPRM. On December 4, 2007, OSHA held an informal public hearing and received testimony from nine witnesses. Several of the commenters (Exs. OSHA–2007–0044–0021 and –0034) and witnesses (Tr. at 18–19 and 51–52) questioned the Agency's decision not to include the construction industry in this rulemaking. OSHA responded at the

hearing that it decided not to include the construction industry because of the size of the undertaking and OSHA's limited resources (Tr. at 18–19; *see,* also, 74 FR 46352).

On September 9, 2009, OSHA published the final rule (74 FR 46350), which became effective October 9, 2009. However, OSHA did not include in the final rule a reference to the 2009 edition of the American National Standards Institute (ANSI) standard for industrial head protection (ANSI Z89.1) because this edition was not available to OSHA prior to the date (February 8, 2008) the administrative law judge who presided over the hearing closed the rulemaking record.

This NPRM would update the references in 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) to recognize the 2009 edition of ANSI Z89.1, which is the most recent version of that standard. These revisions would allow use of helmets that comply with the three most recent editions of the consensus standard.

In addition, this NPRM would remove the current references to ANSI Z89.1–1969 and ANSI Z89.2–1971 in 29 CFR 1926.100(b) and (c), and replace these outdated head-protection references with the same three editions of ANSI Z89.1 referenced in the general industry and maritime industry standards. This action addresses the comments received during the initial rulemaking cited above, and will ensure consistency in the Agency's standards. By making the requirements of OSHA's head protection standards consistent with the Agency's other standards and with current industry practices, this NPRM would eliminate confusion and clarify employer obligations, while providing up-to-date protection for workers exposed to falling objects.

II. Direct Final Rulemaking

In a direct-final rulemaking, an agency publishes a direct final rule in the **Federal Register** along with a statement that the rule will become effective unless the agency receives significant adverse comment within a specified period. The agency also publishes concurrently with the direct final rule an identical proposed rule. If the agency receives no significant adverse comment, the direct final rule becomes effective. If, however, the agency receives significant adverse comment, the agency withdraws the direct final rule and treats the comments as submissions on the proposed rule.

OSHA uses direct final rules because it expects the rulemaking to be noncontroversial; provide protection to employees that is at least equivalent to the protection afforded to them by the outdated standard development organization standard; and impose no significant new compliance costs on employers (69 FR 68283, 68285). OSHA used direct final rules previously to update or, when appropriate, revoke references to outdated national consensus standards in OSHA rules (*see, e.g.,* 69 FR 68283, 70 FR 76979, 71 FR 80843, and 76 FR 75782).

For purposes of the direct final rule, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach. In determining whether a comment necessitates withdrawal of the direct final rule, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. OSHA will not consider a comment recommending additional revisions to a rule to be a significant adverse comment unless the comment states why the direct final rule would be ineffective without the revisions. If OSHA receives a timely significant adverse comment, the Agency will publish a **Federal Register** notice withdrawing the direct final rule no later than 60 days after the publication date of the notice.

This NPRM furthers the objectives of Executive Order 13563, which requires that the regulatory process ''promote predictability and reduce uncertainty'' and ''identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.'' As described below in this **Federal Register** notice, the revisions will make the requirements of OSHA's head protection standards consistent with current industry practices, thereby eliminating confusion and clarifying employer obligations. OSHA believes that these revisions do not compromise the safety of employees, but will enhance employee protection. Therefore, the Agency believes that updating and replacing the national consensus standards in its head protection standards is consistent with, and promotes the objectives of, Executive Order 13563.

III. Summary and Explanation of Revisions to the Head Protection Standards

A. Updating the General Industry and Maritime Industry Standards

OSHA published the previous revision of the general industry and maritime head protection standards on September 9, 2009 (74 FR 46350), which became effective October 9, 2009. These revised standards permit compliance with ANSI Z89.1–2003, ANSI Z89.1–1997, or ANSI Z89.1–1986. Since OSHA published the previous revision, ANSI Z89.1–2009 has become available. This proposed rulemaking would update the references in 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) to recognize the 2009 edition of ANSI Z89.1.

To determine the differences between the 2009 and 2003 editions of ANSI Z89.1, the Agency prepared a side-by-side comparison of the two editions; Table 1 provides the results of this comparison. As this table shows, the differences between these two editions of the consensus standard are the provisions in the 2009 edition permitting optional testing for helmets worn in the backwards position (''reverse wearing''), optional testing for helmets at colder temperatures than provided in previous editions, and optional testing for the high-visibility coloring of helmets. If manufacturers choose to evaluate their helmets using any of these three testing options, and the helmets pass the specified tests, then the manufacturer may mark the helmets accordingly. Section 7.3.1 of ANSI Z89.1–2009 adds the reverse-wearing testing option; various other sections include instructions regarding, or references to, the reverse-wearing testing option. Section 7.3.2 of the consensus standard adds the high-visibility testing option, and Table 1 of the consensus standard provides information about color measurements; various other sections of the consensus standard include instructions regarding, or references to, optional high-visibility testing. Section 8.4.1.2.1 of the consensus standard describes the preconditioning necessary to conduct helmet testing at lower temperatures than specified in previous editions of the consensus standard, and various other sections of the consensus standard contain additional information about such testing.

TABLE 1—DIFFERENCES BETWEEN ANSI Z89.1–2003 AND ANSI Z89.1–2009 [1]

Section No. in ANSI Z–89.1–2009	Description of differences
3	Adds definitions of ''manufacturer'' and ''test plaque.'' Removes definitions of ''cap'' and ''hat.''
4	Adds a requirement that manufacturers mark helmets that meet the reverse-wearing requirements with a reverse-wearing mark.
4.3	Adds a new, optional section, ''Reverse Wearing,'' that explains that reverse- wearing helmets must pass all testing requirements whether worn facing frontwards or backwards.
6.1	Adds a requirement that manufacturer's instructions for helmets include instructions for reverse wearing if applicable.
6.2	Adds instructions for marking helmets tested for reverse-donning, lower-temperature, and high-visibility capabilities.
7.3.1	Adds new, optional section, ''Reverse Wearing,'' that permits marking helmets with the reverse-wearing symbol if those helmets pass specified tests when mounted in the reverse-wearing position.
7.3.2	Adds new, optional section, ''High-Visibility,'' that permits marking helmets ''HV'' if those helmets have chromaticity and a total luminance factor at specified levels.
Table 1	Adds new table, ''Color, High-Visibility Helmets,'' specifying the levels of referenced by 7.3.2.
8.1.2	In this section, which addresses what headform size to use in testing, adds a provision that requires the testing facility to decide the most suitable size if the manufacturer does not do so.
8.1.3	Adds a requirement that the testing facility establish a separate dynamic test line (DTL) for samples tested in the reverse-wearing position.
8.2.1	Adds a requirement that the testing facility use a minimum of 36 test samples in compliance testing for helmets marked for reverse wearing.
8.3.1	Adds instructions for positioning reverse-wearing samples for DTL marking.
8.4.1.2.1	Adds new section, ''Lower Temperatures,'' that describes an optional procedure for preconditioning helmet samples at cold temperatures prior to testing.
9.2.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in force-transmission testing.
9.2.3	For mounting samples for force-transmission testing, adds an instruction that the sample shall be ''oriented in the normal wearing position.'' Also adds instructions for mounting samples in the reverse-wearing position in preparation for force-transmission testing.
9.3.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in apex-penetration testing.
9.4.2	Removes ''vertical guard rail'' from the list of components that comprise the test apparatus used in impact-energy attenuation testing.
9.4.2.1	For mounting samples for impact-energy attenuation testing, adds an instruction that ''[t]he test sample shall be mounted in its normal wearing position on the headform with the STL parallel to the basic plane of the headform.'' Adds instructions for mounting samples in the reverse-wearing position in preparation for impact-energy attenuation testing.
9.5.3	For mounting samples before off-center penetration testing, adds an instruction that the sample shall be ''oriented in the normal wearing position.'' Adds instructions for mounting samples in the reverse-wearing position in preparation for off-center penetration testing.
9.8	Adds a new section, ''High-Visibility Testing,'' that explains how to prepare a test sample for high-visibility testing, and how to measure the color of that sample.
10	Moves the section ''Normative References,'' which appeared in ANSI Z89.1–2003 as Appendix E, to the main text. Adds ''ASTM E1164–02 *Colorimetry—Standard Practice for Obtaining Spectrophotometric Data for Object-Color Evaluation''* to the list of referenced standards.
Table 3—Schedule of Tests.	Revises Table 2 of ANSI Z89.1–2003 by: replacing various entries labeled ''Cold'' with ''Cold or Lower Temperature''; for samples tested in the reverse-wearing position, adding entries force-transmission, impact-energy attenuation, and off-center penetration testing; and adding to the second, narrative page information about testing in the reverse-wearing position for Type I and Type II helmets.
Appendices	Adds the title ''Appendices'' and a notation that ''[t]he following appendices [are] not part of American National Standard ANSI/ISEA Z89.1–2009, but are included for information only.''
Appendix A	Adds a statement to paragraph A7 that ''[h]elmet decorations should not be used to obscure dents, cracks, non-manufactured holes, other penetrations, burns or other damages.''

[1] This table provides only a summary of the differences between these two standards, and may not describe completely all of the differences between the standards or the content of any provision of the standards. Consult the published versions of the standards for an accurate determination of the differences between the standards.

As shown in the comparison provided in Table 1, ANSI Z89.1–2009 also includes other differences from ANSI Z89.1–2003. These differences include: (1) Removing the definitions of ''cap'' and ''hat'' from the 2003 edition and inserting definitions of ''manufacturer'' and ''test plaque'' in the 2009 edition; (2) permitting the testing facility to determine an appropriate size of the headform if the manufacturer did not specify the size; (3) requiring orientation of test samples in the normal wearing position when conducting various test procedures; and (4) removing vertical guard rails from the lists of necessary components for specified test equipment.

OSHA believes that it is consistent with the usual and customary practice of employers in the general and maritime industries to require use of head protection that complies with the 1997, 2003, or 2009 editions of ANSI Z89.1. Therefore, the Agency determined that incorporating ANSI Z89.1–2009 into 29 CFR 1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), and 1918.103(b)(1) will not add a compliance burden for employers. OSHA invites the public to comment on whether the revisions in the 2009 edition of the consensus standard represent current industry practice.

B. Updating the Construction Industry Standard

The 2009 revision to the general industry and maritime industry personal protective equipment standards did not address the construction standards requiring personal protective equipment. Therefore, the construction standards at 29 CFR 1926.100(b) and (c) still require

compliance with ANSI Z89.1–1969 and ANSI Z89.2–1971, respectively. These consensus standards, which set forth requirements regarding different types of helmets now both addressed in Z89.1, are out of date.[1]

In view of the limited useful life of protective helmets and the length of time (over 40 years) since OSHA last updated these standards, the Agency believes that no protective helmets currently are available or in use that manufacturers tested in accordance with the requirements of ANSI Z89.1–1969 and ANSI Z89.2–1971. To bring the construction standard up to date, and to ensure consistency across OSHA standards, OSHA is amending 29 CFR 1926.6 and 1926.100 to permit compliance with ANSI Z89.1–1997, ANSI Z89.1–2003, or ANSI Z89.1–2009.

In reviewing ANSI Z89.1–2009, the Agency prepared side-by-side comparisons of the 2009 edition of ANSI Z89.1 with the 1969 edition of ANSI Z89.1 and the 1971 edition of ANSI Z89.2; Table 2 provides the results of these comparisons. ANSI–Z89.1–1969 addresses protective helmets of all types, except those helmets that protect employees from high-voltage electric shock and burns. ANSI Z89.2–1971 addresses protective helmets that protect employees from high-voltage electric shock and burns. ANSI subsequently combined the testing requirements of these standards in the 1997, 2003, and 2009 editions of ANSI Z89.1; therefore, these editions of ANSI Z89.1 address all types of helmets, including helmets that protect employees from falling-object and electrical hazards.

As Table 2 demonstrates, the 2009 edition of the ANSI Z89.1 differs from ANSI Z89.1–1969 and ANSI Z89.2–1971. The 2009 edition defines Type I and Type II helmets by the areas of the head to which the helmets afford protection, rather than by whether the helmets have a brim. The 2009 edition also renames the classes of helmets tested for protection against electrical hazards (*i.e.,* classes G, E, and C instead of A, B, and C), although it still bases helmet classification on the capacity of the helmet to protect employees from electrical hazards. In addition, the 2009 edition eliminates a fourth class of helmets used in fire fighting. Many requirements included in the 1969 and 1971 editions, such as requirements specifying the type of material manufacturers must use when making different components and specifications regarding helmet accessories, no longer appear in the 2009 edition. Most importantly, ANSI revised the performance requirements and test methods. Accordingly, the 2009 edition includes fundamental updates such as more and different types of test methods, and the use of different test equipment for performing these test methods. Other variations between the 2009 and 1969 and 1971 editions emanate from these fundamental updates.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
1.1 Scope—Explains that the standard describes Types and Classes, as well as testing and performance requirements for protective helmets.	1 Scope—Explains that the standard establishes specifications for helmets that protect the heads of occupational workers from impact and penetration from falling and flying objects, and from limited electric shock and burn, but does not include high-voltage protective helmets.	1.1 Scope—Explains that the standard establishes specifications for helmets to protect the heads of electrical workers from impact and penetration from falling or flying objects, and from high-voltage electric shock and burn.
1.2 Purpose—Explains that the standard establishes minimum performance requirements for protective helmets that reduce the forces of impact and penetration, and that may provide protection from electric shock.	No purpose section.	1.2 Purpose—Explains that the standard contains general, detailed, and physical requirements for the procurement of helmets that afford optimum protection for electrical workers, and includes supplemental safety requirements recommended for authorities considering establishing regulations or codes concerning the use of protective helmets for electrical workers.
1.3 Limitations—Explains the limitations of protective helmets that meet the requirements of the standard in preventing injuries.	No limitations section.	No limitations section.
2 Compliance—Provides that ''[a]ny statement(s) of compliance with this standard shall mean that the product meets all applicable requirements for the Type and Class. It is specifically intended that partial utilization of this standard is prohibited.''	No compliance section.	No compliance section.

[1] As noted earlier in Section I (''Background'') of in this **Federal Register** notice, OSHA did not include the construction industry in the previous rulemaking that updated the head-protection standards because of the size of the undertaking and OSHA's limited resources.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
3 Definitions—Does not define ''sweatband'' or ''winter liner.'' Modifies slightly the definitions of ''brim,'' ''crown strap,'' and ''headband.'' Modifies the definitions of ''chin straps,'' ''helmet,'' ''nape strap,'' ''peak,'' ''shell,'' and ''suspension.'' Adds definitions of ''accessory,'' ''apex,'' ''basic plane,'' ''dynamic test line (DTL),'' ''flammability,'' ''harness,'' ''manufacturer,'' ''midsagittal plane,'' ''positioning index,'' ''projection,'' ''protective padding,'' ''reference plane,'' ''reference headform,'' ''shall,'' ''should,'' ''static test line (STL),'' ''test line,'' and ''test plaque.'' Removes definitions of ''sweatband'' and ''winter liner.''	2 Definitions—Provides definitions for ''brim,'' chin strap,'' ''crown straps,'' ''headband,'' ''helmet,'' ''nape strap,'' ''peak,'' ''shell,'' ''suspension,'' ''sweatband,'' and ''winter liner.''	2 Definitions—Same definitions as ANSI Z89.1–1969.
4 Types and Classes—Classifies helmets as either as Type I or Type II, and either as meeting the Class G, E, or C electrical requirements. Also notes that manufacturers must mark helmets meeting the reverse-wearing requirements accordingly.	3 Types and Classes—Lists the following types and class: Type 1—Helmet, full brim, Type 2—Helmet, brimless with peak, and Class B—High-voltage protection. No provisions comparable to 4.1 and 4.2 of ANSI Z89.1–2009.	3 Types and Classes—Lists the following types and classes: Type 1—Helmet, full brim, Type 2—Helmet, brimless, with peak, Class A—Limited voltage protection, Class C—No voltage protection, and Class D—Limited voltage protection, Fire Fighters' Service, Type 1, only. No provisions comparable to 4.1 and 4.2 of ANSI Z89.1–2009.
4.1 Defines Type 1 helmets as helmets ''intended to reduce the force of impact resulting from a blow only to the top of the head,'' and Type 2 helmets as helmets ''intended to reduce the force of impact resulting from a blow to the top or sides of the head.''		
4.2 Defines Class G (General) helmets as helmets ''intended to reduce the danger of contact with low voltage conductors,'' Class E (Electrical) helmets as helmets ''intended to reduce the danger of contact with higher voltage conductors,'' and Class C (Conductive) helmets as helmets ''not intended to provide protection against contact with electrical hazards.''		
4.3 Reverse Wearing—Helmets manufactured for reverse wearing must pass all optional testing requirements whether worn facing forward or backwards in accordance with the manufacturers' instructions.	No reverse wearing option.	No reverse wearing option.
No materials section.	4 Materials—Provides general specifications regarding materials used in helmets, such materials that are water resistant, slow burning, non-irritating to normal skin, and, for Class D helmets, fire resistant.	No materials section.
No recommended supplemental requirements section.	No recommended supplemental requirements section.	4 Recommended Supplemental Requirements—Describes requirements recommended for authorities considering establishing regulations or codes concerning the use of protective helmets for electrical workers, including when helmets are necessary, what minimum requirements they should meet, etc.
No general requirements section.	5 General Requirements—Sets forth requirements regarding pieces of protective helmets, including its shell (5.1), headband (5.2), sweatband (5.2.1), and crown straps (5.3).	5 General Requirements—Sets forth requirements regarding pieces of protective helmets, including its shell (5.2), headband (5.3), sweatband (5.3.1), and crown straps (5.4).
5 Accessories—Provides that ''[a]ccessories installed by the manufacturer shall not cause the helmet to fail the requirements of this standard.''	5.4 Accessories—Sets forth requirements regarding specific helmet accessories: chin strap and nape strap (5.4.1.), winter liners (5.4.2), face shields and welding helmets (5.4.3), and lamp brackets (5.4.4).	5.5 Accessories—Sets forth requirements regarding specific helmet accessories: chin strap and nape strap (5.5.1), winter liners (5.5.2), and face shields (5.5.3).
6.1 Instructions—Requires instructions ''explaining the proper method of size adjustment, use, care, useful service life guidelines and, if applicable, reverse wearing.''	5.5 Instructions—Provides that ''[e]ach helmet shall be accompanied by instructions explaining the proper method of adjusting the suspension and headband.''	5.6 Instructions—Provides only that ''[e]ach helmet shall be accompanied by instructions explaining the proper method of adjusting the suspension and headband.''

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
6.2 Marking—Requires that manufacturers permanently mark helmets with the name of the manufacturer, the date of manufacture, "ANSI/ISEA Z89.1," the Type and Class designations and any applicable optional marking criteria, and the approximate headsize range. Specifies the minimum size of the markings.	5.6 Marking—Requires that manufacturers mark helmets with the name of the manufacturer, "ANSI Z89.1–1969," and the Class. Specifies the minimum size of the markings.	5.7 Marking—Requires only that helmets be marked with the name of the manufacturer, "ANSI Z89.2–1971," and "Class B." Specifies the minimum size of the markings.
No separate, detailed requirements section.	6 Detailed Requirements—Provides additional, specific requirements regarding the helmet's shell (6.1), headband (6.2), sweatband (6.2.1), and crown straps (6.3).	6 Detailed Requirements—Provides additional, specific requirements regarding the helmet's shell (6.1), headband (6.2), sweatband (6.2.1), and crown straps (6.3).
7 Performance Requirements—Sets forth test results required when testing facilities test Type I and Type II helmets for flammability (7.1.1), force transmission (7.1.2), apex penetration (7.1.3), and electrical insulation properties for Class G (7.1.4.1) and Class E (7.1.4.2) ratings. Additional testing for Type II helmets for impact-energy attenuation (7.2.1), off-center penetration (7.2.2), and chin-strap retention (7.2.3). Requirements for optional testing of reverse-wearing helmets (7.3.1) and high-visibility helmets (7.3.2).	7 Physical Requirements—Sets forth test results required when testing facilities test Class A, Class C, and Class D helmets, as applicable, for insulation resistance (not applicable to Class C helmets) (7.1), impact resistance (7.2), penetration resistance (7.3), weight (7.4), flammability (7.5), and water absorption (7.6).	7 Physical Requirements—Sets forth test results required when testing facilities test Class B helmets for insulation resistance (7.1), impact resistance (7.2), penetration resistance (7.3), weight (7.4), flammability (7.5), and water absorption (7.6).
8 Selection and Preparation of Test Samples	8 Methods of Test	Methods of Test
8.1 Headforms—Provides instructions regarding the materials and size of headforms the testing facility is to use in each type of test; explains that reference test lines are necessary; and notes that various attached figures show the manner in which testing facilities are to mount headforms in preparation for each type of test.	8.1 Preparation of Samples—Requires that, for insulation resistance and water absorption tests, the testing facility remove any coating over the sample helmets. Provides temperatures and, in cases of disagreement, humidity levels at which testing must occur.	8.1 Preparation of Samples—Requires that, for insulation resistance and water absorption tests, the testing facility remove any coating over the sample helmets. Provides temperatures and, in cases of disagreement, humidity levels at which testing must occur.
8.2 Test Samples—Explains how many samples are necessary for testing, refers to Table 3 for the order of testing, and provides temperatures and, in cases of disagreements, humidity levels at which testing must occur.		
8.3 Test Sample Markings—Requires the testing facility to mark test samples to indicate the location of reference test lines, and describes procedures for marking the dynamic test line (DTL) and static test line (STL).		
8.4 Helmet Preconditioning—Describes procedures for preconditioning test samples in hot, cold, optional lower temperatures, and wet conditions; this section also provides time limits after preconditioning for the test facility to conduct impact, penetration, and chin-strap retention tests.		

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
9 Test Methods 9.1 Flammability—For flammability testing, describes the method for preparing (marking) test samples, components of the test apparatus, calibration, test procedures, and recording results. 9.2 Force Transmission—For force-transmission testing, describes the test method for preparing (conditioning) test samples, components of the test apparatus, mounting samples, calibration, test procedures, and recording results. 9.3 Apex Penetration—Describes the test method for preparing (conditioning) test samples, components of the test apparatus, mounting samples, calibration, test procedures, and recording results. 9.4 Impact Energy Attenuation—Describes methods for preparing (marking and conditioning) test samples, components of the test apparatus, methods for mounting samples, the impact anvil, the test headform, the accelerometer, calibration, test procedures, and recording results. 9.5 Off Center Penetration—Describes methods for preparing (marking and conditioning) test samples, components of the test apparatus, methods for mounting samples, calibration, test procedures, and recording results. 9.6 Chin Strap Retention (Type II only)—Describes methods for preparing (conditioning) test samples, components of the test apparatus, calibration, test procedures, and recording results.	8 Methods of Test—See Section 8.5 (''Flammability'') below. 8.2 Insulation Resistance Test—Describes components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.3 Impact Resistance Tests—Describes components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.4 Penetration Resistance—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.5 Flammability—Describes the test method to determine conformance with 7.5 (using ASTM D635–68), preparing specimens, mounting specimens, test procedure, and reporting results. 8.6 Water Absorption—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results.	8 Methods of Test—See Section 8.5 (''Flammability Test'') below. 8.2 Insulation Resistance Test—Describes components of the test apparatus, mounting of specimens, test procedures, and reporting results. 8.3 Impact Resistance Tests—Describes components of the test apparatus, mounting specimens, test procedures for the impact-absorption test and mechanical-proof test, and reporting results. 8.4 Penetration Resistance Test—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results. 8.5 Flammability Test—Describes the test method to determine conformance with 7.5 (using ANSI K.65.21–1969/ASTM D 635–1969, and provides instructions for reporting results. 8.6 Water Absorption Test—Describes the components of the test apparatus, mounting specimens, test procedures, and reporting results.
9.7 Electrical Insulation—Describes methods for preparing test samples (for Class E only, force-transmission test, one conditioned hot and one conditioned cold), components of the test apparatus, calibration, test procedures (separately for Class G and Class E helmets), and recording results. 9.8 High-Visibility Testing—Describes procedures for sampling and conditioning test plaques, and determining color.	See Section 8.2 (''Insulation Resistance Test'') above.	See Section 8.2 (''Insulation Resistance Test'') above.
10 Normative References—Provides complete citations for standards on colorimetry, headforms, and instrumentation referenced in ANSI Z89.1–2009.	No section on reference standards.	9 Revision of American National Standards Referred to in This Document—Notes that recently published ANSI standards supersede the ANSI standards on flammability testing, and eye and face protection, referenced in ANSI Z89.2–1971.
Table 1 Color, High-Visibility Helmets—Provides information about chromaticity and minimum total luminance factors.	No comparable table.	No comparable table.
Table 2 Sizing Chart—Provides sizing guidance for 17 head-band sizes ranging from 6½ to 8½ inches.	No comparable table.	Table 1 Comparative Hat and Cap Sizes—Provides sizing guidance for 13 head-band sizes ranging from 6½ to 8 inches.
No comparable tables.	Table 1 Transmitted Forces in Pounds—Provides force values based on Brinell hardness numbers and the diameter of the impression.	Table 2 Transmitted Forces in Pounds—Provides force values based on Brinell hardness numbers and the diameter of the impression.
Table 3 Schedule of Tests—Lists for each combination of test method and type of preconditioning, the minimum number of samples, test sample numbers, and test sequence for each helmet type and class. Also provides additional instructions regarding testing each type and class of helmet.	No comparable table.	No comparable table.
Figure 1—Diagram of the ISO headform, with dimensions for sizes E, J, and M of the headform.	No comparable figure.	No comparable figure.

TABLE 2—DIFFERENCES BETWEEN ANSI Z89.1–2009 AND ANSI Z89.1–1969 AND ANSI Z89.2–1971 [1]—Continued

ANSI Z–89.1–2009	ANSI Z89.1–1969	ANSI Z89.2–1971
No comparable figure.	Figure 1—Schematic of a Brinell Hardness Penetrator Assembly.	Figure 1—Schematic of a Brinell Hardness Penetrator Assembly.
Figure 2—Diagram of the proper location of the Dynamic Test Line.	No comparable figure.[2]	No comparable figure.[2]
No comparable photograph.	Figure 2—Photograph of a suggested apparatus for the measurement of crown clearance.	Figure 2—Photograph of a suggested apparatus for the measurement of crown clearance.
Figure 3—Diagram of the headform used for force-transmission testing.	No comparable figure.	No comparable figure.
Figure 4—Diagram of a typical impact-energy attenuation headform fixture.	No comparable figure.	No comparable figure.
Figure 5—Diagram of a typical penetration headform fixture.	No comparable figure.	No comparable figure.
Figure 6—Diagram of a chin-strap-retention test apparatus.	No comparable figure.	No comparable figure.
Figure 7—Diagram of a typical force-transmission test apparatus.	No comparable figure.	No comparable figure.
Figure 8—Diagram of a typical penetration test apparatus.	No comparable figure.	No comparable figure.
Figure 9—Diagram of a typical penetrator.	No comparable figure.	No comparable figure.
Figure 10—Diagram of a typical impact-energy attenuation test apparatus.	No comparable figure.	No comparable figure.
Figure 11—Diagram of the proper location of the Static Test Line.	No comparable figure.[3]	No comparable figure.[3]
Figure 12—Diagram of a flammability test apparatus.	No comparable figure.	No comparable figure.
Appendix A Recommendations, Cautions, Use, and Care—Provides guidance regarding instructions and warnings on helmets, fitting, cleaning, painting, and inspecting helmets, limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), precautions to use when handling helmets, and safe conditions (*i.e.,* that impact, penetration, and electrical-insulation testing does not indicate safe impact- and voltage-exposure levels for industrial workers).	Appendix A1 Recommendations Concerning Equipment—Provides guidance regarding tying laces, painting and cleaning shells, periodic inspection of shells and helmet components for damage and wear (including removal from service when necessary), limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), sizes (*i.e.,* the provision of extra-small and extra-large helmet sizes by manufacturers), and precautions to use when handling helmets).	Appendix Recommendations and Precautions Concerning Helmet Use and Maintenance—Provides guidance regarding tying laces, cleaning shells, periodic inspection of shells and helmet components for damage and wear (including removal from service when necessary), limitations of helmet protection (*i.e.,* conditions that may reduce the protection afforded by helmets), sizes (*i.e.,* the provision of extra-small and extra-large helmet sizes by manufacturers), precautions to use when handling helmets, safe voltages (*i.e.,* that the ''mechanical proof test'' and ''minimum breakdown voltage test'' do not indicate safe voltage levels for using insulating safety headgear), and inspection (*i.e.,* use of periodic visual inspections and electrical tests to detect conditions of helmets that may impair their dielectric strength).
Appendix B Electrical Insulation Testing—Describes equipment guidelines and precautions for high-voltage test equipment.	No comparable appendix.	No comparable appendix.
Appendix C Force Transmission Testing—Provides design and performance specifications for equipment used in force-transmission testing, calibration procedures for this test equipment (including force-measuring systems and velocity-measuring systems), and a procedure for determining the repeatability value the impactor (and specifications for acceptable values).	No comparable appendix.	No comparable appendix.
Appendix D Impact Energy Attenuation Testing—Provides design and performance specifications for equipment used in impact-energy attenuation testing.	No comparable appendix.	No comparable appendix.
Appendix E Test Equipment Sources—Provides a list of sources for suitable test equipment.	No comparable appendix.	No comparable appendix.

[1] This table provides only a summary of the differences among these three standards, and may not describe completely all of the differences among the standards or the content of any provision of the standards. Consult the published versions of the standards for an accurate determination of the differences among the standards.

[2] No provision of the standard addresses the Dynamic Test Line.

[3] No provision of the standard addresses the Static Test Line.

OSHA believes that it is consistent with the usual and customary practice of employers in the construction industry to require use of head protection that complies with ANSI Z89.1–2009, ANSI Z89.1–2003, or ANSI Z89.1–1997. OSHA further believes that the provisions of ANSI Z89.1–1969 and ANSI Z89.2–1971 are outdated, and employers in the industry are not using head protection that complies with the testing requirements of these outdated standards. Accordingly, the Agency determined that incorporating these editions of ANSI Z89.1 consensus standards for head protection into 29 CFR 1926.100(b) does not add a compliance burden for employers. OSHA invites the public to comment on whether use of head protection compliant with ANSI Z89.1–2009, ANSI Z89.1–2003, or ANSI Z89.1–1997 represents current industry practice.

Paragraph (b)(2) of the proposed head protection standard for construction (*see* § 1926.100 (Head protection) below) addresses the requirement for the employer to ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in proposed paragraph (b)(1) of this section. This requirement updates paragraph (c) of existing § 1926.100, which references outdated ANSI Z89.2–1971 (''Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B''). ANSI subsequently discontinued this separate consensus standard and included its provisions in ANSI Z89.1 beginning with the 1981 edition of ANSI Z89.1. OSHA is including paragraph (b)(2) in this NPRM to emphasize that employers must ensure that each employee exposed to the hazards of high-voltage electric shock and burns wears head protection that complies with the electrical-insulation testing requirements specified in Section 9.7 of the 1997, 2003, or 2009 editions of ANZI Z89.1, in addition to the requirements in those consensus standards that test helmets for protection against falling-object hazards under various conditions.

In addition to updating the references to ANSI Z89.1, OSHA is adding a provision to the construction standard that permits an employer to use head protection that is not manufactured in accordance with one of the incorporated ANSI Z89.1 consensus standards if the employer can demonstrate that the head protection it selects protects employees at least as effectively as head protection tested and constructed in accordance with one of the incorporated ANSI Z89.1 standards. Currently, the construction standard does not include such a provision. However, the general industry and maritime industry standards do include such a provision (*e.g.,* § 1910.135(b)(2)). Therefore, to allow flexibility and ensure consistency across standards, OSHA also is adding identical language to the construction standard.

In conclusion, OSHA examined the standards for head protection issued by ANSI over the last 40 years, and found that these standards reflect the state of the art in terms of design safety that existed when ANSI issued them. However, OSHA also found improvements in the design-safety requirements of each successive edition of these standards that would enhance employee protection from falling-object and electrical hazards.

IV. Procedural Determinations

A. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 651 *et seq.,* is to achieve to the extent possible safe and healthful working conditions for all employees. 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard that ''requires conditions, or the adoption or use of one or more practices, means, methods, operations, processes reasonably necessary or appropriate to provide safe or healthful employment or places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) of the OSH Act when a significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk. *See Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980). OSHA already determined that requirements for head protection, including design requirements, are reasonably necessary or appropriate within the meaning of Section 652(8).

This NPRM neither reduces employee protection nor alters an employer's obligations under the existing standards. OSHA believes that, under this NPRM, employers would be able to continue to use the same equipment they are using currently to meet their compliance obligation under the existing standards' design-criteria requirements. This NPRM would provide employers with additional options for meeting the design-criteria requirements for head protection—options most employers already are using. Therefore, this NPRM would not alter the substantive protection that employers must provide to employees and the compliance burdens on employers. Accordingly, OSHA need not, in this rulemaking, determine significant risk or the extent to which this NPRM would reduce that risk, as typically required by *Industrial Union Department.*

B. Preliminary Economic Analysis and Regulatory Flexibility Act Certification

OSHA preliminarily determined that this NPRM is not economically significant within the context of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. In addition, this NPRM complies with Executive Order 13563. The rulemaking imposes no additional costs on any private or public sector entity, and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

This rulemaking allows employers increased flexibility in choosing head protection for employees. However, this NPRM would not require an employer to update or replace its head protection solely as a result of this proposed rule if the head protection currently in use meets the revised standards. Furthermore, because the rule would impose no costs, OSHA certifies that it will not have a significant economic impact on a substantial number of small entities.

C. OMB Review Under the Paperwork Reduction Act of 1995

OSHA preliminarily determined that this NPRM would not impose new information-collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30. Accordingly, the Agency does not have to prepare an Information Collection Request in association with this NPRM.

Members of the public may respond to this paperwork determination by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218–AC08), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to submit these comments to the rulemaking docket, along with their comments on other parts of this NPRM. For instructions on submitting these comments and accessing the docket, *see*

the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES.** However, OSHA will not consider any comment received on this paperwork determination to be a ''significant adverse comment'' as specified above under Section II (''Direct Final Rulemaking'').

To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–2222.

D. Federalism

OSHA reviewed this NPRM in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Agencies must limit any such preemption to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 667), Congress expressly provides that states may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; states that obtain Federal approval for such a plan are referred to as ''State-Plan States.'' (29 U.S.C. 667.) Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State-Plan States are free to develop and enforce under state law their own requirements for occupational safety and health standards.

While OSHA drafted this NPRM to protect employees in every state, Section 18(c)(2) of the Act permits State-Plan States and U.S. Territories to develop and enforce their own standards for the design of head protection provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this NPRM.

In summary, this NPRM complies with Executive Order 13132. In states without OSHA-approved state plans, this rulemaking limits state policy options in the same manner as other OSHA standards. In State-Plan States, this rulemaking does not significantly limit state policy options because, as explained in the following section, State-Plan States do not have to adopt the direct final rule.

E. State-Plan States

When Federal OSHA promulgates a new standard or amends an existing standard to be more stringent than it was previously, the 27 states or U.S. territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing state standard covering this area is at least as effective as the new Federal standard or amendment. 29 CFR 1953.5(a). In this regard, the state standard must be at least as effective as the final Federal rule. State-Plan States must adopt the Federal standard or complete their own standard within six months of the publication date of the final Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard, State-Plan States need not amend their standards, although OSHA may encourage them to do so. The following 22 states and U.S. territories have OSHA-approved occupational safety and health plans that apply only to private-sector employers: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. In addition, Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply only to state and local government employees.

With regard to this NPRM, it will not impose any additional or more stringent requirements on employers compared to existing OSHA standards. Through this rulemaking, OSHA is updating the references in its standards to recognize the recent edition of the applicable national consensus standard, and deleting outdated editions of the national consensus standards referenced in its existing head protection standards. This NPRM does not require employers to update or replace their head-protection equipment solely as a result of this rulemaking if the equipment currently in use meets the requirements of this NPRM. OSHA believes that removing references to ANSI Z89.1–1969 and –1986, and ANSI Z89.2–1971, will have no effect on employers because, in view of the limited useful life of protective helmets, the Agency assumes that no protective helmets currently are available or in use that manufacturers tested in accordance with these consensus standards.

Therefore, this NPRM does not require action under 29 CFR 1953.5(a), and State-Plan States would not need to adopt this rule or show OSHA why such action is unnecessary. However, to the extent these State-Plan States have the same standards as the OSHA standards affected by this NPRM, OSHA encourages them to adopt the amendments.

F. Unfunded Mandates Reform Act

OSHA reviewed this NPRM according to the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (58 FR 58093, Oct. 28, 1993). 75 FR at 48130. As discussed above in Section IV.B (''Preliminary Economic Analysis and Regulatory Flexibility Certification'') of this preamble, OSHA determined that this NPRM would impose no additional costs on any private-sector or public-sector entity. Accordingly, this NPRM would require no additional expenditures by either public or private employers.

As noted above under Section IV.E (''State-Plan States'') of this preamble, OSHA standards do not apply to state or local governments except in states that elected voluntarily to adopt an OSHA-approved state plan. Consequently, this NPRM does not meet the definition of a ''Federal intergovernmental mandate'' (*see* Section 421(5) of the UMRA (2 U.S.C. 658(5)). Therefore, for the purposes of the UMRA, OSHA certifies that this NPRM does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

G. Consultation and Coordination With Indian Tribal Governments

OSHA reviewed this NPRM in accordance with Executive Order 13175, 65 FR 67,249 (Nov. 9, 2000), and determined that it would not have ''tribal implications'' as defined in that order. This NPRM would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

H. Consultation With the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (ACCSH or ''the Committee''), established pursuant to Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*), in setting standards for construction work. Specifically, § 1911.10(a) requires the Assistant Secretary to provide ACCSH with a draft proposed rule (along with pertinent factual information), and give the Committee an opportunity to submit recommendations. *See* also § 1912.3(a) (''[W]henever occupational safety or health standards for construction activities are proposed, the Assistant Secretary [for Occupational Safety and Health] shall consult the Advisory Committee.'').

On December 15, 2011, OSHA presented a draft of this NPRM to ACCSH, as well as tables comparing the provisions of the outdated reference standards with the provisions of the recent editions of ANSI Z89.1. OSHA then explained that the rule would update the references to ANSI Z89.1 and Z89.2 in the current construction standard. The ACCSH subsequently recommended that OSHA pursue this rulemaking and replace the outdated references to ANSI Z89.1–1969 in the current construction standard for head protection with references to the 1997, 2003, and 2009 editions of ANSI Z89.1, and replace the outdated reference to ANSI Z89.2–1971 with the 2009 edition of ANSI Z89.1. (A transcription of these proceedings is available at Ex. Docket No. OSHA–2011–0124–0025, pp. 237–245.)

V. Authority and Signature

David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, authorized the preparation of this NPRM. OSHA is issuing this NPRM pursuant to 29 U.S.C. 653, 655, 657, 5 U.S.C. 553, Secretary of Labor's Order 1–2012 (77 FR 3912), and 29 CFR part 1911.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, and 1926

Head protection, Occupational safety and health, Safety.

Signed at Washington, DC, on June 14, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated above in the preamble, the Occupational Safety and Health Administration proposes to amend 29 CFR parts 1910, 1915, 1917, 1918, and 1926 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

1. Revise the authority citation for subpart A of part 1910 to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Numbers 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Pub. L. 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

2. Amend § 1910.6 by revising paragraphs (e)(71) through (e)(73) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(e) * * *

(71) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1910.135(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(72) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1910.135(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(73) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1910.135(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

3. Amend § 1910.135 by revising paragraph (b)(1) to read as follows:

§ 1910.135 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1910.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1910.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1910.6.

* * * * *

PART 1915—[AMENDED]

4. The authority citation for part 1915 continues to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Section 1915.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Sections 1915.120 and 1915.152 of 29 CFR also issued under 29 CFR 1911.

Subpart A—[Amended]

5. Amend § 1915.5 by revising paragraphs (d)(1)(ix)through (d)(1)(xi) to read as follows:

§ 1915.5 Incorporation by reference.

* * * * *

(d)(1) * * *

(ix) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1915.155(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone:

703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(x) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1915.155(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(xi) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1915.155(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

6. Amend § 1915.155 by revising paragraph (b)(1) to read as follows:

§ 1915.155 Head protection.

* * * * *

(b) *Criteria for protective helmets.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1915.5;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1915.5; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1915.5.

* * * * *

PART 1917—[AMENDED]

7. Revise the authority citation for part 1917 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 7 FR 3912),as applicable; and 29 CFR 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart A—[Amended]

8. Amend § 1917.3 by revising paragraphs (b)(9) through (b)(11) to read as follows:

§ 1917.3 Incorporation by reference.

(b) * * *

(9) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1917.93(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(10) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1917.93(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(11) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1917.93(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart E—[Amended]

9. Amend § 1917.93 by revising paragraph (b)(1) to read as follows:

§ 1917.93 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1917.3;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1917.3; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1917.3.

* * * * *

PART 1918—[AMENDED]

10. Revise the authority citation for part 1918 to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR 1911.

Section 1918.90 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart A—[Amended]

11. Amend § 1918.3 by revising paragraphs (b)(9) through (b)(11) to read as follows:

§ 1918.3 Incorporation by reference.

* * * * *

(b) * * *

(9) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1918.103(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(10) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1918.103(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(11) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1918.103(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart J—[Amended]

12. Amend § 1918.103 by revising paragraph (b)(1) to read as follows:

§ 1918.103 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1918.3;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1918.3; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1918.3.

* * * * *

PART 1926—[AMENDED]

A—General [Amended]

13. Revise the authority citation for subpart A of part 1926 to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 6–96 (62 FR 111), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

14. Amend § 1926.6 as follows:

a. Revise paragraphs (h)(28) and (h)(29).

b. Add new paragraph (h)(30).

§ 1926.6 Incorporation by reference.

* * * * *

(h) * * *

(28) American National Standards Institute (ANSI) Z89.1–2009, American National Standard for Industrial Head Protection, approved January 26, 2009; IBR approved for § 1926.100(b)(1)(i). Copies of ANSI Z89.1–2009 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(29) American National Standards Institute (ANSI) Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1926.100(b)(1)(ii). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

(30) American National Standards Institute (ANSI) Z89.1–1997, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1926.100(b)(1)(iii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *www.safetyequipment.org.*

* * * * *

Subpart E—[Amended]

15. Revise the authority citation for subpart E of part 1926 to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

16. Amend § 1926.100 as follows:

a. Add paragraphs (b)(1) through (b)(3).

b. Remove paragraph (c).

§ 1926.100 Head protection.

* * * * *

(b) * * *

(1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, ''American National Standard for Industrial Head Protection,'' incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 (''Electrical Insulation'') of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

[FR Doc. 2012–15031 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0008; FRL–9691–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the New Hanover County Airport Burn Pit Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the New Hanover County Airport Burn Pit Superfund Site (Site) located in Wilmington, North Carolina, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA, with the concurrence of the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (DENR), has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by July 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0008, by one of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: stepter.beverly@epa.gov*
- *Fax:* (404) 562–8788, Attention: Beverly Hudson-Stepter
- *Mail:* Beverly Hudson-Stepter, Remedial Project Manager, Superfund Remedial Section B, Superfund Remedial and Site Evaluation Branch, Superfund Division, U.S. Environmental

Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

• *Hand delivery:* U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional EPA Office is open for business Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1989–0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

Regional Site Information Repository: U.S EPA Record Center, Attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862, Hours 8 a.m.–4 p.m., Monday through Friday by appointment only or

Local Site Information Repository: New Hanover County Public Library, 210 Chestnut Street, Wilmington, North Carolina, Phone: (910) 798–7309 Hours 9 a.m.–8 p.m., Monday and Tuesday, 9 a.m.–6 p.m., Wednesday and Thursday, 9 a.m.– 5 p.m., Friday and Saturday, closed on Sunday.

FOR FURTHER INFORMATION CONTACT: Beverly Hudson-Stepter, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, Superfund Remedial Section B, Superfund Remedial and Site Evaluation Branch, Superfund Division, U. S. Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30311, (404) 562–8816, Electronic mail at: *Stepter.Beverly@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Introduction

EPA Region 4 announces its intent to delete the New Hanover County Airport Burn Pit Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remains eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the New Hanover County Airport Burn Pit Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

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

1. responsible parties or other persons have implemented all appropriate response actions required;

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

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

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

III. Deletion Procedures

The following procedures apply to deletion of the Site:

1. EPA consulted with the State of North Carolina prior to developing this Notice of Intent to Delete.

2. The State of North Carolina, through DNER, has concurred on the deletion of the Site from the NPL.

3. Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, *Wilmington Star News.* The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the site from the NPL.

4. The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public

inspection and copying at the Site information repositories identified above.

If adverse comments on this deletion notice are received within the thirty (30) day public comment period, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. In addition, 40 CFR Section 300.425(e)(3) states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

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

Site Background and History

New Hanover County Airport Burn Pit Site Superfund Site, (EPA ID: NCD981021157) is located in Wilmington, Brunswick County, North Carolina. The Site consists of a four-acre plot and is located on Gardner Road approximately 500 feet west of the Wilmington International Airport in New Hanover County. The airport is approximately one mile north of Wilmington, North Carolina, at latitude 34°16′29″ north and longitude 77°54′55″ west. The New Hanover County Airport Burn Pit was constructed in 1968. From 1968 to 1979, the Cape Fear Technical Institute (now known as the Cape Fear Community College), used the burn pit for fire-training purposes, burning jet fuel and gasoline in the burn pit, and extinguishing the fires with water. The Wilmington Fire Department used the burn pit for fire-training purposes from 1968 to 1976 and the United States Air Force used the burn pit for fire-training purposes during the Vietnam War.

Jet fuel and drainage from petroleum fuel storage tanks in the area were burned, and the fires were extinguished with water, carbon dioxide, and dry chemicals. Some time prior to 1982, materials used in river spill cleanups were dumped into the burn pit.

In 1986, the North Carolina Division of Health Services discovered heavy metals and numerous organics in the soil around the burn pit and in other nearby soil samples. Surface water within three (3) miles downstream of the Site is used for recreational activities, and an estuary wetland is located approximately one (1) mile from the Site. Approximately 6,300 people obtain drinking water from public and private wells within three (3) miles of the Site. A private well is located approximately 1,500 feet to the northwest of the Site.

To date, the USEPA has identified six (6) potentially responsible parties (PRPs) at the Site: the County of New Hanover, North Carolina; the City of Wilmington, North Carolina; the Cape Fear Community College; the United States Air Force; Axel Johnson Inc. and Sprague Energy Corporation.

The Site was proposed for the NPL on June 24, 1988 (53 FR 23978), and finalized on the NPL March 31, 1989 (54 FR 13296).

Removal Action

EPA negotiated with the City of Wilmington, New Hanover County and Cape Fear Community College in March 1989, for performance of the remedial investigation/feasibility study (RI/FS), but the parties were unable to reach an agreement. In May 1990, however, the parties signed an Administrative Order on Consent (AOC) for a removal action to address all of the source material present on site. The removal began in November 1990 and was completed in December 1990. The removal involved removing waste materials, contaminated water, and contaminated surface and subsurface soils. A total of 12,500 gallons of water were removed from the pit and 6,000 gallons of water were removed from on-site tanks. Contaminated surface and subsurface soils were removed from the firefighter training areas. In addition, structures associated with firefighter training activities were dismantled and removed, including the fuel supply tank and its associated underground piping system, the railroad tank car, the automobile bodies, and the aircraft mock-up. A total of 3,220 tons of contaminated soil and debris were removed. Excavated areas were backfilled to grade with 2,680 cubic yards of clean soil.

Remedial Investigation/Feasibility Study (RI/FS)

EPA conducted a fund-lead RI/FS in 1991 and 1992. Sampling performed indicated that no surface or subsurface soil contamination remained above concentrations that would indicate unacceptable risks to humans or the environment. This was a strong indication that the soil removal action in 1990 was successful in removing contaminated soils. Contaminants detected in the groundwater also included VOCs, SVOCs, and metals. Contaminants were found in both the shallow and deep zones of the upper water bearing formation. No monitoring wells (MWs) were completed in the underlying aquifer. The health risk posed by this NPL site is primarily from the future use of the groundwater as a potable source. This is due to the presence of contaminants at concentrations above EPA's MCLs for drinking water and the State of North Carolina groundwater quality standards.

The Feasibility Study (FS) conducted by CDM and finalized on May 18, 1992 addressed alternatives for groundwater remediation.

Selected Remedy

A ROD was signed on 9/29/1992 to address contaminated groundwater at the site. The remedial action objectives of the ROD were to restore groundwater to beneficial use. The remedy components include:

- No further action for Site soils;
- A one-year period for the collection of additional data on the quality of the groundwater;
- Design and implementation of the groundwater remediation to be initiated after the year of groundwater monitoring. The selected groundwater remediation alternative consists of a groundwater extraction system, an air stripping process to remove volatile organics, and a pipeline discharging the treated groundwater to the Northside POTW system; and
- A review of the existing groundwater monitoring system to insure proper monitoring of groundwater quality and the effectiveness of the groundwater extraction system. Additional monitoring wells will be added to mitigate any deficiencies. The contaminants of concern (COCs) included benzene, chloroform, 1,2-dichloroethane, and the metals chromium and lead.

The USEPA signed an UAO for Remedial Design/Remedial Action (RD/RA) for the Site on February 28, 1994. A Preliminary Remedial Design report

representing 30% design was submitted to the USEPA on December 15, 1994. The USEPA approved the 30% submittal on February 1995. In accordance with the UAO, the PRPs submitted the Intermediate Design Report to the USEPA on June 1, 1995. The Intermediate Design Report did not provide a design for the preferred remedy. Instead, the PRPs submitted the intermediate design which proposed changing the remedy to an air sparging based system. This type of system was not an alternative previously considered; however, its cost could be significantly less than the pump and treat cost while effectively achieving the remediation goals.

The 1992 ROD included metals contamination such as chromium and lead, as COCs. Afterwards, low flow (low turbidity) sampling of select monitoring wells was conducted resulting in no detection of metals. Previously identified metals were associated with preservative leaching of trace metals from high concentrations of solids from previous sampling. Since metals were determined to no longer be COCs, the PRPs requested permission to conduct a study to evaluate current groundwater remediation technologies and their potential applicability to the Burn Pit Site.

The remedial technology considered best for treating the Site related VOCs was Air Sparging. In order to verify its effectiveness at the Burn Pit Site, an Air Sparging Treatability Study was conducted in 1998 and the results were documented in the Air Sparging Pilot Test Treatability Study Report dated December 16, 1998. The Air Sparging Treatability Study results showed air sparging to be very effective at treating the VOCs present in the groundwater at the Site. In June 1998, a Feasibility Study Amendment (FSA) was then conducted to document the comparison of alternatives in the original ROD with the proposed air sparging remedy. The results were documented in the ''Air Sparging Pilot Test Treatability Study Report'' dated December 16, 1998. The study revealed that air sparging was very effective in treating the VOCs present in ground water at the Site. A feasibility study amendment was conducted to document the comparison of the pump-and-treat remedy selected in the ROD with the proposed air sparging remedy.

Amended Remedy

On April 14, 2000, EPA issued an Amended Record of Decision, in which the Agency selected pulsed air sparging as the new remedy for groundwater. Pulsed air sparging consists of air being injected (as a pulse) into the aquifer through a strategically located network of vertical wells. The injected air travels through the groundwater thereby volatilizing and enhancing biological degradation of the contaminants dissolved in the groundwater.

Response Action

The treatment system consisted of 16 pulse zones; each consisted of five wells for a total of 80 sparge wells. Performance verification and compliance monitoring wells were installed in accordance with the Final Remedial Design Report dated April 2002. Various air sparge wells were installed to test installation methods by verifying the integrity of the constructed seal (bentonite), under normal operating pressures. Upon installation, all air sparge wells were developed prior to testing. Initial testing of sparge well seal integrity was performed on seven sparge wells using a trailer-mounted compressor. Two Sullair compressors alternately produced the air pulse in succession throughout the 80 well systems. The rate of air injected continuously increased and was eventually terminated when a steady state condition was reached. Vapors naturally vented into the atmosphere. Each pulse of air was injected at a pressure of 15 psig and continued for 90 minutes. The recharge time between each pulse of forced air was 23.5 hours. A comprehensive monitoring program was implemented to verify that the treatment system reduced the contaminants.

The system was started in June 2003 and was turned off on January 22, 2010.

Cleanup Goals

The groundwater clean-up levels for the remedy are listed below and based on North Carolina 2L Groundwater Quality Standards (GWQS):

GROUNDWATER CLEAN-UP STANDARDS

Chemicals of concern	Performance goals
GROUNDWATER	
Benzene	1 µg/L.
Chloroform	0.19 µg/L.
1.2 Dichloroethane	0.38 µg/L.
Ethylbenzene	29 µg/L.

Laboratory analyses of the groundwater samples collected from site groundwater monitoring and performance verification wells in January 2010 revealed no EPA Method 602 parameter concentrations in excess of applicable 2L GWQS except 1.24 µg/L Benzene in the MWD–002 groundwater sample. The subsequent resampling of monitoring well MWD–002 over four (4) consecutive quarterly sampling events from January 2010 to January 2011 did not reveal any compound concentrations in excess of applicable 2L GWQS.

Operation and Maintenance

No operation and maintenance activities are required for this site.

Five-Year Reviews

The 2008 Five-Year Review found that the selected remedy at the site was protective of human health and the environment in the short-term, because all exposure pathways that could result in unacceptable risks were being controlled. The contaminated soils and waste materials have been removed from the site leaving no remaining source material and the contaminated groundwater is currently being treated and is not being used as a source for potable water. However, if the additional air sparging wells are not effective at treating the remaining contamination, then in order for the remedy to be protective in the long-term, ICs may need to be put in place on the property where contamination is above federal and state MCLs. The ICs were not implemented because groundwater monitoring showed that groundwater contamination met the restoration cleanup levels in 2011. Since no hazardous substances are present on-site above levels allowing for unlimited use and unrestricted exposure, five-year reviews at the site were discontinued.

Community Involvement

EPA has conducted a range of community involvement activities at the Site to solicit community input and to ensure that the public remains informed about site-related activities throughout the cleanup process. Outreach activities have included public notices, interviews and public meetings on cleanup activities. In addition to publishing notices about its intent to delete the Site and amend the ROD in the **Federal Register** and in a local newspaper, EPA conducted a public meeting on November 30, 1999, to provide the public with the opportunity to comment on the proposed ROD Amendment. The ROD Amendment and Responsiveness Summary, addressing comments received during the comment period, have been included in the Administrative Record.

EPA has also prepared the deletion docket, which includes the documents, which EPA relied on for its decision to propose deleting the Site from the NPL. Therefore, the public participation

requirements, required in CERCLA Section 113(k), 42 U.S.C. Section 9613(k), and CERCLA Section 117, 42 U.S.C. Section 9617, have been satisfied.

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

The NCP specifies that EPA may delete a site from the NPL if ''all appropriate responsible parties or other persons have implemented all appropriate response actions required.'' EPA, with concurrence of the State of North Carolina, through the Department of the Environment and Natural Resources, by a letter dated February 16, 2012, believes this criteria for deletion have been satisfied. The contaminated soils have been removed and the Site meets all the Site completion requirements as specified in Office of Solid Waste and Emergency Response (OSWER) Directive 9320.2–09–A–P, *Closeout Procedures for National Priorities List Sites.* Specifically, confirmatory sampling verifies that the Site has achieved the ROD cleanup standards, and that all cleanup actions specified in the ROD have been implemented. Therefore, EPA is deleting the Site from the NPL.

List of Subjects in 40 CFR Part 300

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

Dated: May 11, 2012.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2012–15340 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2012–0182; FRL–9353–3]

RIN 2070–AB27

Proposed Significant New Use Rule on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for chemical substances identified generically as complex strontium aluminum, rare earth doped, which were the subject of premanufacture notices (PMNs) P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26. This action would require persons who intend to manufacture, import, or process any of the chemical substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit the activity before it occurs.

DATES: Comments must be received on or before July 23, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0182, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2012–0182. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2012–0182. EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this proposed rule.

Potentially affected entities may include, but are not limited to:

• Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. 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**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a final SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the agency taking?

EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of TSCA for five chemical substances which were the subject of PMNs. The five chemical substances are identified generically as complex strontium aluminum, rare earth doped, which were the subject of PMNs P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26. This SNUR would require persons who intend to manufacture, import, or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** of April 25, 2012 (77 FR 24613) (FRL–9345–4), EPA issued a direct final SNUR on these five chemical substances in accordance with the procedures at § 721.160(c)(3)(i). EPA received notice of intent to submit adverse comments on this SNUR. Therefore, as required by § 721.160(c)(3)(ii), EPA has withdrawn the direct final SNUR in a separate document, published elsewhere in today's **Federal Register**, and is now issuing this proposed rule on the 5 chemical substances. The record for the direct final SNUR on these substances was established as docket EPA–HQ–OPPT–2012–0182. That record includes information considered by the Agency in developing the direct final rule and the notice of intent to submit adverse comments.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

• The projected volume of manufacturing and processing of a chemical substance.

• The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

• The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

• The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 5 chemical substances that are the subject of this proposed SNUR, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Proposed Rule

EPA is proposing to establish significant new use and recordkeeping requirements for 5 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

• PMN number.

• Chemical name.

• Chemical Abstracts Service (CAS) number.

• Basis for the SNUR.

• Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VII. for more information).

• CFR citation assigned in the regulatory text section of this proposed rule.

This proposed SNUR encompasses 5 PMN substances for which EPA did not find that the use scenario described in the PMNs met the criteria set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in these PMNs could result in increased exposures and therefore should be designated a significant new use. This so-called ''non-5(e) SNUR'' is being proposed pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all non-5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, ''(i) Are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Numbers P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26

Chemical name: Complex strontium aluminum, rare earth doped (generic).

CAS number: Not available.

Basis for action: The PMNs state that the PMN substances will be used as dye used in the manufacture of imaging media/products. Based on analogous respirable and poorly soluble substances, in particular, titanium dioxide, EPA identified concerns for potential lung overload to workers from inhalation exposure to the PMN substances. Specifically, the Agency predicts potential toxicity to workers from inhalation when more than 5 percent of the PMN substances particles are less than 10 microns. For the uses described in the PMNs, significant worker exposure is unlikely, when no more than 5 percent of particles are less than 10 microns. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances other than as described in the PMNs may cause serious health effects. Based on this information, the PMN substances meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substances.

CFR citation: 40 CFR 721.10423.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for these 5 chemical substances, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is proposing this SNUR for specific chemical substances that have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

• EPA would receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.

• EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.

• EPA would be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Applicability of the Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review. EPA is soliciting comments on whether any of the uses proposed as significant new uses are ongoing.

As discussed in the **Federal Register** issue of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of this proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became final, and then argue that the use was ongoing before the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances that would be regulated through this proposed SNUR will have to cease any such activity before the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this proposed SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person is considered exempt from the requirements of the SNUR.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection and test reporting. 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.''

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. e-PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances during the development of the direct final rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2012–0182.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This proposed rule would establish a SNUR for 5 chemical substances that were the subject of PMNs. 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).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA would amend the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this proposed rule, if the SNUR is subsequently issued as a final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action would not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300. A copy of that certification is available in the docket for this proposed rule.

This proposed rule is within the scope of the February 18, 2012 certification. Based on the economic analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. Submission of the SNUN would not cost any small entity significantly more than $8,300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination With Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children From Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This proposed 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), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, 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), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 14, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. Add § 721.10423 to subpart E to read as follows:

§ 721.10423 Complex strontium aluminum, rare earth doped (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as complex strontium aluminum, rare earth doped (PMNs P–12–22, P–12–23, P–12–24, P–12–25, and P–12–26) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (manufacture, processing, or use where no more than 5 percent of particles are less than 10 microns).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2012–15225 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–106; FCC 12–43]

Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to allow noncommercial educational (NCE) broadcast stations to conduct on-air fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations. This proposed rule change would reduce or eliminate the need for NCE stations to seek a waiver of the Commission's rules to interrupt regular programming to conduct third-party fundraising and would afford NCE stations more flexibility in choosing which non-profit entities to support through on-air fundraising.

DATES: Comments for this proceeding are due on or before July 23, 2012; reply comments are due on or before August 21, 2012. Written PRA comments on the proposed information collection requirements contained herein must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before August 21, 2012.

ADDRESSES: You may submit comments, identified by MB Docket No. 12–106, by any of the following methods:

▪ *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–7454. For additional information concerning the information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918. To view or obtain a copy of this information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR as shown in the Supplementary Information section below (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 12–43, adopted on April 25, 2012 and released on April 26, 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).

This document contains proposed information collection requirements. As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collections. Public and agency comments are due August 21, 2012.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: None.

Title: Section 73.503, Licensing requirements and service; Section 73.621, Noncommercial educational TV stations; Section 76.3527, Local public inspection file of noncommercial educational stations.

Form Number: Not applicable.

Type of Review: New information collection.

Respondents: Not for-profit institutions.

Number of Respondents and Responses: 2,200 respondents/30,800 responses.

Estimated Time per Response: 0.25 to 1.5 hours.

Frequency of Response: Annual reporting requirement; One-time reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 17,050 hours.

Total Annual Costs: $330,000.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no general need for confidentiality with these information collections. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 25, 2012, the Commission adopted a Notice of Proposed Rulemaking (NPRM), *Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations,* MB Docket No. 12–106, FCC 12–43. In the NPRM, the Commission proposes to allow NCE stations to spend up to one percent of their total annual airtime conducting fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations.

The NPRM proposes to add or revise the following rule sections, which contain proposed information collection requirements: 47 CFR 73.503(e)(1), 47 CFR 73.503(e)(2), 47 CFR 73.503(e)(3), 47 CFR 73.621(f)(1), 47 CFR 73.621(f)(2), 47 CFR 73.621(f)(3), 47 CFR 73.3527(e)(14).

Pursuant to proposed 47 CFR 73.503(e)(1), a noncommercial educational FM broadcast station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

Pursuant to proposed 47 CFR 73.503(e)(2), a noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity

for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

Pursuant to proposed 47 CFR 73.503(e)(3), a noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such fundraising activities.

Pursuant to proposed 47 CFR 73.621(f)(1), a noncommercial educational television station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

Pursuant to proposed 47 CFR 73.621(f)(2), a noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

Pursuant to proposed 47 CFR 73.621(f)(3), a noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such fundraising activities.

Pursuant to proposed 47 CFR 73.3527(e)(14), each noncommercial educational FM broadcast station and each noncommercial educational TV broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must maintain a copy of its annual report describing its fundraising activities in its public inspection file until final action has been taken on the station's next license renewal application.

The opt-in notification will serve to inform the FCC and interested non-profit groups which NCE stations intend to engage in third-party fundraising activities. The audience disclosure will clearly identify for the NCE station's audience the entity for which the station is conducting fundraising. Commission staff will use the data in the annual reports to assess the effectiveness of allowing NCE stations to conduct third-party fundraising for non-profit organizations and to ensure that NCE stations comply with the one percent limit on third-party fundraising. The public will use the data in the reports to assess how NCE stations are serving the public interest and their local communities.

The Commission is seeking OMB approval for the proposed information collection requirements.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. In this *Notice of Proposed Rulemaking* (*NPRM),* we solicit comment on whether and under what circumstances to allow noncommercial educational (NCE) broadcast stations to conduct on-air fundraising activities that interrupt regular programming for the benefit of third-party non-profit organizations. Under the Commission's rules, in the absence of a waiver, an NCE station may not conduct fundraising activities to benefit any entity besides the station itself if the activities would substantially alter or suspend regular programming. The recent report on ''The Information Needs of Communities'' (*INC Report*) recommended that we consider affording noncommercial broadcasters more flexibility by allowing certain NCE stations to engage in fundraising for charities and other third-party non-profit organizations. This *NPRM* promotes the goals of Executive Order 13579 by analyzing whether the Commission's longstanding policy against fundraising for third-party non-profits may be tailored to grant NCE stations limited flexibility without undermining the policy's important goals.

II. Background

2. Under longstanding Commission policy, an NCE station may not conduct fundraising activities that substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself. ''Regular programming'' includes programming that ''the public broadcaster ordinarily carries, but does not encompass those fundraising activities that suspend or alter their normal programming fare.'' The Commission implemented this policy to reflect the concern that ''educational stations are licensed to provide a noncommercial broadcast service, not to serve as a fund-raising operation for other entities by broadcasting material that is 'akin to regular advertising.' ''

3. The Commission has relaxed some of its other policies governing the broadcast of promotional announcements by NCE stations. Throughout this process, however, a concern that these changes not adversely affect the educational programming mission or noncommercial character of these stations has persisted. For example, in 1981, the Commission determined that stations could acknowledge contributions made by donors, but it continued to prohibit the broadcast of promotional announcements by NCE licensees in exchange for consideration, regardless of whether the sponsor of a given announcement was a for-profit or non-profit organization. The Commission adopted these policies to '''strike a reasonable balance between the financial needs of [public broadcast] stations and their obligation to provide an essentially noncommercial broadcast service' and eliminate those proscriptive regulations deemed unnecessary to preserve the media's noncommercial nature.'' Notably, the revised policy regarding contributions by donors was specifically intended to benefit the station itself and its need for funding to continue to serve its local audience through noncommercial and educational programming.

4. Later in 1981, Congress adopted section 399B of the Communications Act of 1934, which prohibits NCE stations from broadcasting ''advertisements,'' defined as

> Any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—
> (1) To promote any service, facility, or product offered by any person who is engaged in such offering for profit;
> (2) To express the views of any person with respect to any matter of public importance or interest; or
> (3) To support or oppose any candidate for political office.[1]

In light of this statute's enactment, the Commission reviewed its NCE policies in 1982. In the resulting *Policy Statement,* the Commission determined that non-profit organizations are excluded from the meaning of the phrase ''any person who is engaged in such offering for profit'' in Section 399B.[2] Thus, the Commission revised

[1] 47 U.S.C. 399b(a), 399b(b)(1).

[2] *See Commission Policy Concerning the Noncommercial Nature of Educational Broadcast*

the *Second Report's* determination regarding consideration received to allow the broadcast of promotional announcements sponsored by non-profit organizations in order to conform the rule to section 399B of the Act.[3] Despite these changes and other liberalizations of the fundraising and donor acknowledgment rules, the Commission continued the ban on conducting fundraising activities which substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself, codifying these requirements in §§ 73.503(d) and 73.621(e) of the Commission's rules. Those rules provide, in pertinent part, that ''[t]he scheduling of any announcements * * * may not interrupt regular programming.''[4]

5. Commission staff has occasionally granted waivers of these rules in extraordinary circumstances. For example, the Commission granted a waiver to the licensee of an NCE television station to broadcast a three-hour fundraiser for Wolf Trap Foundation, with the money to be used to rebuild the Filene Center at Wolf Trap Farm Park which had burned down. The Commission granted the waiver in part based on the fact that the fundraising programming would be consistent with regular programming, in that more than half of the program would consist of excerpts of past programs broadcast by the NCE station that had originated from Wolf Trap Farm, and the remainder of the program would consist of interviews with and performances from stars who had appeared at Wolf Trap.

6. Similarly, the former Mass Media Bureau granted a waiver of §§ 73.621(e) and 73.503(d) of the Commission's rules to the licensee of an NCE radio station and an NCE television station in West Palm Beach, Florida, where the President had declared Dade County a disaster area following Hurricane Andrew. The stations proposed to broadcast a two-hour simulcast along with four area commercial television stations to raise funds and donations and provide information for the hurricane relief effort. The staff granted the waiver in recognition of the catastrophic events that had occurred, the stations' unique ability to serve the area affected by the disaster, and the limited length of the program. The Commission has also granted rule waivers for fundraising for other singular catastrophic events, such as Hurricane Katrina, the September 11, 2001 terrorist attacks, the January 2005 tsunami in Southeast Asia, and the January 2010 earthquake in Haiti. More recently, the Commission established informal procedures through which NCE licensees could request Commission approval to conduct fundraising to aid the Japan earthquake and tsunami relief efforts, noting that it has granted waivers of § 73.503(d) for ''fundraising appeals to support relief efforts following disasters of particular uniqueness or magnitude'' and that such waivers ''have been issued for a specific fundraising program or programs, or for sustained station appeals for periods which generally do not exceed several days.'' In contrast, in 1995, the staff denied a request for a waiver of § 73.503(d) where the proposed fundraising for the Muscular Dystrophy Association occurred annually to address ongoing needs and was not limited to a specific one-time problem.

7. In June 2011, a working group including Commission staff, scholars and consultants released the *INC Report,* a comprehensive report on the current state of the media landscape. The *INC Report* discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum and the need to remove unnecessary burdens on broadcasters who aim to serve their communities. Noting comments from the National Religious Broadcasters (NRB), the *INC Report* recommended that we consider affording noncommercial broadcasters more flexibility by allowing NCE stations that are not grantees of the Corporation for Public Broadcasting (CPB) to spend up to one percent of their annual airtime doing fundraising for charities and other third-party non-profit organizations. In order to be eligible for CPB funding, an NCE station must devote the substantial majority of its daily total programming hours broadcast on all of its channels to *CPB-qualified programming,* which is defined as ''general audience programming that serves demonstrated community needs of an educational, informational and cultural nature.'' Programs that ''further the principles of particular political or religious philosophies, or that are designed primarily for in-school or professional in-service audiences'' are not considered CPB-qualified programming. Campus stations managed and operated by and for students, stations licensed to political organizations, and stations that provide in-service training programming to licensee employees, clients, or representatives are also ineligible for CPB funding. The *INC Report* noted that having local charities on the air can be a useful way of informing residents about problems in their communities and can help NCE stations achieve their public service or religious missions. The *INC Report* also recommended that broadcasters that take advantage of this flexibility be required to disclose how the fundraising time is used, including how it is helping charities in the local community, so that the Commission can assess the effectiveness of providing this flexibility.

III. Notice of Proposed Rulemaking

8. We invite comment on whether it is in the public interest to revise our rules restricting the ability of NCE stations to conduct fundraising on behalf of third-party non-profit organizations. We believe that the original concerns animating the longstanding restriction remain valid. Nevertheless, as shown by the past grant of waivers, the Commission has concluded that an NCE station can conduct certain fundraising activities on behalf of other non-profit organizations in some circumstances without sacrificing its noncommercial nature. It has generally sought to limit such waivers to short-term fundraising intended to assist communities that have suffered singular misfortunes of historic dimensions or, more rarely, to benefit non-profit organizations directly tied to the programming activities of the stations. We seek comment on whether a blanket prohibition on the substantial interruption of programming for third-party fundraising remains necessary to preserve NCE stations' noncommercial nature and to retain those stations' focus on their designated function of serving their communities of license through educational programming, or whether it would serve the public interest to grant NCE stations some flexibility to substantially interrupt programming to conduct fundraising on behalf of other non-profits. If we determine that more flexibility is necessary and appropriate, we seek comment on how we should modify our existing rules, and on what grounds.

9. We propose to relax the prohibition on third-party fundraising for NCE stations and seek comment on that proposal. We further invite comment on whether we should limit the scope of our action and, if so, what the limitations should be and why. As noted above, the *INC Report* recommended that we revise our rules

Stations, Memorandum Opinion and Order, 90 FCC 2d 895, 897, para.3 (1982).

[3] *See Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations,* Second Report and Order, 86 FCC 2d 141, 157–58, paras. 42–43 (1981).

[4] 47 CFR 73.503(d), 73.621(e).

to allow only NCE stations that are not CPB grantees, such as most religious broadcasters, to conduct fundraising for the benefit of third-party non-profit organizations. The *INC Report* stated that some public broadcasting officials do not want the flexibility to engage in fundraising activities for third-party non-profit organizations because ''it would put them in the awkward position of deciding which worthy causes to support and which to reject.'' We invite comment on whether and how we should limit the NCE stations that may engage in limited third-party fundraising to address this concern. How would the Commission justify any such limitation? Is third-party fundraising less likely to trigger the concerns underlying the prohibition if conducted by certain NCE stations? Alternatively, should we require NCE stations to opt in to the proposed relaxation, as discussed below, so that NCE stations that do not want flexibility to engage in third-party fundraising can simply decline to opt in? We also invite comment on the First Amendment implications of any limitation on the classes of NCE stations that may conduct third-party fundraising.

10. As noted, section 399B prohibits NCE stations from broadcasting, in exchange for remuneration, programming material intended to promote any service, facility or product offered by any person who is engaged in such offering for profit. Thus, if we decide to allow NCE stations additional flexibility to conduct fundraising for other entities, the statute requires that they be limited to non-profit entities. We seek comment on whether the Commission should further limit the kinds of non-profit organizations that may be the beneficiaries of fundraising conducted by NCE stations. In the *Policy Statement,* the Commission noted that '''non-profit' entities encompass a multitude of organizations with varied purposes and functions.'' The Communications Act of 1934 defines the term ''*non-profit''* (as applied to any foundation, corporation, or association) to mean ''a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.''[5] NRB suggests that we limit the class of entities for which fundraising may be conducted to organizations which are non-profit under section 501(c)(3) of the Internal Revenue Code[6] and that we allow fundraising when ''the fundraising activities exempted shall be directed to an identified, bona fide charitable, educational, or religious need which the non-profit 501(c)(3) organization is equipped and committed to aid.'' We seek comment on these suggestions. In order to eliminate uncertainty for NCE stations, would it be appropriate to allow fundraising for any entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code? Should we establish any additional criteria to ensure that fundraising on behalf of non-profit entities is consistent with NCE stations' mission to serve their local communities through educational and noncommercial programming? As discussed above, the *INC Report* suggested that having local charities on the air can be a useful way of informing residents about problems in their communities and can help NCE stations achieve their public service or religious missions. Would it further our interest in localism to limit NCE stations to soliciting donations for local non-profit organizations? Furthermore, given that third-party fundraising on behalf of affiliated entities may restrict an NCE station's ability to conduct fundraising for local non-profit organizations, should we limit fundraising on behalf of third parties to unaffiliated third parties? If so, how should we define ''affiliated''? If we limit any new flexibility for NCE stations to fundraising for local non-profit entities, should we also retain our existing waiver process for fundraising activities for singular catastrophic events regardless of whether they are local in nature?

11. In the event that we decide to modify the proscription on NCE broadcast stations interrupting regular programming to conduct fundraising activities on behalf of other non-profit organizations, we invite comment on how much flexibility to grant NCE stations to devote to this activity. NRB notes that because NCE licensees rely on fundraising to support their own operations, these stations will not want to broadcast ''[e]xcessive appeals for other non-profit groups'' because they ''could negatively impact the licensee's own self-interests by diverting public support away from the broadcaster * * *'' Approximately how much time do NCE stations spend each year broadcasting fundraisers on their own behalf? We are concerned that permitting NCE broadcasters to use too much of their airtime for unrelated non-profit fundraising could undermine the noncommercial character of the participating facilities and divert these stations from their primary function of providing service to their communities of license through programming. Thus, we believe a strict, if not a complete, limit on such activities would be advisable. The *INC Report* recommended that we consider allowing third-party fundraising so long as it does not exceed one percent of the broadcaster's total annual airtime. We invite comment on this approach. With respect to NCE television stations, we seek comment on how the recommended one percent limit on third-party fundraising should be calculated and applied for stations that multicast programming on several different channels. We also seek comment on how we should enforce a relaxed limit on the amount of time that NCE stations may devote to third-party fundraising. Would an annual limit of one percent be sufficient to allow stations to use third-party fundraising flexibility both for the kinds of planned fundraising contemplated in the *INC Report* and for fundraising activities for disasters and other singular catastrophic events that in the past have required waivers? The Commission has traditionally granted waivers only for fundraising activities of ''limited duration.'' In addition to an annual limit, should fundraising activities continue to be circumscribed in this way, such as by adopting a durational limit on a specific program and/or on a discrete fundraising effort?

12. In the event we modify the current prohibition, we invite comment on whether we should require that an NCE station itself conduct all third-party fundraising activities, including collecting funds and distributing the funds to the non-profit entity, rather than airing fundraising programs produced by the non-profit organization or some other entity on behalf of the non-profit organization. Would requiring an NCE station to locally produce its third-party fundraising activities promote localism? What are the potential benefits and costs of requiring NCE stations to locally produce third-party fundraising activities? Are there any other limitations we should consider imposing in order to preserve the noncommercial and educational character of the NCE programming service?

[5] 47 U.S.C. 397(8) (defining the term ''non-profit'' for purposes of Title III, Part IV, Subpart E of the Act).

[6] Section 501(c)(3) provides that certain corporations, foundations, or other organizations that operate exclusively for religious, charitable, scientific, educational, or certain other non-profit purposes, are exempt from federal income taxation. *See* 26 U.S.C. 501(c)(3).

13. Section 399B prohibits the airing, in exchange for remuneration, of programming material intended to express views on matters of public importance or interest, or to support or oppose political candidates. We note that on April 12, 2012, the Ninth Circuit Court of Appeals struck down as unconstitutional section 399B's ban on public interest and political advertisements by NCE stations.[7] Accordingly, we will not enforce section 399B's ban on public interest and political advertisements in the Ninth Circuit once the court's mandate goes into effect. Nevertheless, to the extent any fundraising that stations would like to conduct under a relaxed policy would fall into these categories, we invite comment on whether the statutory term ''remuneration'' includes repayment of a station's expenses associated with such fundraising activities. Additionally, we seek comment on whether section 399B places any other limitations on the revision of our existing rules to permit substantial interruption of regular programming for fundraising activities on behalf of non-profit organizations.

14. We recognize that in certain situations third-party fundraising by an NCE station could potentially confuse the station's audience. For example, where an NCE station conducts fundraising activities on behalf of a non-profit organization or charity that is closely affiliated with the station, it may be unclear to the audience whether the station is fundraising for the station itself or for another entity. In the event that we decide to modify the third-party fundraising policy, in order to avoid audience confusion, should we require NCE stations to air a specified disclosure that clearly identifies the entity for which the station is conducting the fundraising? If so, what form should this disclosure take? Would it be sufficient for the station to clearly state that the fundraiser is not to benefit the station itself and to identify the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser? How frequently during each fundraising effort or program should the NCE station air the disclosure? We invite comment on whether we should require the NCE station to air the disclosure at the beginning and the end of the fundraising program and at least once during each hour in which the program is on the air.

15. We also seek comment on whether, in the event that we decide to modify the third-party fundraising policy, we should require NCE stations that interrupt regular programming to conduct fundraising for third-party non-profit organizations to submit reports to the Commission on their fundraising activities. The *INC Report* recommended that the Commission consider requiring NCE broadcasters to disclose how they are utilizing fundraising time for third-party non-profit organizations so that the FCC can assess the effectiveness of the additional flexibility recommended therein. If we require NCE stations to submit reports on third-party fundraising, what information should the stations be required to include in the reports? For example, the reports could include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised. We seek comment on whether each of these reporting elements would be useful. What, if any, additional information should be included? Should NCE stations be required to file the reports on an annual basis? While we do not believe that filing such reports would be unduly burdensome, we invite suggestions for minimizing the reporting burden on NCE broadcasters. Furthermore, we invite comment on whether we should require NCE stations to include their reports on third-party fundraising in their public files. Such a requirement would help to ensure that the public has access to information about how NCE broadcasters are serving the public interest and their local communities. Beyond the above-described reporting requirements, we also invite comment on whether some form of assurance regarding compliance with the third-party fundraising limits should be required—such as certification of such compliance on licensees' renewal applications. This is a common method used to verify compliance in other areas, and could assist in raising awareness of the limitations on this activity and ensuring compliance with the new rules.

16. Finally, we invite comment on whether we should require NCE stations that want to participate in fundraising for third-party non-profit organizations to affirmatively ''opt in'' by filing a letter or notification with the Commission. An opt in notification would serve to inform both the Commission and interested non-profit groups which NCE stations intend to engage in third-party fundraising activities.

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

17. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules considered in the attached *Notice of Proposed Rulemaking* (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* as indicated on the first page of the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register.**

Need for, and Objectives of, the Proposed Rules

18. Longstanding Commission policy provides that noncommercial educational (NCE) stations may not conduct fundraising activities which substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself. ''Regular programming'' includes programming that the public broadcaster ordinarily carries, and not fundraising activities that suspend or alter the normal programming schedule.

19. In June 2011, a working group including Commission staff, scholars and consultants released ''The Information Needs of Communities'' (*INC Report*), a comprehensive report on the current state of the media landscape. Noting comments from the National Religious Broadcasters, the *INC Report* recommended that we afford noncommercial broadcasters more flexibility by allowing NCE stations that are not grantees of the Corporation for Public Broadcasting (CPB), such as most religious broadcasters, to spend up to one percent of their airtime doing fundraising for charities and other third-party non-profit organizations. The *INC Report* also recommended that we require that broadcasters disclose how this time is used so that the FCC can assess the efficacy of allowing third-party fundraising.

20. The *NPRM* proposes to relax the rules to afford NCE stations more flexibility to conduct on-air fundraising activities on behalf of third-party non-

[7] *See Minority Television Project, Inc.* v. *FCC,* No. 09–17311, 2012 WL 1216284, at *17 (9th Cir. Apr. 12, 2012).

profit organizations and seeks comment on a series of proposals to facilitate this additional flexibility. The *NPRM* seeks comment on the following proposals:

- Revise the rules to allow NCE stations to substantially interrupt regular programming to conduct on-air fundraising activities for the benefit of third-party non-profit organizations;
- Define the class of non-profit organizations that may be the beneficiaries of third-party fundraising by NCE stations to include entities that qualify as non-profit organizations under section 501(c)(3) of the Internal Revenue Code;
- Limit the amount of time that an NCE station may devote to third-party fundraising to one percent of the station's total annual airtime;
- Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to air a disclosure that clearly identifies the entity for which the station is conducting the fundraising;
- Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to submit annual reports to the Commission on their fundraising activities;
- Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to include their reports on third-party fundraising in their public files;
- Require NCE stations that substantially interrupt regular programming to conduct third-party fundraising to certify on their renewal applications that they have complied with the limits on fundraising; and
- Require NCE stations that want to substantially interrupt regular programming to participate in third-party fundraising to affirmatively ''opt in'' by filing a letter or notification with the Commission.

The *NPRM* also has under consideration possible rule changes that would:

- Limit the classes of NCE stations that may engage in third-party fundraising;
- Limit the non-profit organizations that may benefit from fundraising by NCE stations, such as by limiting the eligible class of non-profit organizations to local entities and/or entities that are not affiliated with the NCE stations;
- Prescribe durational limits for each particular fundraising effort; and
- Require NCE stations to locally produce third-party fundraising activities.

The *NPRM* invites commenters to suggest alternatives to these proposals and other rule changes that would help to ensure that fundraising on behalf of non-profit entities is consistent with NCE stations' mission to serve their local communities through educational and noncommercial programming.

Legal Basis

21. This *NPRM* is adopted pursuant to sections 1, 4(i), 303(r), and 399B of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 303(r), 399b.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

22. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

23. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has $14.0 million or less in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,387. In addition, according to Commission staff review of the BIA Kelsey Inc. Master Access Television Analyzer Database (BIA) as of February 7, 2012, about 950 (73 percent) of an estimated 1,301 commercial television stations had revenues of $14.0 million or less and thus qualify as small entities under the SBA definition. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission has estimated the number of licensed NCE television stations to be 396. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

24. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent. Also, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

25. *Radio Stations.* The SBA defines a radio broadcasting station that has $7.0 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. The Commission has estimated the number of licensed commercial radio stations to be 14,952. In addition, according to Commission staff review of BIA Kelsey Inc. Master Access Radio Analyzer Database as of February 7, 2012, about 10,755 (approximately 97 percent) of an estimated 11,106 commercial radio stations have revenue of $7.0 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission has estimated the number of licensed NCE radio stations to be 3,644. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

26. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that

would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. The *NPRM* proposes a number of rule changes that would affect reporting, recordkeeping, and other compliance requirements. Each of these proposals is described below.

28. The *NPRM* proposes to allow NCE stations to substantially interrupt regular programming to spend up to one percent of their total annual airtime conducting fundraising activities on behalf of third-party non-profit organizations. If this proposal is adopted, NCE stations may be required to keep records sufficient to demonstrate that their fundraising broadcasts are within the one percent limit. The *NPRM* also proposes to require NCE stations to submit annual reports to the Commission on their fundraising for third-party non-profit organizations. Further, the *NPRM* proposes to require NCE stations to include their reports on third-party fundraising in their public files and to certify on their renewal applications that they have complied with the limits on fundraising.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that might minimize any significant economic impact on small entities. Such alternatives may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. The *NPRM* proposes to relax restrictions on third-party fundraising by NCE stations by allowing NCE stations to devote up to one percent of their total annual airtime to fundraising for the benefit of third-party non-profit organizations. This proposal would benefit small entities by reducing or eliminating the need for NCE stations to seek a waiver of the Commission's rules to conduct third-party fundraising activities and affording NCE stations more flexibility to decide which non-profit entities to support through on-air fundraising. The *NPRM* also proposes to require NCE stations that conduct third-party fundraising to submit annual reports to the Commission on their fundraising activities, include such reports in their public files, and certify on their renewal applications that they have complied with the limits on fundraising. We believe that these reporting and recordkeeping requirements would impose only minimal burdens on any affected entities, and the costs of these reporting and recordkeeping requirements would be offset in our opinion by the additional flexibility afforded to NCE stations to conduct fundraising for third-party non-profit organizations of their choosing without the need to seek a waiver or prior FCC approval. For this reason, an analysis of alternatives to the proposed rules is unnecessary. We invite comment on whether there are any alternatives we should consider that would minimize any adverse impact on small entities, but which maintain the benefits of our proposals.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

31. None.

B. Paperwork Reduction Act

32. This *NPRM* proposes new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995.[8] In addition, pursuant to the Small Business Paperwork Relief Act of 2002,[9] we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' [10]

[8] *See* Public Law 104–13.

[9] *See* Public Law 107–198.

[10] *See* 44 U.S.C. 3506(c)(4).

C. Ex Parte Rules

33. *Permit-But-Disclose.* The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

D. Filing Requirements

34. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

○ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

○ U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

35. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

36. For additional information on this proceeding, contact Kathy Berthot, *Kathy.Berthot@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

37. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 303(r), and 399B of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(r), 399b, this Notice of Proposed Rulemaking *is hereby adopted.*

38. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Radio, Television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

2. Section 73.503 is amended by revising the last sentence of paragraph (d), redesignating paragraph (e) as paragraph (f), adding a new paragraph (e) and revising the Note to read as follows:

§ 73.503 Licensing requirements and service.

* * * * *

(d) * * * *The scheduling of any announcements and acknowledgements may not interrupt regular programming,* except as permitted under paragraph (e) of this section.

(e) A noncommercial educational FM broadcast station may interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations, provided that such fundraising activities do not exceed one percent of the station's total annual airtime. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code.

(1) *Opt-In Notification.* A noncommercial educational FM broadcast station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

(2) *Audience Disclosure.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(3) *Reports.* A noncommercial educational FM broadcast station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such activities. These reports must include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised.

* * * * *

Note to § 73.503: Commission interpretation on this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 FCC 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 97 FCC 2d 255 (1984); and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations). *See also,* ''Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations,'' Public Notice, 7 FCC Rcd 827 (1992), which can be retrieved through the Internet at *http://www.fcc.gov/mmb/asd/nature.html.*

3. Section 73.621 is amended by redesignating paragraphs (f) through (i) as paragraphs (g) through (j), revising the last sentence of paragraph (e) and the Note to paragraph (e), and adding new paragraph (f) to read as follows:

§ 73.621 Noncommercial educational TV stations.

* * * * *

(e) * * * *The scheduling of any announcements and acknowledgements may not interrupt regular programming,* except as permitted under paragraph (f) of this section.

Note: Commission interpretation of this rule, including the acceptable form of acknowledgements, may be found in the *Second Report and Order* in Docket No. 21136 (Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations), 86 F.C.C. 2d 141 (1981); the *Memorandum Opinion and Order* in Docket No. 21136, 90 FCC 2d 895 (1982); the *Memorandum Opinion and Order* in Docket 21136, 49 FR 13534, April 5, 1984; and the *Report and Order* in Docket No. 12–106 (Noncommercial Educational Station

Fundraising for Third-Party Non-Profit Organizations).

(f) A noncommercial educational television station may interrupt regular programming to conduct fundraising activities on behalf of a third-party non-profit organization, provided that such fundraising activities do not exceed one percent of the station's total annual airtime. For purposes of this paragraph, a non-profit organization is an entity that qualifies as a non-profit organization under section 501(c)(3) of the Internal Revenue Code.

(1) *Opt-In Notification.* A noncommercial educational television station that intends to interrupt regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file an opt-in notification with the FCC prior to engaging in such fundraising activities.

(2) *Audience Disclosure.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must air a disclosure during such activities clearly stating that the fundraiser is not for the benefit of the station itself and identifying the entity for which it is fundraising and the specific cause, if any, supported by the fundraiser. The station must air the audience disclosure at the beginning and the end of each fundraising program and at least once during each hour in which the program is on the air.

(3) *Reports.* A noncommercial educational television station that interrupts regular programming to conduct fundraising activities on behalf of third-party non-profit organizations must file a report with the FCC on an annual basis describing such activities. These reports must include, for each fundraiser, the date and time of the fundraiser, the name of the non-profit entity benefitted by the fundraiser and whether this entity is a local organization, the specific cause, if any, supported by the fundraiser, the type of fundraising activity, the duration of the fundraiser, and the total funds raised.

* * * * *

4. Section 73.3527 is amended by adding new paragraph (e)(14) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(e) * * *

(14) *Reports on Fundraising for Third-Party Non-Profit Organizations.* For noncommercial educational FM broadcast stations a copy of each report required to be filed with the FCC by § 73.503(e)(3). For noncommercial educational TV broadcast stations a copy of each report required to be filed with the FCC by § 73.621(f)(3). These reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

[FR Doc. 2012–12952 Filed 6–21–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–BC10

Sea Turtle Conservation; Shrimp Trawling Requirements; Public Hearing Notification

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

ACTION: Proposed rule; notice of public hearing.

SUMMARY: NMFS announces a sixth public hearing to be held in Miami, FL on July 6, 2012, to answer questions and receive public comments on the 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, which was published in the **Federal Register** on May 10, 2012. In the proposed rule, we announced five public hearings to be held in Morehead City, NC, Larose, LA, Belle Chasse, LA, D'Iberville, MS, and Bayou La Batre, AL.

DATES: A public hearing will be held on July 6, 2012, from 6 to 8 p.m. in Miami, FL. 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: The date, time and location of the hearing is as follows:

1. Friday, July 6, 2012, 6 p.m. to 8 p.m., Miami, FL: Marriott Miami Biscayne Bay, 1633 N. Bayshore Drive, Miami, FL 33132, (305) 374–3900 or (866) 257–5990.

These hearings are physically accessible to people with disabilities; a Spanish language interpreter will be available, if needed.

Dated: June 18, 2012.

Alan D. Risenhoover,

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

[FR Doc. 2012–15341 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120416016–2151–01]

RIN 0648–BB96

Atlantic Highly Migratory Species; Silky Shark Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rule would implement the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendation 11–08, which prohibits retaining, transshipping, or landing of silky sharks (*Carcharhinus falciformis*) caught in association with ICCAT fisheries. In order to improve domestic enforcement capabilities, the National Marine Fisheries Service is also proposing to prohibit the storing,

selling and purchasing of the species. This rule would affect the commercial HMS pelagic longline fishery for tuna and tuna-like species in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This rule would not affect commercial fishermen fishing for sharks with bottom longline, gillnet, or handgear; nor would the rule affect recreational fishermen as harvesting silky sharks is already prohibited in the recreational fishery. This action implements the ICCAT recommendation, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received by 5 p.m., local time, on July 23, 2012.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0116, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0116 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* Submit written comments to Sarah de Flesco or Karyl Brewster-Geisz at National Marine Fisheries Service, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–1917; Attn: Sarah de Flesco.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Sarah de Flesco or Karyl Brewster-Geisz by phone: 301–427–8503 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The U.S. Atlantic tuna and tuna-like species fisheries are managed under the dual authority of the Magnuson-Stevens Act and ATCA, 16 U.S.C. 971 *et seq.* ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. ICCAT is responsible for the conservation of tuna and tuna-like species in the Atlantic Ocean and adjacent seas. ICCAT recommendations are binding on Contracting Parties, unless Parties object pursuant to the treaty. All ICCAT recommendations are available on the ICCAT Web site at *http://www.iccat.int/en/.* The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries (AA), NOAA. The implementing regulations for Atlantic highly migratory species (HMS) are at 50 CFR part 635.

At the 22nd Regular Meeting of ICCAT in 2011, ICCAT adopted Recommendation 11–08, which requires the United States to initiate rulemaking in order to fulfill obligations as a Contracting Party to the Convention. The ''Recommendation on the Conservation of Silky Sharks Caught in Association with ICCAT Fisheries (11–08),'' requires fishing vessels operating in ICCAT fisheries to release all silky sharks whether dead or alive, and prohibits retaining on board, transshipping, or landing any part or whole carcass of a silky shark (*Carcharhinus falciformis*). The recommendation cites the fact that silky sharks were ranked as the species with the highest degree of vulnerability in the 2010 ecological risk assessment for Atlantic sharks.

In this proposed rule, NMFS considers changes to the Atlantic HMS regulations at 50 CFR part 635, consistent with the ICCAT recommendation and the Magnuson-Stevens Act. Such changes would affect only commercial vessels with pelagic longline gear onboard that fish for tunas and tuna-like species. Harvesting silky sharks is already prohibited in the recreational fishery. While silky sharks could be caught on handgear, bottom longline, or gillnet gear commercially, these gears target sharks directly and are not used in association with ICCAT fisheries; therefore, we are not considering action to prohibit the retention of silky sharks from these gears.

We prepared a draft Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), which present and analyze anticipated environmental, social, and economic impacts of each alternative contained in this proposed rule. The complete list of alternatives and related analyses are provided in the draft EA/RIR/IRFA, and are not repeated here in their entirety. A copy of the draft EA/RIR/IRFA prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

In this action, we propose to prohibit the retention of silky sharks on Atlantic HMS commercially-permitted vessels that have pelagic longline gear on board. Additionally, we propose to prohibit the storing, selling, or purchasing of silky sharks to ensure domestic enforcement ability.

Silky sharks were last assessed as part of the Large Coastal Shark complex, which was assessed during the Southeast Data, Assessment, and Review (SEDAR) 11 process. Silky sharks are part of the complex, and the stock status of silky sharks is unknown.

Silky sharks were included in the 2010 ecological risk assessment conducted for the ICCAT Standing Committee on Research and Statistics. In the risk assessment, silky sharks were ranked as the Atlantic shark species with the highest degree of vulnerability to fishing. Given the low productivity and high susceptibility of silky sharks to pelagic longline fisheries as noted in the ecological risk assessment, the implementation of the ICCAT silky shark recommendation could benefit the status of this stock by reducing mortality in the Atlantic Ocean.

We considered three alternatives for the proposed action. Alternative 1 would maintain the status quo and would not implement ICCAT Recommendation 11–08. Alternative 2 would prohibit retaining, transshipping, and landing silky sharks. The proposed action is alternative 3, which would prohibit retaining, transshipping, and landing as well as prohibiting the storing, selling, and purchasing of silky sharks.

An analysis of the 2006 through 2010 HMS logbook data, which covers the HMS pelagic longline fishery, indicates that under status quo (alternative 1) on average a total of 60 silky sharks are kept per year and a total of 1,417 are

discarded dead (742) or alive (676) each year in U.S. fisheries. Thus, from these figures, only about 4 percent of all silky sharks caught by pelagic longline vessels are retained.

Under both alternative 2 and alternative 3 (the proposed alternative), all live and dead silky sharks would have to be released by pelagic longline fishermen. According to the pelagic longline observer program and HMS logbook data, on average each year, 60 silky sharks were retained, of which 17 were caught alive and 43 caught dead. Therefore, under these two alternatives, of the 60 silky sharks kept per year, 17 would be released alive. Although silky sharks are not caught in large numbers in the pelagic longline fishery (i.e., less than 12 percent of pelagic longline trips between 2006–2010 caught silky sharks), these alternatives would have minor, beneficial ecological impacts for silky sharks because mortality would be reduced somewhat in the pelagic longline fishery.

Under both alterative 2 and alternative 3 (the proposed action), approximately 785 would be discarded dead (43 sharks discarded from those that would be retained under the status quo plus 742 that would be discarded dead under the status quo). The actual number of silky sharks expected to be caught (1,477 per year on average) in the pelagic longline fishery is not expected to change as a result of this action. Because few silky sharks are currently retained in proportion to the total number of silky sharks caught, the prohibition against retention would have minor beneficial ecological impacts although it may provide some additional incentive to avoid the species. Any reduction of mortality for silky sharks could be expected to also have beneficial impacts due to low productivity and high susceptibility of silky sharks to pelagic longline fisheries as noted in the 2010 ICCAT ecological risk assessment.

Atlantic HMS commercial permit holders with pelagic longline gear on board would no longer be authorized to retain silky sharks and could experience minor, adverse socioeconomic impacts. The current HMS pelagic longline fleet consists of 242 vessels as of October 2011. However, according to HMS logbook data, on average, seven pelagic longline vessels combined landed 60 silky sharks weighing 2,671 lb per year from 2006 through 2009. Using the median, ex-vessel price per pound of $0.75 for silky shark meat and $11.11 for shark fins, this is equivalent to $3,392 ($1,489 for fins and $1,903 for meat) in average annual gross revenues from landings of silky sharks from pelagic longline vessels or $485 per vessel that landed silky sharks. Because the proposed action would prohibit the retention of silky sharks from pelagic longline vessels, it would likely result in minor, adverse socioeconomic impacts to commercial pelagic longline fishermen because, even though there are small amounts of silky sharks landed, fishermen would no longer be able to land this species and could potentially lose annual revenues of $3,392 for all vessels or $485 per vessel. However, it is unlikely that commercial fishermen would alter fishing practices for tuna and tuna-like species, because silky shark landings constitute such a small portion of pelagic longline catch, landings, and revenues.

Under alternative 3 (the proposed action), the pelagic longline fishery would be prohibited against the storing, selling, and purchasing of silky sharks in addition to prohibiting the retaining, transshipping, and landing of silky sharks. The proposed action would provide consistency with current regulations for oceanic whitetip and hammerhead (except for *Sphyrna tiburo*) sharks in the commercial pelagic longline fishery for tuna and tuna-like species and would simplify compliance, for fishermen and for dealers, as well as enforcement. The measureable ecological impacts of the proposed action (alternative 3) remain the same as alternative 2. However, the proposed action might have additional ecological benefits by reducing mortality of silky sharks. Additionally, under the proposed action, Atlantic HMS commercial permit holders with pelagic longline gear on board would no longer be authorized to retain silky sharks and could experience minor, adverse socioeconomic impacts. The measureable economic and social impacts of the proposed action are similar to those of alternative 2. However, under the proposed action, a pelagic longline vessel operator would not be allowed to store or sell silky shark products and a dealer could not buy silky sharks from a pelagic longline vessel owner or operator. Adding additional prohibitions beyond those called for under alternative 2 would also be consistent with the approach we have taken for oceanic whitetip sharks and scalloped, smooth and great hammerhead sharks in the commercial pelagic longline fishery for tuna and tuna-like species. We feel that adding the prohibitions against storing, selling and purchasing silky sharks under the specified circumstances would make them easier to remember by making the regulations consistent with those in place for oceanic whitetip and scalloped, smooth and great hammerhead sharks, and thus, would help fishermen and dealers and improve compliance. The addition would also allow for enforcement of the prohibition even in cases where the violation is not detected at sea or during landing. Finally, the extension of the prohibition against the sale and purchase should help to eliminate the market for silky sharks and encourage compliance with the prohibition on retention. Although there would be some minor adverse socioeconomic impacts under the proposed action due to a slight loss of revenue by pelagic longline vessel operators similar to that of alternative 2, the proposed action would provide minor beneficial socioeconomic impacts by providing a rule that is consistent with the current regulations and easier with which to comply and enforce.

In conclusion, the proposed action of prohibiting the retention of silky sharks in the pelagic longline fishery for tuna and tuna-like species is likely to have minor beneficial ecological impacts because of the potential reduction in mortality, and minor adverse socioeconomic impacts because this species constitutes a low percentage of the total pelagic longline landings.

Public Hearing

Comments on this proposed rule, Draft Environmental Assessment, and Finding of No Significant Impact may be submitted via *http://www.regulations.gov*, mail, or fax, and comments may also be submitted at a public hearing (see **DATES** and **ADDRESSES**). NMFS solicits comments on this proposed rule by July 23, 2012. NMFS will hold a public hearing via conference call for this proposed rule. The hearing location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sarah de Flesco at 301–427–8503, at least 7 days prior to the meeting.

Location	Date	Time	Address
Conference call	July 9, 2012	1–3 p.m	Conference line: 800–857–3903; Passcode: 6059057.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

NMFS prepared an environmental assessment that discusses the impact on the environment as a result of this rule. In this proposed action, NMFS is considering prohibitions against retaining, transshipping, landing, storing, selling, or purchasing of silky sharks in the Atlantic pelagic longline fishery for tuna and tuna-like species. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the RFA (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments to implement recommendations of ICCAT pursuant to ATCA and to achieve domestic management objectives under the Magnuson-Stevens Act.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objectives of this proposed rulemaking are to consider changes to the HMS regulations at 50 CFR part 635 consistent with an ICCAT recommendation. NMFS proposes to implement the 2011 ICCAT silky shark recommendation in the Atlantic HMS fisheries that target tuna and tuna-like species because NMFS considers these fisheries to be ICCAT-managed fisheries. The regulatory changes would affect HMS vessels that catch sharks in association with tuna and tuna-like species on commercial vessels that deploy pelagic longline gear. This proposed action is necessary to implement an ICCAT recommendation pursuant to ATCA. In compliance with the ATCA, NMFS is required to implement domestic regulations consistent with recommendations adopted by ICCAT as necessary and appropriate.

Section 603(b)(3) requires Federal agencies to provide an estimate of the number of small entities to which the rule would apply. In accordance with the Small Business Administration (SBA) size standards, NMFS used the following thresholds to determine if an entity regulated under this action would be considered a small entity: average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. Using these thresholds, NMFS determined that all HMS permit holders are small entities. Specifically, this proposed action would apply to all participants in the Atlantic HMS pelagic longline commercial fishery that targets tuna and tuna-like species. As of October 2011, 242 vessels held a commercial Tuna Longline permit and can be reasonably assumed to use pelagic longline gear. All of the vessels holding these permits could be affected by this action.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and other participants in this fishery must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS does not believe that the proposed regulations would duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

Under section 603(c), agencies are required to describe any alternatives to the proposed rule that accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in the draft Environmental Assessment for the proposed action. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, there are no alternatives discussed that fall under the first, second, and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category. As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides rationale for identifying the preferred alternatives to achieve the desired objective.

NMFS prepared this IRFA to analyze the impacts on small entities of the alternatives for implementing the ICCAT Recommendation 11–08 for pelagic longline vessels that target tuna and tuna-like species, all of which are considered small entities. NMFS considered and analyzed three alternatives including Alternative 1 (no action); Alternative 2 (implementing ICCAT Recommendation 11–08 in the

commercial pelagic longline fishery for tuna and tuna-like species); and Alternative 3 (implementing ICCAT Recommendation 11–08 and additional prohibitions against storing, selling and purchasing of silky sharks in the commercial pelagic longline fishery for tuna and tuna-like species).

Under the No Action Alternative, Alternative 1, there would be no additional economic impacts to HMS pelagic longline vessels fishing for tuna and tuna-like species. Commercial pelagic longline vessels that fish for tuna and tuna-like species that are also currently authorized to land silky sharks would be able to continue that practice. Commercial pelagic longline fishermen would continue to be able to land silky sharks and could potentially earn $485 per vessel. Additionally, each vessel is predicted to earn a total of $190,986 per year in revenue from swordfish and tuna ($96,525 from swordfish and $94,461 from tuna). Therefore, revenues from silky shark sales are minor (<1 percent) compared to each vessel's overall revenue.

Under Alternative 2, pelagic longline vessel operators and owners could not retain, transship, or land silky sharks, consistent with ICCAT Recommendation 11–08. Thus, on average, each vessel would lose approximately $485 annually in gross revenues, which is minor (<1 percent) compared to each vessel's overall revenue from swordfish and tunas ($190,986 total revenues).

Under Alternative 3, pelagic longline vessel owners and operators could not retain, transship, land, sell, or store silky sharks, consistent with ICCAT Recommendation 11–08 and other domestic regulations. This alternative is essentially the same as alternative 2 but would improve domestic enforcement capabilities. Thus, on average, each vessel would lose approximately $485 annually in gross revenues, which is minor (<1 percent) compared to each vessel's overall revenue from swordfish and tunas ($190,986 total revenues). We prefer Alternative 3 at this time, because it would implement ICCAT Recommendation 11–08, would likely have minor ecological benefits, would have minor socioeconomic impacts on the pelagic longline fishery, and would provide enhanced enforcement abilities. Additionally, we believe this alternative would be unlikely to change fishing practices or effort.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 19, 2012.

Alan D. Risenhoover,

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

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows

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

2. In § 635.21, paragraph (c)(1)(ii) is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(1) * * *

(ii) Has pelagic longline gear on board, persons aboard that vessel may not possess, retain, transship, land, sell, or store silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks.

* * * * *

3. In § 635.24, paragraph (a)(9) is revised to read as follows:

§ 635.24 Commercial retention limits for sharks and swordfish.

* * * * *

(a) * * *

(9) Notwithstanding other provisions in this subsection, possession, retention, transshipment, landing, sale, or storage of silky sharks, oceanic whitetip sharks, and scalloped, smooth, and great hammerhead sharks is prohibited on vessels issued a permit under this part that have pelagic longline gear on board.

* * * * *

4. In § 635.31, paragraph (c)(6) is revised to read as follows:

§ 635.31 Restrictions on sale and purchase.

* * * * *

(c) * * *

(6) A dealer issued a permit under this part may not purchase silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks from an owner or operator of a fishing vessel with pelagic longline gear on board. A dealer issued a permit under this part may not purchase oceanic whitetip sharks or scalloped, smooth, or great hammerhead sharks from the owner of a fishing vessel issued both a HMS Charter/Headboat permit and a commercial shark permit when tuna, swordfish or billfish are on board the vessel, offloaded from the vessel, or being offloaded from the vessel.

* * * * *

5. In § 635.71, paragraph (d)(19) is revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(d) * * *

(19) Retain, possess, transship, land, store, sell or purchase silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks as specified in § 635.21(c)(1)(ii), § 635.22(a)(2), § 635.24, and § 635.31(c)(6).

* * * * *

[FR Doc. 2012–15348 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 77, No. 121

Friday, June 22, 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

[FR Doc. 2011–25814]

Privacy Act of 1974: Notice of Proposed Privacy Act System of Records Revision; Correction

AGENCY: Office of Homeland Security and Emergency Coordination, Departmental Management, U.S. Department of Agriculture.

ACTION: Notice Correction.

SUMMARY: The U.S. Department of Agriculture (USDA), Departmental Management (DM), Office of Homeland Security and Emergency Coordination (OHSEC), published in the **Federal Register** on October 6, 2011, a notice of the proposed Radiation Safety Management System (RSMS). The notice is being corrected to provide the location of the system and paper records.

Correction

In the **Federal Register** of October 6, 2011 (76 FR 62035), please make the following corrections:

Under the USDA/OHSEC–1 heading in the first column of page 62036, under the System Location heading under the first column, first paragraph, second line, replace ''Departmental Administration Report (DA)'' with ''Enterprise Local Area Network (ENTLAN).'' On the fifth line, replace ''_____?'' with ''in Beltsville, MD.''

Dated: June 13, 2012.

Thomas J. Vilsack,

Secretary.

[FR Doc. 2012–15045 Filed 6–21–12; 8:45 am]

BILLING CODE 3412–BA–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on July 25, 2012, 9 a.m., in Room 4830 and July 26, 2012 in Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Wednesday, July 25

Open Session

1. Welcome and Introductions.
2. Working Group Reports.
3. Industry Presentation: Intel Technology Roadmap.
4. Industry Presentation: Analog-Digital Converters.
5. New Business.

Thursday, July 26

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov*, no later than July 19, 2012.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 7, 2011, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 D.S.C. app. 2 §§ 10(a)(1) and l0(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: June 18, 2012.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2012–15320 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on July 31, 2012, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session:

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session:

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than July 24, 2012.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 27, 2011 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: June 18, 2012

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2012–15321 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–982]

Utility Scale Wind Towers From the People's Republic of China: Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is aligning the final determination in the countervailing duty (CVD) investigation of utility scale wind towers (wind towers) from the People's Republic of China (PRC) with the final determination in the companion antidumping duty (AD) investigation.

DATES: *Effective Date:* June 22, 2012.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Patricia Tran, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4793 and 202–482–1503, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 2012, the Department initiated the AD and CVD investigations of wind towers from the PRC.[1] On June 6, 2012, the Department published the preliminary affirmative CVD determination.[2] On June 7, 2012, the petitioner, the Wind Tower Trade Coalition,[3] timely requested alignment of the deadline for the final CVD determination with the deadline for the final determination in the companion AD investigation, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4)(i) and 210(i). Because the AD and CVD investigations were initiated simultaneously and involve the same class or kind of merchandise from the same country, we are aligning the final deadlines in the two investigations. The final CVD and AD determinations will be issued no later than October 9, 2012, unless postponed.

This notice is issued and published pursuant to section 705(a)(1) of the Act.

Dated: June 15, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–15376 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Utility Scale Wind Towers From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 77 FR 3447 (January 24, 2012) and *Utility Scale Wind Towers From the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 77 FR 3440 (January 24, 2012).

[2] *See Utility Scale Wind Towers From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 77 FR 33422 (June 6, 2012).

[3] The following companies compose the Wind Tower Trade Coalition: Broadwind Towers, Inc., DMI Industries, Katana Summit LLC, and Trinity Structural Towers, Inc.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 120518098–2098–01]

Manufacturing Extension Partnership (MEP) Centers for Arizona, Maryland and Rhode Island; Availability of Funds

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: NIST invites proposals from eligible proposers for funding projects that provide manufacturing extension services to primarily small- and medium-sized manufacturers in the United States. Specifically, NIST seeks proposals for projects to establish MEP centers in Arizona, Maryland and Rhode Island.

DATES: All proposals, paper and electronic, must be received no later than 5 p.m. Eastern Time on August 21, 2012.

ADDRESSES: The standard application package may be obtained by contacting Diane Henderson, National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899–4800, phone (301) 975–5105, or by downloading the application package through Grants.gov. Paper submissions should be sent to: Diane Henderson, National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Gaithersburg, MD 20899–4800. Electronic submissions should be submitted to *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Administrative, budget, cost-sharing, and eligibility questions and other programmatic questions should be directed to Diane Henderson at Tel: (301) 975–5105; Email: *diane.henderson@nist.gov;* Fax: (301) 963–6556. Grants Administration questions should be addressed to: Jannet Cancino, Grants and Agreements Management Division, National Institute of Standards and Technology, 100 Bureau Drive, Stop 1650, Gaithersburg, MD 20899–1650; Tel: (301) 975–6544. For assistance with using Grants.gov contact Christopher Hunton at Tel: (301) 975–5718; Email: *christopher.hunton@nist.gov;* Fax: (301) 840–5976. All questions and responses will be posted on the MEP Web site, *www.nist.gov/mep.*

SUPPLEMENTARY INFORMATION:

Electronic access: Proposers are strongly encouraged to read the Federal Funding Opportunity (FFO) announcement available at *www.grants.gov* for complete information about this program, including all program requirements and instructions for applying by paper or electronically. The FFO may be found by searching under the Catalog of Federal Domestic Assistance Name and Number provided below.

Authority: 15 U.S.C. 278k, as implemented in 15 CFR part 290.

Catalog of Federal Domestic Assistance Name and Number: Manufacturing Extension Partnership—11.611.

Information Session: NIST MEP will hold an information session for organizations considering applying to this opportunity. An information session in the form of a webinar will be held approximately 14 business days after publication of this notice in the **Federal Register**. The exact date and time of the webinar will be posted on the MEP Web site at *www.nist.gov/mep.* Organizations wishing to participate in the webinar must sign up by contacting Diane Henderson at *diane.henderson@nist.gov.*

Program Description

NIST invites proposals from eligible proposers for funding three (3) separate MEP centers to provide manufacturing extension services to primarily small- and medium-sized manufacturers in three separate locations, Arizona, Maryland, and Rhode Island. These MEP centers will become part of the MEP national system of extension service providers, currently comprised of more than 400 centers and field offices located throughout the United States and Puerto Rico.

The objective of an MEP center is to provide manufacturing extension services that enhance productivity, innovative capacity, and technological performance, and strengthen the global competitiveness of primarily small- and medium-sized U.S. based manufacturing firms in its service region. Manufacturing extension services are provided by utilizing the most cost effective, local, leveraged resources for those services through the coordinated efforts of a regionally based MEP center and local technology resources. The management and operational structure of an MEP center is not prescribed, but should be based upon the characteristics of the manufacturers in the region and locally available resources with demonstrated experience working with manufacturers.

It is not the intent of this program that the centers perform research and development. Information regarding MEP and these centers is available at *www.nist.gov/mep.*

Funding Availability: Approximately $3,000,000 for new awards. NIST anticipates funding three (3) separate proposals: One (1) at the level of up to $1,000,000 for the state of Arizona, one (1) of up to $1,000,000 for the state of Maryland, and one (1) of up to $1,000,000 for the state of Rhode Island. The projects awarded under this competition will have a budget and performance period of one (1) year. Each award may be renewed on an annual basis subject to the review requirements described in 15 CFR 290.8. Renewal of each project shall be at the sole discretion of NIST and shall be based upon satisfactory performance, priority of the need for the service, existing legislative authority, and availability of funds.

Cost Share Requirements: This Program requires a non-Federal cost share of at least 50 percent of the total project cost for the first year of operation. Any renewal funding of an award will require non-Federal cost sharing as follows:

Year of center operation	Maximum NIST share	Minimum non-federal share
1–3	½	½
4	⅖	⅗
5 and beyond	⅓	⅔

Non-Federal cost sharing is that portion of the project costs not borne by the Federal Government. The proposer's share of the MEP center expenses may include cash, services, and third party in-kind contributions, as described at 15 CFR 14.23 or 24.24, as applicable, and the MEP program rule, 15 CFR 290.4(c). No more than 50% of the proposer's total non-Federal cost share may be third party in-kind contributions of part-time personnel, equipment, software, rental value of centrally located space, and related contributions, per 15 CFR 290.4(c)(5). The source and detailed rationale of the cost share, including cash, full- and part-time personnel, and in-kind donations, must be documented in the budget submitted with the proposal and will be considered as part of the evaluation review.

All non-Federal cost share contributions require a letter of commitment signed by an authorized official from each source.

Any cost sharing must be in accordance with the ''cost sharing or matching'' provisions of 15 CFR part 14, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations* or 15 CFR part 24, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,* as applicable.

As with the Federal share, any proposed costs included as non-Federal cost sharing must be an allowable/eligible cost under this Program and the following applicable Federal cost principles: (1) Institutions of Higher Education: 2 CFR part 220 (OMB Circular A–21); (2) Nonprofit Organizations: 2 CFR part 230 (OMB Circular A–122); and (3) State, Local and Indian Tribal Governments: 2 CFR part 225 (OMB Circular A–87).

As with the Federal share, any proposed non-Federal cost sharing will be made a part of the cooperative agreement award and will be subject to audit if the project receives MEP funding.

Eligibility: The eligibility requirements given in this section will be used in lieu of those published in the MEP regulations found at 15 CFR part 290, specifically 15 CFR 290.5(a)(1). Each award recipient must be a U.S.-based nonprofit institution or organization. For the purpose of this competition, nonprofit organizations include, but are not limited to, universities and state and local governments. An eligible organization may work individually or include proposed subawards or contracts with others in a project proposal, effectively forming a team. Existing MEP centers are eligible.

Proposal Requirements: Proposals must be submitted in accordance with the requirements set forth in the corresponding FFO announcement.

Evaluation Criteria

The evaluation criteria, selection factors and review and selection process provided in this section will be used for this competition in lieu of that provided in the MEP regulations found at 15 CFR part 290, specifically 15 CFR 290.6 and 290.7 (*http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=8652afebd3b81ef821cdaba9a0b5197c&rgn=div5&view=text&node=15:1.2.2.10.13&idno=15*):

The proposals will be evaluated based on the evaluation criteria described below, which are set in the context of the proposer's ability to align the proposal for accomplishing the objectives of NIST MEP's Next Generation Strategy: Continuous Improvement, Technology Acceleration, Supplier Development, Sustainability

and Workforce. The NIST MEP Next Generation Strategy can be found at *www.nist.gov/mep.*

The evaluation criteria that will be used in evaluating proposals are as follows:

a. *Identification of Target Firms in Proposed Region.* Does the proposal clearly address the entire service region, providing for a large enough population of target firms of small- and medium-sized manufacturers that the proposer understands and can serve, and which is not presently served by an existing Center?

(1) *Market Analysis.* Demonstrated understanding of the service region's manufacturing base, including business size, industry types, product mix, and technology requirements.

(2) *Geographical Location.* Physical size, concentration of industry, and economic significance of the service region's manufacturing base. Geographical diversity of the Center as compared to existing Centers will be a factor in evaluation of proposals.

b. *Technology Resources.* Does the proposal assure strength in technical personnel and programmatic resources, full-time staff, facilities, equipment, and linkages to external sources of technology to develop and transfer technologies related to NIST research results and expertise in the technical areas noted in the MEP regulations found at 15 CFR part 290 as well as from other sources of technology research and development?

c. *Technology Delivery Mechanisms.* Does the proposal clearly and sharply define an effective methodology for delivering advanced manufacturing technology to small- and medium-sized manufacturers and mechanism(s) for accelerating the adoption of technologies for both process improvement and new product adoption?

(1) *Linkages.* Development of effective partnerships or linkages to third parties such as industry, universities, nonprofit economic organizations, and state governments, who will amplify the Center's technology delivery to reach a large number of clients in its service region.

(2) *Program Leverage.* Provision of an effective strategy to amplify the Center's technology delivery approaches to achieve the proposed objectives as described in 15 CFR 290.3(e).

d. *Management and Financial Plan.* Does the proposal define a management structure and assure management personnel to carry out development and operation of an effective Center?

(1) *Organizational Structure.* Completeness and appropriateness of the organizational structure, and its focus on the mission of the Center. Assurance of local full-time top management of the Center. This includes a clearly presented Oversight Board structure with a membership representing small- and medium-sized manufacturers in the region. MEP has determined that centers clearly benefit when a majority or more of its Board members/Trustees compose a membership representing principally small and medium manufacturing as well as committed partners and do not have dual obligations to more than one Center. Two-thirds of the members of the Center's oversight board must not be members of any other MEP Center boards.

(2) *Program Management.* Effectiveness of the planned methodology of program management. This includes committed local partners and demonstrated experience of the leadership team in manufacturing, outreach and partnership development.

(3) *Internal Evaluation.* Effectiveness of the planned continuous internal evaluation of program activities. The proposal must provide the methodology for continuous internal evaluation of the program activities and demonstrate the effectiveness of defined methodology.

(4) *Plans for Financial Cost Share.* Demonstrated stability and duration of the proposer's funding commitments. Identification of the sources of cost share and the general terms of funding commitments. The total level of cost share and detailed rationale of the cost share, including cash and in-kind, must be documented in the budget submitted with the proposal.

(5) *Budget.* Suitability and focus of the proposer's detailed one-year budget and budget outline for years two (2) through five (5).

Each of these criteria will be given equal weight in the evaluation process.

Review and Selection Process: The review and selection process and selection factors provided in this section will be used for this competition in lieu of that provided in the MEP regulations found at 15 CFR part 290, specifically 15 CFR 290.6 and 290.7.

1. *Initial Administrative Review of Proposals.* An initial review of timely received proposals will be conducted to determine eligibility, completeness, and responsiveness to this notice and the scope of the stated program objectives. Proposals determined to be ineligible, incomplete, and/or non-responsive may be eliminated from further review.

2. *Full Review of Eligible, Complete, and Responsive Proposals.* Proposals that are determined to be eligible, complete, and responsive will proceed for full reviews in accordance with the review and selection processes below:

a. *Evaluation and Review.* NIST will appoint an evaluation panel, consisting of at least three technically qualified reviewers to evaluate each proposal based on the evaluation criteria listed above and assign a numeric score for each proposal. If more than one non-Federal employee reviewer is used on the panel, the panel member reviewers may discuss the proposals with each other, but scores will be determined on an individual basis, not as a consensus. Panelists will assign each proposal a score, based on the proposal's responsiveness to the criteria above, with a maximum score of 100. Proposals with an average score of 70 or higher out of 100 will be deemed finalists.

b. *Site Visits.* Site visits may be required to make full evaluation of a proposal that has been determined to be a finalist. If site visits are deemed necessary, all finalists will receive site visits conducted by the same evaluation panel reviewers referenced in the preceding paragraph. NIST may enter into negotiations with the finalists concerning any aspect of their proposal. Finalists will be reviewed, evaluated, and assigned numeric scores based on the evaluation criteria listed above.

c. *Ranking and Selection.* Based on the average of the panel member reviewers' scores, a rank order will be prepared and provided to the Selecting Official for further consideration. The Selecting Official, who is the Director of the NIST MEP Program, will then select proposals for award based upon the rank order of the proposals, and may select a proposal out of rank based on one or more of the following selection factors:

(1) The availability of Federal funds.

(2) The need to assure appropriate regional distribution.

(3) Whether the project duplicates other projects funded by DoC or by other Federal agencies.

(4) Proposer's performance under current or previous Federal financial assistance awards. Note: Proposals from existing or previous MEP centers or partners must contain specific information that addresses whether the proposer's past performance with the program is indicative of expected performance under a possible new award and describing how and why performance is expected to be the same or different.

NIST reserves the right to negotiate the budget costs with the proposers that have been selected to receive awards, which may include requesting that the proposer remove certain costs. Additionally, NIST may request that the

proposer modify objectives or work plans and provide supplemental information required by the agency prior to award. NIST also reserves the right to reject a proposal where information is uncovered that raises a reasonable doubt as to the responsibility of the proposer. NIST may select part, some, all, or none of the proposals. The final approval of selected proposals and issuance of awards will be by the NIST Grants Officer. The award decisions of the NIST Grants Officer are final.

Unsuccessful proposers will be notified in writing. The Program will retain one copy of each unsuccessful proposal for three (3) years for record keeping purposes. The remaining copies will be destroyed. After three (3) years the remaining copy will be destroyed.

Administrative and National Policy Requirements

The Department of Commerce Pre-Award Notification Requirements: The DoC Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696), are applicable to this competition and are available at *http://www.gpo.gov/fdsys/pkg/FR-2008-02-11/pdf/E8-2482.pdf.*

Employer/Taxpayer Identification Number (EIN/TIN), Dun and Bradstreet Data Universal Numbering System (DUNS), and Central Contractor Registration (CCR): All proposers for Federal financial assistance are required to obtain a universal identifier in the form of a DUNS number and maintain a current registration in the CCR database. On the form SF–424 items 8.b. and 8.c., the proposer's 9-digit EIN/TIN and 9-digit DUNS number must be consistent with the information on the CCR (*www.ccr.gov*) and Automated Standard Application for Payment System (ASAP). For complex organizations with multiple EIN/TIN and DUNS numbers, the EIN/TIN and DUNS numbers MUST be the numbers for the applying organization. Organizations that provide incorrect/inconsistent EIN/TIN and DUNS numbers may experience significant delays in receiving funds if their proposal is selected for funding. Confirm that the EIN/TIN and DUNS numbers are consistent with the information on the CCR and ASAP.

Per the requirements of 2 CFR part 25, each proposer must:

1. Be registered in the CCR before submitting a proposal;

2. Maintain an active CCR registration with current information at all times during which it has an active Federal award or a proposal under consideration by an agency; and

3. Provide its DUNS number in each application or proposal it submits to the agency.

See also the **Federal Register** notice published on September 14, 2010, at 75 FR 55671.

Paperwork Reduction Act: The standard forms in the application kit involve a collection of information subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 have been approved by OMB under the respective Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. MEP program-specific application requirements have been approved by OMB under Control Number 0693–0056.

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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Funding Availability and Limitation of Liability: Funding for the program listed in this notice is contingent upon the availability of appropriations. In no event will NIST or DoC be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of agency priorities. Publication of this notice does not oblige NIST or DoC to award any specific project or to obligate any available funds.

Executive Order 12866: This funding notice was determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Executive Order 12372: Proposals under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Administrative Procedure Act/Regulatory Flexibility Act: Notice and comment are not required under the Administrative Procedure Act (5 U.S.C. 553) or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: June 15, 2012.

Phillip Singerman,

Associate Director for Innovation & Industry Services.

[FR Doc. 2012–15305 Filed 6–21–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648–XC011

Multi-Species Habitat Conservation Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of availability of final environmental impact statement, multi-species habitat conservation plan, and implementing agreement.

SUMMARY: This document announces the availability of the Final Environmental Impact Statement (EIS) on the applications from the Fruit Growers Supply Company (FGS) for Incidental Take Permits (ITPs) and a multi-species Habitat Conservation Plan (HCP) for take of endangered and threatened species in accordance with the Endangered Species Act of 1973, as amended (ESA). The National Marine Fisheries Service and the Fish and Wildlife Service (Services) and FGS have also developed an Implementing Agreement (IA) which details how the Services and FGS will work together to implement the HCP. The applicant seeks the ITPs to authorize incidental take of the covered species during forest management and timber harvest in Siskiyou County, CA, where FGS owns lands, during the term of the proposed 50-year ITPs and HCP. This document is provided under National Environmental Policy Act regulations to inform the public that the Final EIS and multi-species HCP, and the Services' responses to public comments are available for review, and that we have filed the Final EIS with the U.S. Environmental Protection Agency (EPA) for public notice. The Services will not make a decision on issuing ITPs to FGS sooner than 45 days after publication of EPA's notice.

DATES: Written comments must be received by 5 p.m. Pacific Time, August 6, 2012.

ADDRESSES: Comments may be sent by any of the following methods:

- *Mail:* Address comments to: Lisa Roberts, NMFS, 1655 Heindon Road, Arcata, CA 95521.
- *Email:* *SWR.NCO.FGSHCP@noaa.gov.* In the subject line of the email, include the document identifier: Final FGS HCP.
- *Facsimile:* (707) 825–4840. Please note: Attention: Lisa Roberts, NMFS.

FOR FURTHER INFORMATION CONTACT: For further information, or to receive a copy of the documents, please call Lisa Roberts, Fisheries Biologist, NMFS, at (707) 825–5178 or Brian Woodbridge, Wildlife Biologist, FWS, at (530) 841–3101.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Final EIS, HCP, applications for ITPs, and IA are available for public inspection during regular business hours at the Arcata National Marine Fisheries Office (see **FOR FURTHER INFORMATION CONTACT**) and at the Yreka Fish and Wildlife Office (1829 S. Oregon Street, Yreka, CA 96097).

The documents are also available electronically for review on the NMFS Southwest Region Web site at: *http://swr.nmfs.noaa.gov/nepa.html* or the FWS Yreka office Web site at: *www.fws.gov/yreka.* Copies are also available for viewing in each of the following libraries:

1. Siskiyou County Library, 719 4th St., Yreka, CA 96097.
2. Humboldt County Library, 1313 3rd St., Eureka, CA 95501.
3. Del Norte County Library, 190 Price Mall, Crescent City, CA 95531.

Background

Section 9 of the ESA prohibits the ''take'' of wildlife species listed as endangered or threatened by either the FWS or NMFS (16 U.S.C. 1538). The ESA defines the term ''take'' as: Harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. ''Harm'' has been defined by FWS to include ''significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.'' Consistent with FWS, NMFS has defined ''harm'' as an act which actually kills or injures fish or wildlife, and emphasized that such acts may include ''significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering''. Pursuant to section 10(a)(1)(B) of the ESA, FWS and NMFS may issue ITPs authorizing the take of listed species if, among other things, such taking is incidental to, and not the purpose of, otherwise lawful activities.

Take of listed plant species is not prohibited under the ESA, and cannot be authorized under a section 10 permit. However, the applicant proposes to include Yreka phlox (*Phlox hirsuta*) in the HCP to extend the HCP's conservation benefits to this species. The applicant would receive assurances under the ''No Surprises'' regulations found in 50 CFR 17.22(b)(5), 17.32(b)(5), and 222.307(g) for all proposed covered species in the ITP.

To receive an ITP under the ESA, an applicant must first prepare an HCP that specifies the following: (1) The impact of the taking; (2) steps the applicant will take to minimize and mitigate the impact; (3) funding available to implement the steps; (4) what alternative actions to the taking the applicant considered and the reasons why these actions were not taken; and (5) any other measures NMFS or FWS may require as being necessary or appropriate for the purpose of the HCP (16 U.S.C. 1539(a)(2)(A)). To issue a permit, NMFS and FWS must find that: (1) The taking will be incidental; (2) the applicant will minimize and mitigate impacts of the take to the maximum extent practicable; (3) the applicant will ensure adequate funding for the HCP; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will meet other measures required by FWS and NMFS. Regulations governing issuance of FWS ITPs for endangered and threatened species are at 50 CFR 17.22 and 17.32, and for NMFS-issued permits at 50 CFR 222.301 through 307.

The applicant has requested coverage from FWS for northern spotted owl (*Strix occidentalis caurina*) and Yreka phlox (*Phlox hirsuta*), and from NMFS for the Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU). The applicant has also requested coverage under the ITP for the unlisted Klamath and Trinity Rivers Chinook salmon (*O. tshawytscha*) ESU and the Klamath Mountains Province steelhead (*O. mykiss*) ESU. Should these unlisted covered species become listed under the ESA during the term of the permit, take authorization for those species would become effective upon listing as long as the HCP is being properly implemented. The Final FGS HCP describes the habitat-based conservation approach, with species-specific objectives for their long-term conservation. This includes an Aquatic Species Conservation Program for salmonids and Terrestrial Species Conservation Program for the northern spotted owl and Yreka phlox.

FGS activities proposed for coverage under the ITPs include mechanized timber harvest; forest product transportation; road and landing construction, use, maintenance, and abandonment; site preparation; tree planting; certain types of vegetation management; silvicultural thinning and other silvicultural activities; fire suppression; rock quarry and borrow pit operations; aquatic habitat restoration; minor forest management activities such as forest product collecting; and monitoring activities and scientific work in the HCP Plan Area.

The duration of the ITPs and HCP is 50 years, though many aspects of the plan's conservation strategy are intended to benefit the covered species long after the expiration of the permit. The goals of this HCP are to: (1) Protect and improve habitats required by species covered by the HCP and (2) establish appropriate guidelines for continued timber harvest and other forest management activities.

NMFS and FWS formally initiated an environmental review of the project through publication of a Notice of Intent to prepare an Environmental Impact Statement in the **Federal Register** on February 22, 2008 (73 FR 9776). That document also announced a 30-day public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal and attend the public scoping meetings held in Yreka and Happy Camp, California.

On November 13, 2009, the Services published a Notice of Availability of the Draft Fruit Growers Supply Company Multi-Species Habitat Conservation Plan and Draft Environmental Impact Statement, Siskiyou County, California in the **Federal Register** (74 FR 58602). The public review period was scheduled for 90 days from November 13, 2009, to February 11, 2010. A total of 21 oral questions and comments were received from two speakers at a public meeting held in Yreka on December 2, 2009. Twenty-four comment letters were received, as well as two emails sent by 532 individuals. The oral comments, letters, and emails contained a total of

275 separate comments. A response to each of these comments is included in the Final EIS.

The Final EIS is intended to accomplish the following: Inform the public of the proposed action and alternatives; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

Alternatives

The Final EIS analyzes the FGS proposal and three alternatives. Under the proposed action, the Services would issue the ITPs and FGS would implement its proposed HCP on approximately 152,178 acres of the FGS commercial timberlands. The ownership consists of three management units: Klamath River (65,339 acres), Scott Valley (39,153 acres), and Grass Lake (47,686 acres). Under the No Action Alternative, the ITPs would not be issued, there would be no HCP, and FGS would remain subject to the prohibition on unauthorized taking of listed species. Under Alternative A, the ITPs would be issued by both agencies, and northern spotted owl conservation areas would be based on the Northwest Forest Plan (NWFP) system of late-successional reserves (LSRs), and the Aquatic Species Conservation Program would be based on concepts outlined in the NWFP for the protection of aquatic habitats. Under Alternative B, FWS would issue an ITP for northern spotted owl, with spotted owl conservation based on management of foraging and dispersal habitat across the Plan Area. Under Alternative B, no ITP would be issued by NMFS and there would be no Aquatic Species Conservation Program implemented.

National Environmental Policy Act

The proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA) and accordingly the Services have prepared a joint NEPA document. The Services are Co-Leads and are responsible for compliance under NEPA. As NEPA Co-Lead agencies, the Services are providing notice of the availability of the Final EIS and are making available for public review the responses to comments on the Draft EIS.

Public Review

The Services invite the public to review the Final EIS, HCP and IA during a 45-day wait period from June 22, 2012 to August 6, 2012. Any comments received, including names and addresses, will become part of the administrative record and may be made available to the public. You may submit your comments to the address listed in the **ADDRESSES** section of this document. 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 may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Services will evaluate the applications, associated documents, and comments submitted in preparation of the two Records of Decisions that the Services must prepare in response to the ITP applications. Permit decisions will be made no sooner than 45 days after the publication of EPA's notice of the Final EIS and completion of the Records of Decisions.

Dated: June 18, 2012.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: June 18, 2012.

Alexandra Pitts,

Deputy Regional Director, Region 8, Pacific Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2012–15353 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–55–P; 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 7/23/2012.

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 CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Revision

On 5/25/2012 (77 FR 31335–31336), the Committee for Purchase From People Who Are Blind or Severely Disabled proposed the addition of two Containerized Unitized Bulk Equipment (CUBE) Lifeliners, NSNs 1670–01–598–5067 and 1670–01–598–5071 to its Procurement List.

The Coverage statement associated with this proposed addition should have read as follows:

Coverage: C–List for 100% of the requirement of the Department of the Army, as aggregated by the Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division, Natick, MA.

As previously announced, comments on the proposed addition must be received on or before June 25, 2012.

Additions

On 4/13/2012 (77 FR 22289–22290) and 4/20/2012 (77 FR 23665–23666), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. 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.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Floor Mat, Anti-Skid Backing

NSN: 7220–01–411–1515—3' x 5', Slate/Gray.
NSN: 7220–01–411–2979—3' x 5', Chestnut/Dark Brown.
NSN: 7220–01–411–2980—4' x 6', Chestnut/Dark Brown.
NPA: Wiscraft, Inc., Milwaukee, WI.
Contracting Activity: General Services Administration, Fort Worth, TX.
Coverage: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: MR 353—Scrubber with Handle, Nylon Mesh, All Purpose, 2PK.
NSN: MR 355—Set, Serving Set, Party Traveling.
NSN: MR 927—Set, Brush and Caddy, Contour Bowl.
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/Locations:
Latrine Services, Stryker Overflow Lot, Railroad Avenue, Joint Base Lewis-McChord, WA.
Stryker National Logistics Center, Building 2701 C Street, SW., Auburn, WA.
NPA: Skookum Educational Programs, Bremerton, WA.
Contracting Activity: Dept of the Army, W4GG HQ US Army TACOM, Warren, MI.
Service Type/Location: Mailroom Operations, Official Mail Distribution Center, 1 Rock Island Arsenal, Building 132, Rock Island, IL.
NPA: The Arc of the Quad Cities Area, Rock Island, IL.
Contracting Activity: Dept of the Army, W4MM USA Joint Munitions CMD, Rock Island, IL.
Service Type/Location: Custodial Service, U.S. Army Corps of Engineers, U.S. Army Engineer Research and Development Center (ERDC), Lewisville Aquatic Ecosystem Research Facility (LAERF), 201 E. Jones Street, Lewisville, TX.
NPA: Rising Star Resource Development Corporation, Dallas, TX.
Contracting Activity: Dept of The Army, W2R2 USA Engr R and D CTR, Vicksburg, MS.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–15269 Filed 6–21–12; 8:45 am]

BILLING CODE 6353–01–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 7/23/2012.

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: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 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.

Revision

On 5/25/2012 (77 FR 31335–31336), the Committee for Purchase From People Who Are Blind or Severely Disabled proposed the addition of two Containerized Unitized Bulk Equipment (CUBE) Lifeliners, NSNs 1670–01–598–5067 and 1670–01–598–5071 to its Procurement List.

The Coverage statement associated with this proposed addition should have read as follows: Coverage: C–List for 100% of the requirement of the Department of the Army, as aggregated by the Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division, Natick, MA.

As previously announced, comments on the proposed addition must be received on or before June 25, 2012.

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

NSN: 7510–01–156–7936—Presentation Folder, Dark Blue with Debossed Gold Seal, Soft Cover
NSN: 7510–01–GG0–1102—Award Folder, Public Service with White Debossed Gold Seal, Hard Cover
NSN: 7510–01–094–1485—Award Folder, Commandant Medal, Dark Blue with Debossed Gold Seal, Padded Cover
NSN: 7510–01–097–6004—Award Folder, Commandant Letter, Dark Blue with Debossed Gold Seal, Hard Cover
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, TX
Contracting Activity: Dept of Homeland Security, U.S. Coast Guard, SFLC Procurement Branch 3, Baltimore, MD
COVERAGE: C–List for 100% of the requirement of the U.S. Coast Guard, as aggregated by the U.S. Coast Guard, Baltimore, MD.

Services

Service Type/Location: Firewatch/Tank Void/Lead Handler Support Services, Puget Sound Naval Ship Yards at Bremerton, Bangor and Keyport, 1400 Farragut Avenue, Bremerton, WA.
NPA: Skookum Educational Programs, Bremerton, WA.
Contracting Activity: Dept Of The Navy, Navsup Flt Log Ctr Puget Sound, Bremerton, WA.
Service Type/Location: Document Management Services, Department of

Homeland Security, Customs and Border Protection, Passenger Systems Program Office, (Offsite: 3043 Sanitarium Road, Akron, OH), 1331 Pennsylvania Avenue NW., Washington, DC.

NPA: Coleman Professional Services, Kent, OH.

Contracting Activity: Dept of Homeland Security, U.S. Customs and Border Protection, Information Technology Contracting Division, Washington, DC.

Service Type/Location: Courier Service, Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (USICE), Office of the Principal Legal Advisor, New York Office of Chief Counsel, 290 Broadway Street, New York, NY.

NPA: Fedcap Rehabilitation Services, Inc., New York, NY.

Contracting Activity: Dept of Homeland Security, U.S. Immigration and Customs Enforcement, Mission Support Orlando, Orlando, Fl.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–15270 Filed 6–21–12; 8:45 am]

BILLING CODE 6353–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Withdrawal of Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of withdrawal.

SUMMARY: On May 15, 2012, the Bureau of Consumer Financial Protection (Bureau) published a notice and request for comment in this Register, 77 FR 29571. The notice invited the general public and other Federal agencies to comment for 30 days on a proposed information collection request, entitled ''Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations.'' At this time, the Bureau wishes to give notice that it is withdrawing that request and has published a revised request which will be available for a 60-day public comment period. The revised notice and request for comment was published on June 14, 2012, in this Register 77 FR XXXX, and is entitled ''Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations.'' Any comments the Bureau has received thus far from the withdrawn notice will be considered along with the comments the Bureau receives in connection with the revised 60-day notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9011, or through the internet at *CFPB_Public_PRA@cfpb.gov.*

Dated: June 14, 2012.

Chris Willey,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2012–15259 Filed 6–21–12; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, June 27, 2012, 10 a.m.–11 a.m.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED:

Decisional Matter: Play Yards—Final Rule.

A live Webcast of the Meeting can be viewed at *www.cpsc.gov/webcast.*

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: June 19, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–15356 Filed 6–20–12; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

ICWG Meeting for the NAVSTAR GPS Public Signals in Space

AGENCY: The United States Air Force.

ACTION: Meeting Notice.

SUMMARY: The Public Interface Control Working Group (ICWG) will meet September 5–6, 2012 to discuss the NAVSTAR GPS public Signals in Space (SiS) documents; IS–GPS–200 (Navigation User Interfaces), IS–GPS–705 (User Segment L5 Interfaces), and IS–GPS–800 (User Segment L1C Interface. The purpose of this meeting will be twofold: (1) To resolve the comments against the public signals-in-space (SiS) documents with respect to the two issues outlined below, and (2) to collect issues/comments outside the scope of the issues outlined below for analysis and possible integration into the following release. The ICWG is open to the general public. For those who would like to attend and participate in this ICWG meeting, we request that you register no later than August, 6 2012.

FOR FURTHER INFORMATION CONTACT: Please send the registration to *mark.marquez.ctr@losangeles.af.mil* and provide your name, organization, telephone number, address, and country of citizenship.

Please note that the Directorate's primary focus will be the disposition of the comments against the following GPS related topics:

—Public Signals-in-Space (SiS) updates

—L1C Phase Noise

All comments must be submitted in Comments Resolution Matrix (CRM) form. These forms along with the Was/Is Matrix, current versions of the documents, and the official meeting notice will be posted at: *http://www.gps.gov/technical/icwg/.*

Comments outside the scope of the above issues will be collected, catalogued, and discussed during the public ICWG as potential inclusions to the version following this release. If accepted, these changes will be processed through the formal Directorate change process for IS–GPS–200, IS–GPS–705, and IS–GPS–800.

Please provide them in the CRM form and submit to Tony Marquez by July 20, 2012.

Public Interface Control Working Group Meeting (ICWG)

Date(s) and Times: 5–6 Sep 2012 (0800–1700) (Pacific Standard Time P.S.T). *Dial-in Information and Location:* 1–800–366–7242, Code: 1528652.

Address: SAIC Facility 300 North Sepulveda Blvd., 2nd Floor, Conference Room 2060 El Segundo CA 90245.

- Identification will be required at the entrance of the SAIC facility (Passport, state ID, or Federal ID) SAIC Facility phone number: 310–416–8300.

Henry Williams, Jr.,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2012–15323 Filed 6–21–12; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

Amended Notice of Intent To Prepare the Environmental Impact Statement for a Proposed Federal Loan Guarantee for the Indiana Gasification, LLC, Industrial Gasification Facility in Rockport, IN, and CO_2 Pipeline; Conduct Additional Public Scoping Meetings; and Issue a Notice of Floodplains and Wetlands Involvement

AGENCY: Loan Programs Office, DOE.

ACTION: Amended notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to expand the scope of an environmental impact statement (EIS) (DOE/EIS–0429) to analyze the environmental impacts for its proposed action of issuing a Federal loan guarantee to Indiana Gasification, LLC, (IG) for the construction and startup of both a proposed coal-to-substitute natural gas (SNG) gasification facility in Rockport, Indiana, and a proposed carbon dioxide (CO_2) pipeline. On November 12, 2009, DOE issued a Notice of Intent (NOI) to prepare an EIS, titled ''Environmental Impact Statement for a Proposed Federal Loan Guarantee for the Indiana Gasification, LLC, Industrial Gasification Facility in Rockport, Indiana,'' to analyze the construction and startup of the SNG facility. The NOI invited comments on the proposed scope and content of the EIS. DOE also conducted a scoping meeting in Rockport on December 3, 2009. IG originally intended to capture and sell the CO_2 produced during the gasification process to a third party, Denbury Resources, Inc., (Denbury), which would construct a pipeline to transport CO_2 from the SNG facility in Rockport to storage facilities or oil fields, where it would be used for enhanced oil recovery (EOR) operations. In the event a CO_2 pipeline was not constructed by Denbury and there was no other reasonable alternative to sequester the CO_2, the CO_2 would have been released to the atmosphere.

In October 2011, IG requested an increase in the amount of DOE's loan guarantee for the proposed project to cover additional costs to incorporate the construction and startup of a proposed 441-mile CO_2 pipeline. This pipeline would transport as liquefied gas 85% to 90% of the CO_2 generated at the proposed SNG facility (approximately 6.4 million tons annually), from Rockport, Indiana, across Kentucky and Tennessee, to Tinsley in Yazoo County, Mississippi. At Tinsley the pipeline would connect to Denbury's existing Delta CO_2 Pipeline for distribution of CO_2 for eventual use by Denbury in EOR operations in the Gulf Coast region.

Accordingly, DOE is issuing this Amended NOI to invite Federal agencies, state and local governments, Native American tribes, other organizations, and members of the public to submit comments that identify environmental issues associated with adding the CO_2 pipeline to the original project (the SNG facility). DOE hereby invites public participation in shaping the broadened scope of the ongoing EIS, now retitled ''Environmental Impact Statement for a Proposed Federal Loan Guarantee for the Indiana Gasification, LLC, Industrial Gasification Facility in Rockport, Indiana, and CO_2 Pipeline.'' DOE also provides notice of the intent to prepare a floodplain and wetland assessment. DOE invites those agencies with jurisdiction by law, or special expertise related to the modified proposed action, to request cooperating agency status to assist with the preparation of the EIS.

DATES: To ensure that all of the issues related to this proposal are addressed, DOE invites comments from all interested parties on the addition of the proposed CO_2 pipeline and expanded scope of the EIS. Comments must be postmarked or emailed by July 23, 2012 to ensure consideration. Late comments will be considered to the extent practicable.

ADDRESSES: Public comments can be submitted by mail or email. Written comments about the alternatives and potential impacts to be considered in the expanded scope of the EIS should be addressed to: Dr. Alistair Leslie, Loan Programs Office (LP–10), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Please submit one signed original paper copy. Submission of comments by email to: *IG-EIS@hq.doe.gov* is encouraged due to security processing time required for regular mail. All comments submitted by mail and email should reference Project No. DOE/EIS–0429.

DOE will also conduct public scoping meetings at locations along the proposed 441-mile route of the CO_2 pipeline as additional opportunities for the general public, private-sector organizations, and Government agencies to provide oral or written comments about the alternatives and potential impacts to be considered in the expanded scope of the EIS. The dates, times, and locations of the these public scoping meetings will be announced in local news media and on the DOE Loan Programs Office ''NEPA Public Involvement'' Web site (*https://lpo.energy.gov/?page_id=1502*) at least 15 days prior to the date of these meetings. Comments submitted by mail, email, or at the scoping meetings orally or in writing, including any attachments and other supporting materials, will become part of the public record and subject to public disclosure.

FOR FURTHER INFORMATION CONTACT: To obtain additional information about this Amended NOI, the public scoping meetings, or to receive a copy of the draft EIS when it is issued, contact Dr. Alistair Leslie by telephone: 202–287–5620; or email: *alistair.leslie@hq.doe.gov.* For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone: 202–586–4600; facsimile: 202–586–7031; email: *askNEPA@hq.doe.gov;* or leave a toll-free message at 800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The proposed SNG facility in Rockport would use gasification technology with Illinois Basin coal as feedstock to produce raw synthetic gas (syngas), which would be further processed to produce pipeline-quality SNG. The facility could produce up to approximately 145 million standard cubic feet of SNG per day. The SNG would be transported for sale from the SNG facility to one or both of two nearby natural gas pipelines, the Midwestern Gas Transmission line (3 miles distant) and/or the ANR Pipeline (4.5 miles distant). IG also proposed a change in the feedstock in which Illinois Basin coal and up to 49% petroleum coke would be used as feedstock for the SNG facility.

Approximately 125 individuals attended the December 3, 2009, scoping meeting in Rockport, with 26 individuals presenting oral comments and 6 submitting written comments. In addition, during the public scoping period, DOE received 26 comment documents via mail and email. Commenters requested that DOE consider other alternatives, project financial and feasibility concerns, as well as various local socioeconomic and environmental concerns.

Title XVII of the Energy Policy Act of 2005 (EPAct 2005) established a Federal loan guarantee program for financing energy projects employing innovative technologies that ''avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse

gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.'' The two principal goals of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits. In September 2008, the DOE Loan Programs Office issued a solicitation for coal-based power generation and industrial gasification facilities. A portion of the funds made available in the solicitation come under the authority of the Consolidated Appropriations Act, 2008, Public Law 110–161, which provides loan guarantee support for advanced coal gasification projects. The proposed project with the addition of the proposed CO_2 pipeline qualifies under this provision of the loan guarantee authority.

Purpose and Need for Agency Action

The purpose and need for agency action is to comply with DOE's mandate under Title XVII of EPAct 2005 by identifying and providing loan guarantees to projects that meet the goals of the Act. DOE has determined that the project, comprising the construction and startup of the proposed SNG facility, meets the two principal goals of Title XVII—encouraging commercial use of new or significantly improved energy-related technologies, and achieving substantial environmental benefits.

Proposed Action

DOE's proposed action is to issue a loan guarantee to IG to support the construction and startup of the SNG facility and a CO_2 pipeline. The proposed construction and startup of the SNG plant was described in the NOI published on November 12, 2009 (74 FR 58265). The proposed pipeline would run approximately south-south-west from Rockport, Indiana, across Kentucky and Tennessee, to Tinsley in Yazoo County, Mississippi. This CO_2 pipeline would be known as the Denbury Midwest Pipeline. At Tinsley the proposed CO_2 Pipeline would connect to Denbury's existing Delta Pipeline to further transport CO_2 to oil fields in the Gulf Coast for use in EOR.

The 20-inch diameter pipeline would require a typical right-of-way (ROW) width of 95 feet for construction and a 50-foot wide permanent right-of-way for operation. Additional temporary work space would be acquired for the pipeline construction at crossings (i.e., roads, railroads and significant waterbodies) and where full ROW width topsoil segregation is required in agricultural areas.

A map showing the proposed pipeline route can be found on the DOE Loan Programs Web site at *https://lpo.energy.gov/nepa/ig-pipeline.pdf.* The proposed pipeline would be co-located alongside existing adjoining utility corridors for 428 miles of the proposed 441-mile route (i.e., for 97% of the route). These adjoining corridors comprise sections of the existing BP/Amoco Oil Pipeline, Boardwalk/Texas Gas Pipeline, Shell/Capline Oil Pipeline, Panhandle/Trunkline Gas Pipeline, and Denbury/Delta Tinsley CO_2 Pipeline. The initial northern 13 miles of the proposed pipeline would be outside of existing adjoining utility corridors. The proposed route would cross 6.1 miles in Indiana, 137.1 miles in Kentucky, 117.5 miles in Tennessee, and 180 miles in Mississippi. It would pass through the following states and counties: *Indiana:* Spencer; *Kentucky:* Daviess, McLean, Webster, Hopkins, Caldwell, Lyon, Livingston, Marshall, and Graves; *Tennessee:* Obion, Weakley, Gibson, Dyer, Crockett, Haywood, Tipton, and Fayette; and *Mississippi:* Marshall, Tate, Panola, Yalobusha, Tallahatchie, Grenada, Carroll, Holmes, and Yazoo. The proposed route would cross primarily rural land, of which 52% is classified as agricultural.

The proposed route would cross three federal enclaves: the Clarks River National Wildlife Refuge in Kentucky, the Obion River Wildlife Management Area and the Tigrett Wildlife Management Area in Tennessee; one state administered enclave: the John W. Kyle State Park in Mississippi; and an existing conservation easement crossing private land and the Wolf River in Fayette County, Tennessee. It would cross three Interstate Highways, 19 US Highways, 89 State Highways, 397 other roads, and 17 rail lines. It would cross several waterways including the Ohio River, Tennessee River, and Cumberland River, as well as the Hatchie River and Cypress Creek, both of which are classified as Kentucky Special Use Waters. This proposed IG–Denbury route is the preferred alternative. The EIS will also evaluate other reasonable route alternatives.

Alternatives

In determining the range of reasonable alternatives to be considered in the EIS, DOE identified alternatives that would satisfy the underlying purpose and need for agency action. DOE currently plans to analyze in detail the project as proposed by IG. If appropriate, DOE would also analyze alternatives to portions of the project that mitigate impacts to affected resources. Under the no action alternative, DOE would not provide the loan guarantee for the project and, for purposes of analysis, DOE assumes the project would not be constructed.

Notice of Floodplain and Wetland Involvement

This NOI serves as a notice of proposed floodplain and/or wetland action in accordance with DOE floodplain and wetland environmental review requirements (10 CFR part 1022). The Draft EIS will include a floodplain and wetland assessment, and a floodplain statement of findings will be included in the Final EIS or may be issued separately (10 CFR 1022.14(c)). Interested parties may comment during the 30-day scoping period and will also be able to comment on the floodplain and wetland assessment when the Draft EIS is published. The Final EIS or record of decision will include a floodplain statement of findings.

Preliminary Identification of Environmental Issues

The following environmental resource areas have been tentatively identified for consideration in the EIS. This list is neither intended to be all-inclusive nor a predetermined set of potential environmental impacts:

- Air quality
- Greenhouse gas emissions and climate change
- Energy use and production
- Water resources, including groundwater and surface waters
- Wetlands and floodplains
- Geological resources
- Ecological resources, including threatened and endangered species and species of special concern
- Cultural resources, including historic structures and properties; sites of religious and cultural significance to Tribes; and archaeological resources
- Land use
- Visual resources and aesthetics
- Transportation and traffic
- Noise and vibration
- Hazardous materials and solid waste management
- Human health and safety
- Accidents and terrorism
- Socioeconomics, including impacts to community services
- Environmental justice

DOE invites comments on whether other resource areas or potential issues should be considered in the EIS.

Public Scoping Process

To ensure that all issues related to DOE's proposed action are addressed,

DOE seeks public input to define the modified scope and content of the EIS as described in this Amended NOI, specifically the addition of the proposed CO_2 pipeline to the project. The public scoping period will begin with publication of this Amended NOI and end on July 23, 2012. Interested government agencies, private-sector organizations, and the general public are encouraged to submit comments concerning the content of the EIS related to the addition of the proposed CO_2 pipeline, issues and impacts to be addressed in the EIS and environmental impact mitigation alternatives that should be considered. Scoping comments should clearly describe specific issues or topics that the EIS should address to assist DOE in identifying significant issues concerning the addition of the CO_2 pipeline to the proposed project. Comments must be postmarked or emailed by July 23, 2012 to ensure consideration. Late comments will be considered to the extent practicable.

DOE has coordinated with Federal and state agencies in the proposed project area, and the United States Army Corps of Engineers is a cooperating agency for the preparation of this EIS. DOE invites any additional agencies with jurisdiction by law or special expertise to request cooperating agency status for the preparation of this EIS.

The public scoping meetings will be announced as described in the **DATES** and **ADDRESSES** sections above. Members of the public and representatives of groups and Federal, state, local, and Tribal agencies are invited to attend. The meetings will include both a formal opportunity to present oral comments and an informal session during which DOE and personnel from IG will be available for discussions. Displays and other information about the proposed agency action, the EIS process, and the proposed project will be available. Individuals who wish to make oral comments during one of the scoping meetings may register at the meeting. To ensure that everyone who wishes to speak has a turn, DOE may need to limit speakers to three to five minutes initially, but will provide additional opportunities as time permits. Written comments may be submitted also to DOE officials at the scoping meetings. DOE will afford equal consideration to all comments whether mailed, emailed, or presented at the scoping meetings orally or in writing.

Issued in Washington, DC, on June 19, 2012.

David G. Frantz,

Acting Executive Director, Loan Programs Office.

[FR Doc. 2012–15374 Filed 6–21–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–471–000]

Northwest Pipeline GP; Notice of Application

Take notice that on June 4, 2011, Northwest Pipeline GP (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP12–471–000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, requesting abandonment approval and a certificate of public convenience and necessity authorizing Northwest to construct and operate its South Seattle Delivery Lateral Expansion Project located in King County, Washington. Specifically, the Project consists of: (i) Abandonment by removal of 10-inch diameter pipeline segments between mileposts 0.00 and 2.01 and mileposts 2.16 and 4.0 and replacing it with new 16-inch diameter pipeline; (ii) abandonment in place of approximately 0.15 miles of 10-inch and 16-inch diameter pipeline and installing approximately 0.15 miles of new 16-inch diameter pipeline adjacent to the existing pipeline; (iii) replacing taps at two meter station locations; and (iv) installing miscellaneous appurtenances. The project will allow Northwest to increase natural gas deliveries on the South Seattle Lateral by 74,850 Dth/d, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Pam Barnes, Manager, Certificates and Tariffs, Northwest Pipeline GP, 295 Chipeta Way, Salt Lake City, Utah 84101, telephone no. (801) 584–6857, facsimile no. (801) 584–7764, and email: *pam.j.barnes@williams.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 environmental impact statement (FEIS) or 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 FEIS or 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 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. 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 commentors 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 commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors 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.

The Commission strongly encourages electronic filings of comments, 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: July 6, 2012

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15255 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14217–000]

Ogden City Corporation; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14217–000.

c. *Date Filed:* June 28, 2011.

d. Submitted By: Ogden City Corporation.

e. *Name of Project:* Pineview Water Treatment Plant 25kW Hydroelectric Project.

f. *Location:* On Wheeler Creek and the Ogden River, in Weber County, Utah. The proposed project may occupy of United States lands administered by the U.S. Department of Agriculture's U.S. Forest Service and/or the Department of the Interior's Bureau of Reclamation.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Ken Gradner, Gardner Engineering Alternative Energy Services, 5875 South Adams Ave. Parkway, Ogden, Utah 84405; (801) 589–0447; email—*ken@gardner-energy.com.*

i. *FERC Contact:* Kenneth Hogan at (202) 502–8434; or email at: *kenneth.hogan@ferc.gov.*

j. Ogden City Corporation filed its request to use the Traditional Licensing Process on June 28, 2011. Ogden City Corporation provided public notice of its request on March 29, 2012. In a letter dated June 15, 2012, the Director of the Division of Hydropower Licensing approved Ogden City Corporation request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The US Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Utah State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Ogden City Corporation filed a Pre-Application Document (PAD) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site *(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 at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15252 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the PJM Interconnection, L.L.C. (PJM):

PJM Regional Transmission Planning Task Force Conference Call

June 18, 2012, 9:30 a.m.–1 p.m., Local Time.

Combined PJM Markets and Reliability Committee/Members Committee

June 28, 2012, 9:00 a.m.–5 p.m., Local Time.

The above-referenced meeting will be held over conference call or at: The Chase Center on the Riverfront, Wilmington, DE.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. EL05–121, *PJM Interconnection, L.L.C.*

Docket Nos. ER06–456, ER06–954, ER06–1271, ER07–424, ER06–880, EL07–57, ER07–1186, ER08–229, ER08–1065, ER09–497, and ER10–268, *PJM Interconnection, L.L.C.*

Docket No. ER10–253 and EL10–14, *Primary Power, L.L.C.*

Docket No. EL10–52, *Central Transmission, LLC v. PJM Interconnection, L.L.C.*

Docket No. ER11–4070, *RITELine Indiana et. al.*

Docket No. ER11–2875 and EL11–20, *PJM Interconnection, L.L.C.*

Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C.*

Docket No. ER09–1589, *FirstEnergy Service Company*

Docket No. ER10–549, *PJM Interconnection, L.L.C.*

Docket No. EL11–56, *FirstEnergy Service Company*

Docket No. EL12–38, *New York Independent System Operator, Inc.*

Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–2140, *PJM Interconnection, L.L.C.*

Docket No. ER11–2622, *PJM Interconnection, L.L.C.*

Docket No. ER11–3106, *PJM Interconnection, L.L.C.*

Docket No. ER11–4379, *PJM Interconnection, L.L.C.*

Docket No. ER12–445, *PJM Interconnection, L.L.C.*

Docket No. ER12–773, *PJM Interconnection, L.L.C.*

Docket No. ER12–718, *New York Independent System Operator, Inc.*

Docket No. ER12–1177, *PJM Interconnection, L.L.C.*

Docket No. ER12–1178, *PJM Interconnection, L.L.C.*

Docket No. ER12–1693, *PJM Interconnection, L.L.C.*

Docket No. EL12–69, *Primary Power LLC v. PJM Interconnection, L.L.C.*

Docket No. ER12–1700, *PJM Interconnection, L.L.C.*

Docket No. ER12–1810, *PJM Interconnection, L.L.C.*

Docket No. ER12–1901, *GenOn Power Midwest, LP*

For more information, contact Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6604 or *jonathan.fernandez@ferc.gov.*

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15250 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the North Carolina Transmission Planning Collaborative:

Transmission Advisory Group

June 19, 2012, 1:30 p.m., Local Time.

The above-referenced meeting will be held at:

North Carolina Electric Membership Corporation, 3400 Sumner Boulevard Raleigh, North Carolina.

The above-referenced meeting is open to stakeholders.

Further information may be found at *www.nctpc.org.*

The discussions at the meeting described above may address matters at issue in the following proceeding:

Docket No. EC11–60, *Duke Energy Corporation and Progress Energy, Inc.*

For more information, contact Michael Lee, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8658 or *michael.lee@ferc.gov.*

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15251 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–72–000]

Notice of Availability of the Environmental Assessment for the Proposed Allegheny Storage Project; Dominion Transmission, Incorporated

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an Environmental Assessment (EA) for the Allegheny Storage Project, proposed by Dominion Transmission, Incorporated (DTI) in the above-referenced docket. DTI requests authorization to construct pipeline facilities in Maryland, Ohio, West Virginia, and Pennsylvania. The project would increase natural gas storage capacity along DTI's system by 125,000 dekatherms per day (Dth/d) and increase firm transportation service by 115,000 Dth/d.

The EA assesses the potential environmental effects of the construction and operation of the Allegheny Storage Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Allegheny Storage Project includes the following facilities:

- A new 16,000-horsepower (hp) Myersville Compressor Station, 0.6-mile of 30-inch-diameter suction and discharge pipelines, a new valve site, and upgrades at the existing Tuscarora Metering and Regulating (M&R) Station in Frederick County, Maryland;
- A new 3,550-hp Mullett Compressor Station, 0.5-mile of 16-inch-diameter suction and 10-inch-diameter discharge pipelines, and upgrades at the existing Mullett 1 M&R Station in Monroe County, Ohio;
- Installation of additional dehydration at the existing Wolf Run Compressor Station in Lewis County, West Virginia; and
- 1.8 miles of 16-inch-diameter replacement pipeline, 1.3 miles of 20-inch-diameter replacement pipeline, and installation of ancillary equipment at the Sabinsville Storage Station in Tioga County, Pennsylvania.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at:

Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. 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 the Commission has the opportunity to

consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before July 16, 2012.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP12–72–000) 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 submitting brief, text-only comments on a project;

(2) You can also 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.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

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 (*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., CP12–72). 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 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.*

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15254 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2019–000]

NRG Solar Avra Valley 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 NRG Solar Avra Valley 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 July 5, 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: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15248 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2037–000]

Spearville 3, 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 Spearville 3, 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 July 5, 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: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15249 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14412–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Telluride Energy, LLC

On May 17, 2012, Telluride Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Chatfield Lake Hydroelectric Project (Chatfield Lake Project or project) at the U.S. Army Corps of Engineers' (Corps) Chatfield Lake and dam on the South Platte River, near the City of Littleton in Alameda and Douglas Counties, Colorado. 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: (1) A new penstock that would take water from the existing Chatfield Lake; (2) a new powerhouse at the base of the existing Chatfield Lake dam containing a 0.5-megawatt turbine-generator; (3) a new estimated 1,500-foot-long primary transmission line connecting the project to Excel Energy's transmission lines north of the project; and; (4) appurtenant facilities. The proposed project would have an estimated average annual generation of 1,400 megawatt-hours and operate utilizing releases from Chatfield Lake, as directed by the Corps.

Applicant Contact: Mr. Kurt Johnson, Telluride Energy, LLC, 100 West Colorado, Suite 222, P.O. Box 1646, Telluride, CO 81435; phone: (970) 729–5051.

FERC Contact: Joseph Hassell; phone: (202) 502–8079.

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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14412) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15245 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14410–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Telluride Energy, LLC

On May 17, 2012, Telluride Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Trinidad Lake Hydroelectric Project (Trinidad Lake Project or project) at the U.S. Army Corps of Engineers' (Corps) Lake Trinidad dam on the Purgatoire River, near the City of Trinidad in Las Animas County, Colorado. 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: (1) A new penstock that would take water from the existing Trinidad Lake; (2) a new powerhouse at the base of the existing Trinidad dam containing a 1-megawatt turbine-generator; (3) a new 2,000-foot-long 12.47-kilovolt primary transmission line connecting the project with Trinidad Municipal Electric Utility's transmission lines; and (4) appurtenant facilities. The proposed project would have an estimated average annual generation of 3,000 megawatt-hours and operate utilizing releases from Trinidad Lake, as directed by the Corps.

Applicant Contact: Mr. Kurt Johnson, Telluride Energy, LLC, 100 West Colorado, Suite 222, P.O. Box 1646, Telluride, CO 814325; phone: (970) 729–5051.

FERC Contact: Joseph Hassell; phone: (202) 502–8079.

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–14410) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15246 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14411–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Telluride Energy, LLC

On May 17, 2012, Telluride Energy, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the John Martin Reservoir Hydroelectric Project (John Martin Project or project) at the U.S. Army Corps of Engineers' (Corps) John Martin Reservoir and dam on the Arkansas River, near the Town of Las Animas in Bent County, Colorado. 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: (1) A new penstock that would take water from the existing John Martin reservoir; (2) a new powerhouse at the base of the existing John Martin dam containing a 1.4-megawatt turbine-generator; (3) a new 2-mile-long 115-kilovolt primary transmission line connecting the project with Tri-State Generation and Transmission's lines south of the project; and; (4) appurtenant facilities. The proposed project would have an estimated average annual generation of 3,000 megawatt-hours and operate utilizing releases from John Martin reservoir, as directed by the Corps.

Applicant Contact: Mr. Kurt Johnson, Telluride Energy, LLC, 100 West Colorado, Suite 222, P.O. Box 1646, Telluride, CO 81435; phone: (970) 729–5051.

FERC Contact: Joseph Hassell; phone: (202) 502–8079.

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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14411) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15247 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14388–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications; Coralville Energy, LLC

On April 18, 2012, the Coralville Energy, LLC filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Coralville Dam Hydroelectric Project No. 14388, to be located at the existing Coralville Dam on the Iowa River, near Iowa City in Johnson County, Iowa. The Coralville Dam is owned by the United States government and operated by the United States Army Corps of Engineers.

The proposed project would consist of: (1) One new 50-foot-long by 50-foot-wide by 30-foot-high powerhouse, containing two 2.3-megawatt (MW) propeller type turbine/generator units for a total capacity of 4.6 MW; (2) an existing 65-foot-long by 65-foot-wide by 100-foot-high intake structure; (3) an

existing 350-foot-long by 23-foot-diameter concrete conduit; (4) a new 30-foot-long by 60-foot-wide by 30-foot-high bifurcation structure; (5) a new 150-foot-long by 15-foot-diameter steel penstock; (6) a new 450-foot-long, 12.7-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated annual generation of 26.252 gigawatt-hours.

Applicant Contact: Mr. Mark Boumansour, 1035 Pearl Street, 4th Floor, Boulder, CO 80302; (720) 295–3317.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, and 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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14388) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15253 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–474–000]

Natural Gas Pipeline Company of America LLC; Notice of Request Under Blanket Authorization

Take notice that on June 7, 2012, Natural Gas Pipeline Company of America LLC (Natural), 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, filed in Docket No. CP12–474–000, an application pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) as amended, to abandon in place two 1,040-horsepower (HP) compressor units at Natural's Compressor Station No. 155 near Chico, Wise County, Texas, under Natural's blanket certificate issued in Docket No. CP82–402–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Natural proposes to abandon two 1,040 HP compressor units (Units No. 1 and 2) in place at its Compressor Station No. 155.[2] Natural states that it has not operated compressor Units No. 1 and 2 since 2008 and has held them in reserve since 1986. Natural also states that compressor Units No. 1 and 2 are no longer needed for backup use, are very difficult to start, require continual repair and replacement of deteriorated parts, and are costly to test to assure continue compliance with emissions standards. Natural further states that its proposed abandonment of compressor Units No. 1 and 2 would have no effect on Natural's system capacity or on any of Natural's existing customers. Finally, Natural states that it would cost approximately $10,800,000 to replace the two compressor units with new ones.

Any questions concerning this application may be directed to Bruce H. Newsome, Vice President, Regulatory Products and Services, Natural Gas Pipeline Company of America LLC, 3250 Lacey Road, 7th Floor, Downers Grove, Illinois 60515–7918, or via telephone at (630) 725–3070, or by email *bruce_newsome@kindermorgan.com.*

This filing is available for review at the Commission 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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866)206–3676, or, for TTY, contact (202)502–8659. Comments, 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 intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15257 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,415 (1982).

[2] 34 FPC 615 (1965).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–473–000]

CenterPoint Energy Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on June 4, 2012, CenterPoint Energy Gas Transmission Company, LLC (CEGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP12–473–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA). CEGT seeks authorization to abandon in place certain segments of its Line H, a low pressure delivery lateral in Union County, Arkansas, and Union Parish, Louisiana. CEGT proposes to perform these activities under its blanket certificate issued in Docket No. CP82–384–000 [20 FERC ¶ 62,408 (1982)] and amended in Docket No. CP82–384–001[22 FERC ¶ 61,148 (1983)], all as

more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the Web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to B. Michelle Willis, Manager, Regulatory & Compliance, CenterPoint Energy Gas Transmission Company, LLC, P.O. Box 21734, Shreveport, Louisiana, 71151, or by calling (318) 429–3708 (telephone) or (318) 429–3133 (fax), *Michelle.Willis@CenterPointEnergy.com.*

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. 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.

Dated: June 15, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15256 Filed 6–21–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9518–2]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2311.01; Pesticide Program Public Sector Collections (FIFRA Sections 18 amp; 24(c)); 40 CFR parts 162 and 166; was approved on 05/14/2012; OMB Number 2070–0182; expires on 05/31/2015; Approved with change.

EPA ICR Number 1039.13; Monthly Progress Reports (Renewal); 48 CFR 1552.211; was approved on 05/15/2012; OMB Number 2030–0005; expires on 05/31/2015; Approved without change.

EPA ICR Number 0801.18; Requirements for Generators, Transporters, and Waste Management Facilities under the RCRA Hazardous Waste Manifest System (Renewal); 40 CFR parts 262, 263, 264 and 265; was approved on 05/15/2012; OMB Number 2050–0039; expires on 05/31/2015; Approved without change.

EPA ICR Number 1167.10; NSPS for Lime Manufacturing; 40 CFR part 60 subparts A and HH; was approved on 05/15/2012; OMB Number 2060–0063; expires on 05/31/2015; Approved without change.

EPA ICR Number 1748.09; State Small Business Stationary Source Technical and Environmental Compliance Assistance Programs (SBTCP) Annual Reporting Form (Renewal); was approved on 05/15/2012; OMB Number 2060–0337; expires on 05/31/2015; Approved without change.

EPA ICR Number 1127.10; NSPS for Hot Mix Asphalt Facilities; 40 CFR part 60 subparts A and I; was approved on 05/15/2012; OMB Number 2060–0083; expires on 05/31/2015; Approved without change.

EPA ICR Number 1811.07; NESHAP for Polyether Polyols Production; 40 CFR part 63 subparts A and PPP; was approved on 05/15/2012; OMB Number 2060–0415; expires on 05/31/2015; Approved without change.

EPA ICR Number 1081.10; NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants; 40 CFR part 61 subparts A and N; was approved on 05/15/2012; OMB Number 2060–0043; expires on 05/31/2015; Approved without change.

EPA ICR Number 2326.02; Effluent Guidelines and Standards for the Airport Deicing Category (Final Rule); 40 CFR 449.10(a); was approved on 05/16/2012; OMB Number 2040–0285; expires on 03/31/2015; Approved without change.

EPA ICR Number 0959.14; Facility Ground-Water Monitoring Requirements (Renewal); 40 CFR 264.98, 264.99 and 264.100, 265.90, 265.91, 265.92, 265.93 and 265.94; was approved on 05/17/2012; OMB Number 2050–0033; expires on 05/31/2015; Approved without change.

EPA ICR Number 1964.05; NESHAP for Wet-Formed Fiberglass Mat Production; 40 CFR part 63 subparts A and HHHH; was approved on 05/29/2012; OMB Number 2060–0496; expires on 05/31/2015; Approved without change.

EPA ICR Number 0246.11; Contractor Cumulative Claim and Reconciliation (Renewal); was approved on 05/29/2012; OMB Number 2030–0016; expires on 05/31/2015; Approved without change.

EPA ICR Number 1695.12; Emissions Certification and Compliance Requirements for Marine and Nonroad Spark-ignition Engines (Transfer Burden from 2060–0321); 40 CFR parts 90, 1048, 1051, 1065 and 1065; 40 CFR 91.105, 91.107, 91.121, 91.122, 91.124, 91.208, 91.209, 91.504(a), 91.509(e), 91.804, and 91.805; was approved on 05/30/2012; OMB Number 2060–0338; expires on 08/31/2012; Approved without change.

Withdrawn and Continue

EPA ICR Number 2127.02; Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes (Final Rule); Withdrawn from OMB on 05/01/2012.

Short Term Approval

EPA ICR Number 2288.03; Pesticides Data Call In Program; was granted a short term approval by OMB on 05/30/2012; OMB Number 2070–0174; expires on 11/30/2012.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2012–15314 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0261; FRL–9518–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Refractory Products Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 23, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0261, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 FR 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0261, which is available for public viewing online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Refractory Products Manufacturing (Renewal).

ICR Numbers: EPA ICR Number 2040.05, OMB Control Number 2060–0515.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the provisions specified at 40 CFR part 63, subpart SSSSS.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of refractory products manufacturing plants.

Estimated Number of Respondents: 8.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 338.

Estimated Total Annual Cost: $35,436, which is comprised of: $32,396 in labor costs, no capital/startup costs, and $3,040 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the estimation methodology for labor hours or cost to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for respondents is very low, negative, or non-existent.

However, there is an adjustment increase in the total costs to the respondents and the Agency. The

increase in costs reflects updated labor rates for each of the labor categories.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15367 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9003–6]

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 06/11/2012 through 06/15/2012 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. 20120192, Final EIS, NMFS, USFWS, CA, Authorization for Incidental Take and Implementation of Fruit Growers Supply Multispecies Habitat Conservation Plan, Siskiyou County, CA, *Review Period Ends:* 07/23/2012, *Contact:* Lisa Roberts, 707–825–5178 NMFS, Yreka Office 530–842–5763 ext. 109 USFWS. The National Marine Fisheries Service and U.S. Fish and Wildlife Service are joint lead agencies for the this project.

EIS No. 20120193, Draft EIS, NPS, AK, Brooks River Visitor Access, To Improve Visitor Access and Relocate the Barge Landing Site, Brook River Area of Katmai National Park Reserve, AK, *Comment Period Ends:* 08/20/2012, *Contact:* Glen Yankus 907–644–3535.

EIS No. 20120194, Final EIS, NOAA, AS, Fagatele Bay National Marine Sanctuary Management Plan, Implementation, Tutuila Island, American Samoa, Review Period Ends: 07/23/2012, *Contact:* Gene Brighouse 684–633–5155 ext. 264.

EIS No. 20120195, Draft EIS, NPS, FL, Fort Matanzas National Monument General Management Plan, Implementation, St. John's County, FL, *Comment Period Ends:* 08/20/2012, *Contact:* David Libman 404–507–5701.

EIS No. 20120196, Draft EIS, NPS, OH, Cuyahoga Valley National Park Comprehensive Trail Management Plan, Cuyahoga and Summit Counties, OH, *Comment Period Ends:* 08/06/2012, *Contact:* Stan Austin 330–657–2752.

Amended Notices

EIS No. 20120182, Final EIS, BLM, NM, Alamogordo Regional Water Supply Project, Construction and Operation Groundwater Wells and Conveyance System, Right-of-Way Application, Otero County, NM, *Review Period Ends:* 07/16/2012, *Contact:* Douglas Haywood 575–525–4498 Revision to FR Notice Published 06/15/2012; Correction to Contact Phone Number 575–525–4498.

EIS No. 20120187, Final EIS, USFS, CA, Pettijohn Late-Successional Reserve Habitat Improvement and Fuels Reduction Project, Trinity River Management Unit of the Shasta-Trinity National Forest and Trinity Unit of the Shasta-Trinity National Recreation Area, Trinity County, CA, *Review Period Ends:* 07/16/2012, *Contact:* Keli McElroy 530–226–2354. Revision to FR Notice Published 06/15/2012; *Review Period Ends:* 07/16/2012; for information on U.S. Forest Service's objection process related to this project, please visit *http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/21305_FSPLT2_127307.pdf.*

Dated: June 19, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–15345 Filed 6–21–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 21, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

Control Number: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.

Form Number: FCC Forms 314 and 315.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,840 respondents and 12,880 responses.

Estimated Time per Response: 0.084 to 6 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,670 hours.

Total Annual Cost: $52,519,656.

Privacy Impact Assessment(s): No impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: On January 28, 2010, the Commission adopted a First Report and Order and Further Notice of Proposed Rulemaking (''Rural First R&O'') in MB Docket No. 09–52, FCC 10–24, 25 FCC Rcd 1583 (2010). In the Rural First R&O, the Commission adopted a Tribal Priority under Section 307(b) of the Communications Act of 1934, as amended, to assist federally recognized Native American Tribes and Alaska Native Villages (''Tribes'') and entities primarily owned or controlled by Tribes in obtaining broadcast radio construction permits designed primarily to serve Tribal Lands (the ''Tribal Priority''). Tribal affiliated applicants that meet certain conditions regarding Tribal membership and signal coverage qualify for the Tribal Priority, which in most cases will enable the qualifying applicants to obtain radio construction permits without proceeding to competitive bidding, in the case of commercial stations, or to a point system evaluation, in the case of noncommercial educational (''NCE'') stations.

On March 3, 2011, the Commission adopted a Second Report and Order (''Rural Second R&O''), First Order on Reconsideration, and Second Further Notice of Proposed Rule Making in MB Docket No. 09–52, FCC 11–28, 26 FCC Rcd 2556 (2011). On December 28, 2011, the Commission adopted a Third Report and Order in MB Docket No. 09–52, FCC 11–190, 26 FCC Rcd 17642 (2011) (''Rural Third R&O''). In the Rural Third R&O the Commission further refined the use of the Tribal Priority in the commercial FM radio context, specifically adopting a ''Threshold Qualifications'' approach to commercial FM application processing.

Furthermore, under the Commission's Tribal Priority procedures, entities obtaining:

(a) An AM authorization for which the applicant claimed and received a dispositive Section 307(b) priority because it qualified for the Tribal Priority; or

(b) an FM commercial non-reserved band station awarded:

(1) To the applicant as a singleton Threshold Qualifications Window applicant,

(2) to the applicant after a settlement among Threshold Qualifications Window applicants, or

(3) to the applicant after an auction among a closed group of bidders composed only of threshold qualified Tribal applicants; or

(c) a reserved-band NCE FM station for which the applicant claimed and received the Tribal Priority in a fair distribution analysis as set forth in 47 CFR 73.7002(b)(1), may not assign or transfer the authorization during the period beginning with issuance of the construction permit, until the station has completed four years of on-air operations, unless the assignee or transferee also qualifies for the Tribal Priority. Pursuant to procedures set forth in the Rural Third R&O, 26 FCC Rcd at 17645–50, the Tribal Priority Holding Period is now applied in the context of authorizations obtained using Tribal Priority Threshold Qualifications.

Consistent with actions taken by the Commission in the Rural Third R&O, the following changes are made to Forms 314 and 315: Section I of each form includes a question asking applicants to indicate whether any of the authorizations involved in the subject transaction were obtained: after award of a dispositive Section 307(b) preference using the Tribal Priority; through Threshold Qualification procedures; or through the Tribal Priority as applied before the NCE fair distribution analysis. A subsequent question then asks whether both the assignor/transferor and assignee/transferee qualify for the Tribal Priority in all respects. Applicants not meeting the Tribal Priority qualifications and proposing an assignment or transfer during the Holding Period must provide an exhibit demonstrating that the transaction is consistent with the Tribal Priority policies or that a waiver is warranted. The instructions for Section I of Forms 314 and 315 have been revised to assist applicants with completing the questions.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–15291 Filed 6–21–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: June 18, 2012.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10445	Putnam State Bank	Palatka	FL	6/15/2012
10446	Security Exchange Bank	Marietta	GA	6/15/2012
10447	The Farmers Bank of Lynchburg	Lynchburg	TN	6/15/2012

[FR Doc. 2012–15298 Filed 6–21–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, June 27, 2012 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth floor).

STATUS: This hearing will be open to the public.

ITEM TO BE DISCUSSED:

Audit Hearing: Washington State Republican Party

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Commission Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the hearing date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2012–15423 Filed 6–20–12; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Hamilton Bancorp, Inc.,* Baltimore, Maryland; to become a savings and loan holding company upon the conversion of Hamilton Bank, Baltimore, Maryland, from a mutual to stock form of ownership.

Board of Governors of the Federal Reserve System, June 19, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–15268 Filed 6–21–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 121 0055]

Koninklijke Ahold N.V./Safeway, Inc.; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 16, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Ahold, File No. 121 0055'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/aholdconsent*, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jill M. Frumin (202–326–2758), FTC, Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 15, 2012), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or

before July 16, 2012. Write ''Ahold, File No. 121 0055'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/aholdconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Ahold, File No. 121 0055'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 16, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction and Background

The Federal Trade Commission (''Commission'') has accepted for public comment, and subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Koninklijke Ahold N.V. (''Ahold''), its subsidiary, Giant Food Stores, LLC (''Giant''), Safeway Inc. (''Safeway''), and its subsidiary (''Genuardi's'') (collectively ''Respondents''), that is designed to remedy the anticompetitive effects that otherwise would result from Ahold's acquisition of certain Genuardi's supermarkets owned by Safeway. The proposed Consent Agreement requires divestiture of the Genuardi's supermarket in Newtown, Pennsylvania, and its related assets to a Commission-approved purchaser. The proposed Consent Agreement also requires Ahold and Safeway to divest all related assets and real property necessary to ensure the buyer of the divested supermarket will be able to quickly and fully replicate the competition that would have been eliminated by the acquisition.

The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission again will review the proposed Consent Agreement and comments received, and decide whether it should withdraw the Consent Agreement, modify it, or make it final without modification.

On January 4, 2012, Ahold and Safeway executed an agreement whereby Ahold would acquire 16 of the Genuardi's supermarkets from Safeway. The Commission's Complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by removing an actual, direct, and substantial supermarket competitor from the Newtown, Pennsylvania, geographic market. The proposed Consent Agreement would remedy the alleged violations by requiring a divestiture that will replace competition that otherwise would be eliminated in this market as a result of the acquisition.

II. The Parties

Ahold owns or has an interest in 2,970 supermarkets and specialty stores in Europe and the United States. Net sales for 2010 were $36.8 billion, which represents a 5.7% increase over 2009. Ahold USA is organized into four retail divisions: Giant Carlisle, Giant Landover, Stop & Shop New York Metro, and Stop & Shop New England. Peapod, a grocery delivery service, also is included within Ahold USA.

Safeway is one of the largest food-and-drug retailers in the United States. It operates over 1,700 stores across the United States under a variety of banners, including Vons in southern California and Nevada, Randalls and Tom Thumb in Texas, Carrs in Alaska, Genuardi's in suburban Philadelphia, and Safeway throughout the rest of the country. There were 36 Genuardi's stores operating in Pennsylvania, New York, and New Jersey when Safeway purchased the chain in February 2001. Safeway is exiting the Philadelphia metropolitan market by selling or closing all 24 remaining Genuardi's markets in eastern Pennsylvania (Bucks, Montgomery, Delaware, and Chester counties), as well as four stores in New Jersey.

III. Supermarket Competition in Newtown, Pennsylvania

Ahold's proposed acquisition of Genuardi's in Newtown presents antitrust concerns in the retail sale of groceries. Competition in food retailing depends on proximity in both retailing format and in geographic location. Stores with similar formats located nearby each other provide a greater competitive constraint on each other's pricing than do stores of different formats or stores located at a greater

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

distance. Giant and Genuardi's have stores in the Newtown area, and they have a very similar format.

Giant and Genuardi's compete as supermarket retailers of grocery products. Supermarkets are full-line retail grocery stores that sell thousands of food and non-food products that typical families regularly consume at home (*e.g.,* fresh meat and seafood, dairy products, frozen goods, beverages, bakery goods, dry groceries, soaps, detergents, and health and beauty aids) and offer these products in a variety of sizes and brands. Supermarkets are large stores with at least 10,000 square feet of selling space and 30,000 to 60,000 different items, typically referred to as stock-keeping units or ''SKUs.'' This broad set of products and services provides a ''one-stop shopping'' experience for consumers by enabling them to shop in a single store for all of their food and grocery needs. The ability to offer consumers one-stop shopping is a critical differentiating factor between supermarkets and other food retailers.

Other types of retailers that sell food and grocery items compete less strongly with Giant and Genuardi's. These others include ''mom & pop'' stores, convenience stores, specialty food stores, ''premium natural and organic'' markets,[2] mass merchants, and club stores. Although these types of retailers provide some level of competition to supermarkets, they do not have a supermarket's full complement of products and services, which means that if customers elect to shop at these retailers, they also must shop at a supermarket in order to satisfy their weekly grocery needs. Because of this, shoppers at one supermarket are more likely to respond to a price increase by switching to another supermarket than to choose a store with a different format, if both are equally convenient.[3]

To evaluate the effects of the acquisition on market concentration levels, we define the product market to be the retail sale of grocery products in supermarkets, consistent with practice in all but one prior grocery retailing case settled by consent order.[4]

Customers shopping at supermarkets are motivated primarily by convenience and, as a result, competition for supermarkets is local in nature. Generally, the overwhelming majority of consumers' grocery shopping occurs at stores located very close to where they live. Location is a critical component for closeness of competition between supermarkets. Supermarkets are a differentiated products industry with location serving as one of the primary drivers of differentiation and competition. A supermarket tends to be in most direct competition with those supermarkets located closest to it. Giant and Genuardi's are located approximately two miles from each other in the Newtown area, and the supermarkets' primary trade areas overlap significantly with each other. Acme is the only other supermarket operating in this area. The next-closest supermarket is located at least twice as far away as the Newtown supermarkets are to each other.

The relevant geographic market in which to measure concentration and analyze the competitive implications of Ahold's proposed acquisition of the Newtown Genuardi's is a roughly three to three-and-a-half mile circle measured from the center of Newtown and made up of the U.S. census tracts surrounding this area. Specifically, it consists of Newtown Township, Newtown Borough, and the portion of Middletown Township north of the line formed by Bridgetown Pike and Langhorne Yardley Road in Bucks County, Pennsylvania.

The Newtown, Pennsylvania, market for the sale of retail food and groceries in supermarkets is already highly concentrated, and would become significantly more so post-acquisition. The acquisition would reduce the number of supermarket competitors from three to two, creating a duopoly between Giant and Acme Markets. Under the Herfindal-Hirschman Index (''HHI''), which is the standard measure of market concentration under the 2010 Department of Justice and Federal Trade Commission Merger Guidelines, an acquisition is presumed to create or enhance market power or facilitate its exercise if it increases the HHI by more than 200 points and results in a post-acquisition HHI that exceeds 2,500 points. Giant's proposed acquisition of the Newtown Genuardi's creates market concentration levels well in excess of these thresholds. The post-acquisition HHI is 5000–5017, representing an increase of between 1221–1373 from pre-acquisition levels.

Staff's investigation and analysis demonstrate that Giant and Genuardi's are close competitors that compete directly for grocery shoppers in Newtown. Because a substantial number of consumers in Newtown consider Giant's and Genuardi's stores to be close substitutes, a post-acquisition price increase at one (or both) of Giant's stores would be profitable because the other Giant-owned supermarket would likely recoup enough of the otherwise lost volume for the price increase to be profitable. Absent relief, the transaction may also facilitate tacit or express coordination since Acme would be Giant's only remaining competitor in Newtown post-acquisition. Given the transparency of pricing and promotional practices between supermarkets and the fact that supermarkets ''price check'' competitors in the ordinary course of business, reducing the number of nearby competitors from three to two may facilitate collusion between the remaining supermarket competitors by making coordination easier to establish and monitor.

New entry is unlikely to deter or counteract the likely anticompetitive effects of the proposed acquisition. Normally, as here, it takes two or more years for an entrant to secure a viable location, obtain the necessary permits and governmental approvals, build its retail establishment, and open to customers. Moreover, incumbent supermarkets often oppose entry efforts by competitor supermarkets, delaying further any potential entry into the relevant market. It is unlikely that entry sufficient to achieve a significant market impact would occur in a timely manner.

IV. The Proposed Consent Agreement

The proposed remedy, which requires the divestiture of the Genuardi's store in Newtown to a Commission-approved purchaser, will be sufficient to restore fully the competition that otherwise would be eliminated in the market as a result of the acquisition.

Respondents Ahold and Genuardi's have agreed to divest the Newtown Genuardi's supermarket to McCaffrey's. McCaffrey's appears to be a highly suitable purchaser, and is well-positioned to enter the relevant market and prevent the increase in market concentration and likely competitive harm that otherwise would have been caused by the acquisition.

[2] *See FTC* v. *Whole Foods Mkt., Inc.,* 533 F.3d 869 (D.C. Cir. 2008).

[3] Shoppers typically do not view these other food and grocery retailers as adequate substitutes for supermarkets and would be unlikely to switch to one of these retailers in response to a small but significant price increase or ''SSNIP'' by a hypothetical supermarket monopolist. *See* U.S. DOJ and FTC Horizontal Merger Guidelines § 4.1.1 (2010).

[4] *See, e.g., Shaw's/Star Markets,* Docket C–3934 (June 28, 1999); *Kroger/Fred Meyer,* Docket C–3917 (January 10, 2000); *Albertson's/American Stores,* Docket C–3986 (June 22, 1999); *Ahold/Giant,* Docket C–3861 (April 5, 1999); *Albertson's/Buttrey,* Docket C–3838 (December 8, 1998); *Jitney-Jungle Stores of America, Inc.,* Docket C–3784 (January 30, 1998). *But see Wal-Mart/Supermercados Amigo,* Docket C–4066 (November 21, 2002) (the Commission's complaint alleged that in Puerto Rico, club stores should be included in a product market that included supermarkets because club stores in Puerto Rico enabled consumers to purchase substantially all of their weekly food and grocery requirements in a single shopping visit).

All of the current McCaffrey's supermarkets are located outside the relevant geographic area. Its Yardley, Pennsylvania, store is approximately six miles, and approximately 15 minutes driving time, from the Genuardi's in Newtown. The Newtown Genuardi's is outside McCaffrey's primary service area and vice versa.

The proposed Order requires Respondents Ahold and Safeway to divest the assets of the Genuardi's to McCaffrey's no later than ten days following Ahold's acquisition of the 16 Genuardi's stores that are subject to the Asset Purchase Agreement. If McCaffrey's ultimately is not approved by the Commission to purchase the assets, Respondents must immediately rescind the divestiture and divest the Newtown Genuardi's assets to a buyer that receives the Commission's prior approval. The proposed Order contains additional provisions designed to ensure the adequacy of the proposed relief. For example, for a period of one year, the Order prohibits Respondents from interfering with the hiring of or employment of any employees currently working at the Newtown Genuardi's. Additionally, for a period of ten years, Ahold is required to give the Commission prior notice of plans to acquire a supermarket, or an interest in a supermarket, that has operated or is operating in Newtown, Pennsylvania.

V. Opportunity for Public Comment

The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement, as well as the comments received, and will decide whether to modify the proposed Consent Agreement, withdraw its acceptance of the proposed Consent Agreement, or issue its final Consent Orders.

The sole purpose of this Analysis is to facilitate public comment on the proposed Consent Agreement. This Analysis does not constitute an official interpretation of the proposed Consent Agreement, nor does it modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2012–15308 Filed 6–21–12; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–12–0210]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

List of Ingredients Added to Tobacco in the Manufacture of Cigarette Products—Extension—Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Office on Smoking and Health (OSH) has the primary responsibility for the Department of Health and Human Services (HHS) smoking and health program. HHS's overall goal is to reduce death and disability resulting from cigarette smoking and other forms of tobacco use through programs of information, education and research.

Since 1986, as required by the Comprehensive Smoking Education Act of 1984 (CSEA, 15 U.S.C. 1336 or Pub. L. 98–474), CDC has collected information about the ingredients used in cigarette products. Respondents are commercial cigarette manufacturers, packagers, or importers (or their representatives), who are required by the CSEA to submit ingredient reports to HHS on an annual basis.

Respondents are not required to submit specific forms, however, they are required to submit a list of all ingredients used in their products. CDC requires the ingredient report to be submitted by chemical name and Chemical Abstract Service (CAS) Registration Number, consistent with accepted reporting practices for other companies currently required to report ingredients added to other consumer products. Typically, respondents submit a summary report to CDC with the ingredient information for multiple products, or a statement that there are no changes to their previously submitted ingredient report.

Ingredient reports for new products are due at the time of first importation. Thereafter, ingredient reports are due annually on March 31. Information is submitted to OSH by mailing a written report on the respondent's letterhead, by CD, three-inch floppy disk, or thumb drive. Electronic mail submissions are not accepted. The estimated burden per response is 6.5 hours.

Upon receipt and verification of the annual ingredient report, OSH issues a Certificate of Compliance to the respondent. OSH also uses the information to report to the Congress (as deemed appropriate) discussing the health effects of these ingredients.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 501.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Cigarette Manufacturers, Packagers, and Importers	77	1	6.5

Dated: June 15, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012–15354 Filed 6–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Department of Health and Human Services, has been renewed for a 2-year period through May 21, 2014.

For information, contact Vikas Kapil, Designated Federal Officer, Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Department of Health and Human Services, 4770 Buford Highway Mailstop F61, Chamblee, Georgia 30341, telephone 770/488–8316 or fax 770/488–3385.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 13, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–14923 Filed 6–21–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3262–PN]

Medicare and Medicaid Programs; Application From American Association for Accreditation of Ambulatory Surgery Facilities for Continued Approval of Its Ambulatory Surgery Facilities Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: This proposed notice with comment period acknowledges the receipt of an application from the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) for continued recognition as a national accrediting organization for ambulatory surgery centers (ASCs) wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 23, 2012.

ADDRESSES: In commenting, please refer to file code CMS–3262–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (Fax) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3262–PN, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3262–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Georganne Kuberski, (410) 786–0799.

Patricia Chmielewski, (410) 786–6899.

Cindy Melanson, (410) 786–0310.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in an ambulatory surgery center (ASC) that meet certain requirements. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as an ASC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for ASCs.

Generally, in order to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 416. Thereafter, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. However, ASC's have an alternative to surveys by State agencies for participation in the Medicare program.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we would deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to have met the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued approval of its accreditation program every 6 years or as determined by CMS.

American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF's) current term of approval for their ASC accreditation program expires November 27, 2012.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's: Requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of AAAASF's request for continued approval of its ASC accreditation program. This notice also solicits public comment on whether AAAASF's requirements meet or exceed the Medicare conditions for participation for ASCs.

III. Evaluation of Deeming Authority Request

AAAASF submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its ASC accreditation program. This application was determined to be complete on April 27, 2012. Section 1865(a)(3)(A) of the Act, requires that within 60 days of receipt of an organization's complete application to be a CMS-approved accrediting organization, we publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period. Under section 1865(a)(2) of the Act and our regulations at § 488.8 (Federal review of accrediting organizations), our review and evaluation of AAAASF would be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAAASF's standards for an ASC as compared with CMS' conditions for coverage.
- AAAASF's survey process to determine the following:
  + The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
  + The comparability of AAAASF's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- AAAASF's processes and procedures for monitoring an ASC found out of compliance with AAAASF's program requirements. These monitoring procedures are used only when AAAASF identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the State survey agency monitors corrections as specified at § 488.7(d).
- AAAASF's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- AAAASF's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.
- The adequacy of AAAASF's staff and other resources, and its financial viability.
- AAAASF's capacity to adequately fund required surveys.
- AAAASF's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.
- AAAASF's agreement to provide CMS with a copy of the most current accreditation survey, together with any other information related to the survey as we may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and

time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 12, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15293 Filed 6–21–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3265–PN]

Medicare and Medicaid Programs; Application From the Accreditation Association for Ambulatory Health Care for Continued Approval of Its Ambulatory Surgical Centers Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: This proposed notice acknowledges the receipt of an application from the Accreditation Association for Ambulatory Health Care for continued recognition as a national accrediting organization for ambulatory surgical centers that participate in the Medicare or Medicaid programs. This notice also solicits public comment on whether AAAHC's requirements meet or exceed the Medicare conditions for coverage.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 23, 2012.

ADDRESSES: In commenting, please refer to file code CMS–3265–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3265–PN, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3265–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lillian Williams (410) 786–8636. Patricia Chmielewski, (410) 786–6899. Cindy Melanson, (410) 786–0310.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in an ambulatory surgical center (ASC) provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) requires ASCs to meet health, safety, and other standards specified by the Secretary. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for ASCs.

Generally, to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 482. Thereafter, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we would deem those provider entities as having met the Medicare requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having

standards for accreditation that meet or exceed Medicare requirements, a provider entity accredited by the national accrediting body's approved program would be deemed to have met the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide us with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued approval of their accreditation programs every 6 years or as determined by CMS.

The Accreditation Association for Ambulatory Health Care (AAAHC) current term of approval for their ASC accreditation program expires on December 20, 2012.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.8(a) require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's: Requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act also requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of AAAHC's request for continued approval of its ASC accreditation program. This notice also solicits public comment on whether AAAHC's requirements meet or exceed the Medicare conditions for coverage.

III. Evaluation of Deeming Authority Request

AAAHC submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its ASC accreditation program. This application was determined to be complete on April 27, 2012. Under section 1865(a)(2) of the Act and our regulations at § 488.8 (Federal review of accrediting organizations), our review and evaluation of AAAHC would be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAAHC's standards for an ASC as compared with CMS' ASC conditions for coverage.
- AAAHC's survey process to determine the following:
  + The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
  + The comparability of AAAHC's processes to those of state agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- AAAHC's processes and procedures for monitoring an ASC found out of compliance with AAAHC's program requirements. These monitoring procedures are used only when AAAHC identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the State survey agency monitors corrections as specified at § 488.7(d).
- AAAHC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- AAAHC's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.
- The adequacy of AAAHC's staff and other resources, and its financial viability.
- AAAHC's capacity to adequately fund required surveys.
- AAAHC's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.
- AAAHC's agreement to provide CMS with a copy of the most current accreditation survey, together with any other information related to the survey as we may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 14, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15309 Filed 6–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7025–N]

Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), August 2, 2012

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

ACTION: Notice.

SUMMARY: This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES: *Meeting Date:* Thursday, August 2, 2012 from 8:30 a.m. to 4:00 p.m., Eastern Daylight Time (EDT).

Deadline for Meeting Registration, Presentations and Comments: Thursday, July 19, 2012, 5:00 p.m., EDT.

Deadline for Requesting Special Accommodations: Thursday, July 19, 2012, 5:00 p.m., EDT.

ADDRESSES: *Meeting Location:* The Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC 20036.

Meeting Registration, Presentations, and Written Comments: Jennifer Kordonski, Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–13–05, Baltimore, MD 21244–1850 or contact Ms. Kordonski via email at *mailto:Jennifer.Kordonski@cms.hhs.gov.*

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Kordonski, (410) 786–1840, or on the Internet at *http://www.cms.gov/FACA/04_APOE.asp* for additional information. Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is ''in the public interest in connection with the performance of duties imposed * * * by law.'' Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for ''activities * * * to broadly disseminate information to [M]edicare beneficiaries * * * on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options.''

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on January 21, 2011 (76 FR 11782, March 3, 2011).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid and the Children's Health Insurance Program (CHIP).
- Enhancing the Federal government's effectiveness in informing Medicare, Medicaid and CHIP consumers, providers and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Medicare, Medicaid and CHIP education programs.
- Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health plan options.
- Building and leveraging existing community infrastructures for information, counseling and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Samantha Artiga, Principal Policy Analyst, Kaiser Family Foundation; Joseph Baker, President, Medicare Rights Center; Philip Bergquist, Manager, Health Center Operations, CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association, Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Executive Director, Boston Public Health Commission; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Warren Jones, Executive Director, Mississippi Institute for Improvement of Geographic Minority Health; Cathy Kaufmann, Administrator, Oregon Health Authority; Sandy Markwood, Chief Executive Officer, National Association of Area Agencies on Aging; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, University of Medicine & Dentistry of New Jersey; Megan Padden, Vice President, Sentara Health Plans; David W. Roberts, Vice-President, Healthcare Information and Management System Society; Julie Bodën Schmidt, Associate Vice President, National Association of Community Health Centers; Alan Spielman, President & Chief Executive Officer, URAC; Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente and Darlene Yee-Melichar, Professor & Coordinator, San Francisco State University.

The agenda for the August 2, 2012 meeting will include the following:

- Welcome and Listening Session with CMS Leadership
- Recap of the Previous (May 2, 2012) Meeting
- Affordable Care Act Initiatives
- An opportunity for public comment
- Meeting Summary, Review of Recommendations, and Next Steps

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make a presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital

Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 14, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15311 Filed 6–21–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), (**Federal Register**, Vol. 76, No. 64, pp. 18555–18556, dated April 4, 2011) is amended to reflect updates to the functions of the Center for Strategic Planning.

Part F. is described below:

• Section FC. 20 (Functions) reads as follows:

Center for Strategic Planning (FCK)

• Directs and oversees the strategic planning process to achieve CMS strategic aims and goals, through a collaborative process with internal and external partners.

• Obtains understanding and concurrence of CMS senior management, the Principal Deputy Administrator, and the CMS Administrator on long term strategic plans and goals, and timelines and actions steps to be taken to achieve strategic aims and goals.

• Performs environmental scans and gap analysis on CMS strategic imperatives and enterprise goals.

• Integrates and aligns CMS strategic plans with Department of Health and Human Services' 5-year strategic plan and performance goals.

• Provides senior leadership over the strategic planning process and the development of CMS strategic goals, metrics, and plans.

• Confers with CMS' Centers, Offices and Regions to facilitate the development and update of strategic plans and performance goals.

• Oversees the CMS Challenge Competition, working with components to plan, organize, implement and report on CMS Challenge Competitions.

• Manages and coordinates internal and external inquiries regarding CSP activities.

Dated: June 14, 2012.

Marilyn Tavenner,

Acting Administrator and Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–15306 Filed 6–21–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)

National Institutes of Health

Proposed Collection; Comment Request; NDAR Data Access Request

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 of Mental Health (NIMH), 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: National Database for Autism Research (NDAR) Data Access Request.

Type of Information Collection Request: New.

Need and Use of Information Collection: The NDAR Data Access Request form is necessary for ''Recipient'' Principal Investigators and their organization or corporations with approved assurance from the DHHS Office of Human Research Protections to access data or images from the NDAR Central Repository for research purposes. The primary use of this information is to document, track, monitor, and evaluate the use of the NDAR datasets, as well as to notify interested recipients of updates, corrections, or other changes to the database.

Frequency of Response: Once per request.

Affected Public: Individuals.

Type of Respondents: Researchers interested in obtaining access to study data and images from the NDAR Central Repository for research purposes.

The annual reporting burden is as follows:

Estimated Number of Respondents: approximately 40.

Estimated Number of Responses per Respondent: Once per request.

Average Burden Hours per Response: 1.35.

Estimated Total Annual Burden Hours Requested: 63.

There are two scenarios for completing the form. The first where the Principal Investigator (PI) completes the entire NDAR Data Access Request form, and the second where the PI has the Research Assistant begin filling out the form and PI provides the final reviews and signs it. The estimated annual burden hours to complete the data request form is listed below.

ESTIMATES ANNUAL BURDEN HOURS

Form	Number of respondents	Frequency of response	Average time per response (in hours)	Annual hour burden
NDAR Data Access Request	40	1	95/60	63
Total				63

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 Keisha Shropshire, NIMH Project Clearance Liaison, Science Policy and Evaluation Branch, OSPPC, NIMH, NIH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Rockville Pike, Bethesda, MD 20892, or call 301–443–4335 or Email your request, including your address.

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: June 15, 2012.

Keisha Shropshire,

NIMH Project Clearance Liaison, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2012–15334 Filed 6–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Center for Multiscale Simulations in the Human Circulation (2012/10).

Date: July 15–17, 2012.

Time: 6 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Vetro, 201 South Linn Street, Iowa City, IA 52240.

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Dated: June 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15329 Filed 6–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

Date: November 12, 2012.

Time: 1 p.m. to 5 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: Ruth Grossman, DDS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Room 960, Bethesda, MD 20892, 301–496–8775, *grossmanrs@mail.nih.gov.*

Dated: June 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15326 Filed 6–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 meetings.

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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Library and Informatics Review Committee.

Date: November 15–16, 2012.

Time: November 15, 2012, 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Time: November 16, 2012, 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Arthur A. Petrosian, Ph.D., Chief Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15338 Filed 6–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(a) 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, Lister Hill Center for Biomedical Communications.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance

with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, 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, Lister Hill Center for Biomedical Communications.

Date: September 6–7, 2012.

Open: September 6, 2012, 9 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 6, 2012, 11:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 7, 2012, 8:30 a.m. to 10:00 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S709, Bethesda, MD 20892, 301–435–3137, *ksteely@mail.nih.gov*.

Open: September 7, 2012, 10 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of, reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S709, Bethesda, MD 20892, 301–435–3137, *ksteely@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, 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.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15337 Filed 6–21–12; 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; Member Conflict: Cancer Therapeutics.

Date: July 5, 2012.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 806–2515, *chatterm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics.

Date: July 11, 2012.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lambratu Rahman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: PAR10–066 international collaborative project career Development.

Date: July 12, 2012.

Time: 7:45 a.m. to 8:15 a.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Hilary D Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Dermatology/Rheumatology.

Date: July 16, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel F McDonald, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435–1215, *mcdonald@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: June 18, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–15332 Filed 6–21–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2012–0032]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Committee Management; Request for Applicants for Appointment to the DHS Data Privacy and Integrity Advisory Committee.

SUMMARY: The Department of Homeland Security Privacy Office is seeking applicants for appointment to the DHS Data Privacy and Integrity Advisory Committee.

DATES: Applications for membership must reach the Department of Homeland Security Privacy Office at the address below on or before July 23, 2012.

ADDRESSES: If you wish to apply for membership, please submit the documents described below to Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by *either* of the following methods:

- *Email: PrivacyCommittee@hq.dhs.gov.* Include the Docket Number (DHS–2012–0032) in the subject line of the message.
- *Fax:* (703) 235–0442

FOR FURTHER INFORMATION CONTACT: Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by email to *PrivacyCommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: The DHS Data Privacy and Integrity Advisory Committee is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C.A. App. 2. The Committee was established by the Secretary of Homeland Security under the authority of 6 U.S.C. 451 and provides advice at the request of the Secretary and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within DHS that relate to personally identifiable information (PII), as well as data integrity and other privacy-related matters. The duties of the Committee are solely advisory in nature. In developing its advice and recommendations, the Committee may, consistent with the requirements of the FACA, conduct studies, inquiries, workshops and seminars in consultation with individuals and groups in the private sector and/or other governmental entities. The Committee typically meets four times in a calendar year.

Committee Membership: The DHS Privacy Office is seeking applicants for terms of three years from the date of appointment. Members are appointed by and serve at the pleasure of the Secretary of the Department of Homeland Security, and must be specially qualified to serve on the Committee by virtue of their education, training, and experience in the fields of data protection, privacy, and/or emerging technologies. Pursuant to the FACA, the Committee's Charter requires that Committee membership be balanced to include:

1. Individuals who are currently working in higher education, state or local government, or not-for-profit organizations;
2. Individuals currently working in for-profit organizations including at least one who shall be familiar with the data privacy-related issues addressed by small to medium enterprises; and
3. Other individuals, as determined appropriate by the Secretary.

Committee members serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. As such, they are subject to Federal conflict of interest laws and government-wide standards of conduct regulations. Members must annually file Confidential Financial Disclosure Reports (OGE Form 450) for review and approval by Department ethics officials. DHS may not release these reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (5 U.S.C. 552a). Committee members are also required to obtain and retain at least a secret-level security clearance as a condition of their appointment. Members are not compensated for their service on the Committee; however, while attending meetings or otherwise engaged in Committee business, members may receive travel expenses and per diem in accordance with Federal regulations.

Committee History and Activities: All individuals interested in applying for Committee membership should review the history of the Committee's work. The Committee's charter and current membership, transcripts of Committee meetings, and all of the Committee's reports and recommendations to the Department are posted on the Committee's Web page on the DHS Privacy Office Web site (*www.dhs.gov/privacy*).

Applying for Membership: If you are interested in applying for membership on the DHS Data Privacy and Integrity Advisory Committee, please submit the following documents to Shannon Ballard, Designated Federal Officer, at the address provided below within 30 days of the date of this notice:

1. A current resume; and
2. A letter that explains your qualifications for service on the Committee and describes in detail how your experience is relevant to the Committee's work.

Your resume and your letter will be weighed equally in the application review process. Please note that by Administration policy individuals who are registered as Federal lobbyists are not eligible to serve on Federal advisory committees. If you are registered as a Federal lobbyist and you have actively lobbied at any time within the past two years, you are not eligible to apply for membership on the DHS Data Integrity and Privacy Advisory Committee. Applicants selected for membership will be required to certify, pursuant to 28 U.S.C. 1746, that they are not registered as Federal lobbyists. Please send your documents to Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by *either* of the following methods:

- *Email: PrivacyCommittee@hq.dhs.gov.*
- *Fax:* (703) 235–0442.

Privacy Act Statement: DHS's Use of Your Information

Authority: DHS requests that you voluntarily submit this information under its following authorities: the *Federal Records Act,* 44 U.S.C. 3101; the FACA, 5 U.S.C.A. App. 2; and the *Privacy Act of 1974,* 5 U.S.C. 552a.

Principal Purposes: When you apply for appointment to the DHS Data Privacy and Integrity Advisory Committee, DHS collects your name, contact information, and any other personal information that you submit in conjunction with your application. We will use this information to evaluate your candidacy for Committee membership. If you are chosen to serve as a Committee member, your name will appear in publicly-available Committee documents, membership lists, and Committee reports.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes, and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–009 Department of Homeland Security Advisory Committees System of Records Notice (October 3, 2008, 73 FR 63181).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to consider your application for appointment to the Data Privacy and Integrity Advisory Committee.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to

submit it, you may direct your request in writing to the DHS Chief FOIA Officer at *foia@hq.dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Dated: June 15, 2012.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2012–15315 Filed 6–21–12; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0028]

Assistance to Firefighters Grant Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of guidance.

SUMMARY: This Notice provides guidelines that describe the application process for grants and the criteria for awarding grants in the fiscal year (FY) 2012 Assistance to Firefighters Grant (AFG) Program year. It explains the differences, if any, between these guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held October 20–21, 2011. The application period for the FY 2012 AFG Program year will be held June 11, to July 6, 2012, and will be announced on *www.grants.gov.* Approximately 15,000 to 20,000 applications for AFG funding will be submitted electronically, using the application submission form and process available at *https://portal.fema.gov.* Before the application period, the ''FY 2012 AFG Guidance and Application Kit'' will be published on the AFG Web site (*www.fema.gov/firegrants*). Additional information to assist applicants will be provided on the AFG Web site, including an applicant tutorial, list of frequently asked questions, a ''Get Ready Guide, and a Quick Reference Guide.'' The AFG Program makes grants directly to fire departments and nonaffiliated emergency medical services (EMS) organizations for the purpose of enhancing the abilities of first responders to protect the health and safety of the public as well as that of first-responder personnel facing fire and fire-related hazards. In addition, the authorizing statute requires that a minimum of 5 percent of appropriated funds be expended for fire prevention and safety grants to be made directly to local fire departments and to local, regional, State, or national entities recognized for their expertise in the fields of fire prevention and firefighter safety research and development.

Authority: 15 U.S.C. 2229, 2229a.

DATES: Grant applications for the Assistance to Firefighters Grants will be accepted electronically at *https://portal.fema.gov,* from June 11 to July 6, 2012.

ADDRESSES: Assistance to Firefighters Grants Branch, Stop 3620, DHS/FEMA, 800 K Street NW., Washington, DC, 20472–3620.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Chief, Assistance to Firefighters Grants Branch, 1–866–274–0960.

SUPPLEMENTARY INFORMATION: The purpose of the Assistance to Firefighters Grant (AFG) Program is to provide grants directly to fire departments and nonaffiliated emergency medical services (EMS) organizations to enhance their ability to protect the health and safety of the public, as well as that of first-responder personnel, with respect to fire and fire-related hazards. The governing statute requires that each year DHS publish in the **Federal Register** the guidelines that describe the application process and the criteria for grant awards.

Approximately 15,000 to 20,000 applications for AFG funding will be submitted electronically, using the application submission form and process available at the AFG e-Grant application portal: *https://portal.fema.gov.* Specific information about the submission of grant applications can be found in the ''FY 2012 Assistance to Firefighters Grant (AFG) Guidance and Application Kit,'' which is available for download at *www.fema.gov/firegrants* and at *www.regulations.gov* under Docket ID FEMA–2012–0028.

Paper applications will be accepted but discouraged due to the inherent delays with processing them and because they lack the applicant ''help'' features that are built into the electronic application. Applicants will be able to obtain a copy of the official paper application form by calling 1–866–274–0960. Paper applications will be sent via regular mail only; no application forms will be sent via overnight delivery, fax, or email. Applicants will be allowed to submit only the fiscal year (FY) 2012 AFG application form that is mailed to them by the AFG. No other version of the application will be accepted. Applicants will be instructed not to use any paper application that they did not receive directly from the AFG and will be instructed not to use a previous year's application. Paper applications must be postmarked no later than July 6, 2012, and mailed to the following address: Cabezon Group, Attn: AFG Program, 11821 Parklawn Drive, Suite 230, Rockville, MD 20852. The AFG will inform applicants that it will not be responsible for applications sent to any other address and that late, incomplete, or faxed applications will NOT be accepted.

Appropriations

Congress appropriated $337,500,000 for the FY 2012 AFG. From this amount, $285,625,000 will be made available for AFG awards. Funds appropriated for the FY 2012 AFG (pursuant to Pub. L. 112–10) will be available for obligation and award until September 30, 2013. FEMA will receive approximately 15,000 to 20,000 applications for assistance and anticipates that it will award approximately 4,000 grants with the grant funding available.

Congress directed the Department of Homeland Security (DHS) to administer the appropriations:

- Up to 5 percent of funds may be used for program administration.
- Up to 2 percent of funds may be used for awards to nonaffiliated EMS organizations.
- No more than 25 percent of funds may be used for vehicle awards.
- No less than 5 percent of funds must be made available to make grants supporting eligible fire prevention activities and research and development activities that improve firefighter safety through the Fire Prevention and Safety (FP&S) Grants. However, due to the importance of mitigation activities, the FY 2012 FP&S will be allocated $35 million for grants. The FP&S Grants are not part of this AFG solicitation. The FP&S Grant application period is projected for the fall or winter of 2012.

Background of the AFG Program

DHS awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

Award Criteria

The panel will review the application and evaluate it using the following criteria:

- Proposed project and the project budget

- Financial need for the project
- Benefits that will result from the project relative to its cost (cost benefit)
- Extent to which the grant will enhance daily operations
- How the grant will positively impact the regional ability to protect life and property

The AFG Program for FY 2012 generally mirrors that of previous years. All applications for grants will be prepared and submitted through the AFG e-Grant application portal (*https://portal.fema.gov*). DHS again will have a separate application period devoted solely to FP&S Grants, which is projected to occur in the fall or winter of 2012.

Statutory Limits to Funding

Congress has enacted statutory limits to the amount of funding that a grantee may receive from the AFG Program in any single fiscal year (15 U.S.C. 2229(b)(10)), and these limits are based on the population served. Awards will be limited based on the size of the population protected by the applicant, as indicated below.

- An applicant that serves a jurisdiction with 500,000 people or less may not receive grant funding in excess of $1 million for any fiscal year.
- A grantee that serves a jurisdiction with more than 500,000 but not more than 1 million people may not receive grants in excess of $1,750,000 in any fiscal year.
- A grantee that serves a jurisdiction with more than 1 million people may not receive grants in excess of $2,750,000 in any fiscal year.

DHS may waive these established limits to any grantee serving a jurisdiction of 1 million people or less if the agency determines that an extraordinary need for assistance warrants the waiver. No grantee, under any circumstance, may receive ''more than the lesser of $2,750,000 or one-half of 1 percent of the funds appropriated under this section for a single fiscal year.'' (15 U.S.C. 2229(b)(10)(B)).

Cost Sharing

Grantees must share in the costs of the projects funded under this grant program (15 U.S.C. 2229(b)(6)). Fire departments and nonaffiliated EMS organizations that serve populations of less than 20,000 must match the Federal grant funds with an amount of non-Federal funds equal to 5 percent of the total project cost. Those fire departments and nonaffiliated EMS organizations serving areas with a population between 20,000 and 50,000, inclusive, must match the Federal grant funds with an amount of non-Federal funds equal to 10 percent of the total project cost, and those that serve populations of more than 50,000 must match the Federal grant funds with an amount of non-Federal funds equal to 20 percent of the total project costs. Regional project cost share will be based on the total population and demographics of the entire region. All non-Federal funds must be in cash, i.e., in-kind contributions are not acceptable as matching funds. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. 1469a.

Statutory Requirements for Funding Distribution

The authorizing statute imposes additional requirements on ensuring a distribution of grant funds among career, volunteer, and combination (volunteer and career personnel) fire departments, and among urban, suburban, and rural communities. Specifically, DHS must ensure that all-volunteer or combination fire departments receive a portion of the total grant funding that is not less than the proportion of the United States population that those departments protect (15 U.S.C. 2229(b)(11)). There is no corresponding minimum for career departments. Therefore, subject to the other statutory limitations on the ability of DHS to award funds, DHS will ensure that, for the 2012 program year, no less than 33 percent of the funding available for grants will be awarded to combination departments, and no less than 19 percent will be awarded to all-volunteer departments. These figures were obtained from the National Fire Protection Association report entitled ''U.S. Fire Department Profile Through 2010,'' issued October 2011. If, and only if, other statutory limitations inhibit the ability of DHS to ensure this distribution of funding, DHS will ensure that the aggregate combined total percentage of funding provided to both combination and volunteer departments is no less than 52 percent.

DHS generally makes funding decisions using rank order resulting from the panel evaluation. However, DHS may deviate from rank order and make funding decisions based on the type of department (career, combination, or volunteer) and/or the size and character of the community the applicant serves (urban, suburban, or rural) to the extent it is required to satisfy statutory provisions.

Central Contractor Registration (CCR)

Since October 1, 2003, it has been federally mandated that any organization wishing to do business with the Federal government under a Federal-Acquisition-Regulation-based contract must be registered in the CCR system before being awarded a contract. This includes applicants and grantees for the AFG Program. To submit a new CCR registration, go to *www.bpn.gov/ccr/grantees.aspx.*

Fire Prevention and Safety Grant Program

In addition to the grants available to fire departments in FY 2012 through the competitive grant program, DHS must set aside no less than 5 percent ($16,881,250) of AFG Program funds for the FP&S Grant Program. However, due to the importance of mitigation activities, DHS will allocate $35 million for the FY 2012 FP&S Grant Program. The FP&S funds will be available to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations or agencies, including fire departments.

In accordance with the statutory requirement to fund fire prevention activities, the FP&S Program offers grants to support activities in two categories: (1) Activities designed to reach high-risk target groups and mitigate incidences of death and injuries caused by fire and fire-related hazards (''Fire Prevention and Safety Activity''); and (2) research and development activities aimed at improving firefighter safety (''Firefighter Safety Research and Development Activity''). DHS will issue an announcement regarding pertinent details of the FY 2012 FP&S Grant portion of the AFG Program prior to the start of the application period, which is tentatively scheduled for fall or winter of 2012.

Application Process

Organizations may submit one application per application period in each of the three AFG Program areas, e.g., one application for Operations and Safety, one for Vehicle Acquisition, and/or a separate application to be a Regional Project host. If an organization submits more than one application for any of the AFG Program areas, either intentionally or unintentionally, FEMA will deem all applications submitted by that organization for the Program to be ineligible for funding.

Prior to the start of the FY 2012 AFG application period, DHS will conduct applicant workshops across the country to inform potential applicants about the AFG Program. In addition, DHS will provide applicants with an online web-based tutorial (available at the AFG Web site: *www.fema.gov/firegrants*) and other online information to help them prepare

quality grant applications. The AFG also will staff a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with any questions they have. Applicants can reach the AFG Help Desk through a toll-free telephone number (1–866–274–0960) or electronic mail (*firegrants@dhs.gov*).

Applicants will be advised to access the application electronically at *https://portal.fema.gov.* The application also will be accessible from the U.S. Fire Administration's Web site (*http://www.usfa.fema.gov*) and the grants.gov Web site (*http://www.grants.gov*). New applicants will be required to register and establish a username and password for secure access to their application. Applicants that applied to any previous AFG funding opportunities will be required to use their previously established usernames and passwords.

In completing the application, applicants will be asked to provide relevant information on their organization's characteristics, call volume, and existing capabilities. Applicants will be asked to answer questions about their grant request that reflect the AFG funding priorities, which are described below. In addition, each applicant will have to complete four separate narratives for each project or grant activity requested. These narratives will address statutory competitive factors: project description and budget, cost benefit, effect on the organization, and additional information. The electronic application process will permit the applicant to enter and save the application data. The system does not permit the submission of incomplete applications. Except for the narrative textboxes, the application will use a ''point-and-click'' selection process or require the entry of data (e.g., name and address, call volume numbers, etc.) Applicants will be encouraged to read the ''AFG Guidance and Application Kit'' for more details.

Criteria Development Process

Each year, DHS convenes a panel of fire service professionals to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is comprised of representatives from nine major fire service organizations, who are charged with making recommendations to FEMA regarding the creation of new funding priorities and the modification of existing funding priorities as well as developing criteria for awarding grants. The nine major fire service organizations represented on the panel are:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2012 criteria development panel meeting occurred October 20–21, 2011. The content of the ''FY 2012 AFG Guidance and Application Kit'' reflects the implementation of the Criteria Development Panel's recommendations with respect to the priorities, direction, and criteria for awards. All of the funding priorities for the FY 2012 AFG are designed to address the following:

- First responder safety
- Enhancing national capabilities
- Risk
- Interoperability

Changes for FY 2012

- *Maintenance and Sustainment.* The use of FEMA preparedness grant funds for maintenance contracts, warranties, repair or replacement costs, upgrades, and user fees are allowable under all active and future grant awards, unless otherwise noted. For additional information, see ''DHS/FEMA Information Bulletin No. 336,'' dated November 20, 2009.
- *FY 2012 AFG Guidance and Application Kit.*

(1) The ''Guidance and Application Kit'' has been reformatted to match the FEMA Funding Opportunity Announcement (FOA) template.

(2) Program funding priorities are indicated in the ''Guidance'' as being H (High), M (Medium), or L (Low) funding priorities, with the exception of the funding priorities assigned for the Wellness and Fitness Activity, which are indicated as being Priority I or Priority II.

(3) The term ''Other'' was removed from both the ''AFG Guidance'' document and the online application form as an item eligible for funding. The pull-down menus in the online application form will provide a specific list of all items eligible for funding.

- *Operations and Safety.*

(1) In the evaluation criteria, the weights assigned to the data on ''Population Served'' and ''Call Volume'' have been adjusted to reduce their impact on the total score for applicants in suburban and rural communities. They were removed the list of ''Additional Considerations'' for funding.

(2) *Training Projects.* ''NFPA (Technical Rescue) 1670'' was removed from the list of Firefighting Training Priorities. NFPA number ''/1006'' was added to ''NFPA (Rescue Technician) 1670.''

(3) *Equipment Projects.* All communications equipment or systems purchased with grant funds should comply with the FY 2012 SAFECOM Guidance on Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The FY 2012 SAFECOM Guidance can be found at: *http://www.safecomprogram.gov.*

(4) *Self-Contained Breathing Apparatus (SCBA).* ''Replacing torn, tattered, or damaged PPE'' was elevated from a Medium to a High Priority for funding.

(5) *Vehicle Acquisition*

(1) ''Quints'' were removed from the list of funding priorities because they are eligible for funding in the ''Aerials'' vehicle category.

(2) In suburban communities, ''Rescue'' vehicles were elevated from a Medium to a High Priority for funding.

(3) In suburban communities, ''Hazmat'' vehicles were added to the list of Medium Priority vehicles.

(4) In rural communities, ''Aerials'' were added to the list of High Priority vehicles.

(5) ''Call Volume'' and ''Population Served'' were removed from the list of Additional Considerations for funding.

Changes to Criteria Development Panel Recommendations

DHS must explain any differences between the published guidelines and the recommendations made by the criteria development panel and publish this information in the **Federal Register** prior to making any grants under the Program (15 U.S.C. 2229(b)(14)). DHS accepts and is implementing all of the Criteria Development Panel's recommendations, with the exception of the two that we recommended be revised (discussed below).

(1) Panel members recommended requiring that all grant-funded equipment qualify as being ''Made in America.''

DHS acknowledges this Panel recommendation but decided to table this requirement pending the FEMA Grant Programs Directorate's

development of a specific policy on this issue. Language was added to the Procurement Integrity section of the ''Guidance and Application Kit'' stating that, ''to the greatest extent possible, the use of federal grant funds should be used for the purchase of goods and services manufactured, assembled, and distributed in America.''

(2) Panel members recommended that the vehicle definitions in the online AFG application be aligned to those in the online application for the FY 2011 Staffing for Adequate Fire and Emergency Response (SAFER) Grant Program.

DHS acknowledges and agrees with this recommendation but is not able to make this system change for the FY 2012 AFG application. DHS will request that this system change be scheduled for implementation in a future deployment to revise the online application.

(3) Panel members recommended that the vehicle definitions in the online AFG application be made consistent with those of the NFPA for pumpers/engines and tankers.

DHS acknowledges this recommendation but has not implemented because we believe that the current definitions and terminology are easier for our constituents in the fire service to use. Due to the inherent differences between pumpers and Type I urban interface engines, descriptions of both types of vehicles remain in the Guidance and the online application. The current language was developed to take into account regional differences in the terms used to describe certain types of vehicles. Some clarifications were made in the application and Guidance with regard to vehicle type descriptions.

Application Review Process

DHS will review and evaluate all AFG applications submitted using the funding priorities and evaluation criteria that was established based on recommendations from the Criteria Development Panel and is described in this document. FEMA will rank all submitted applications based on how well they match the funding priorities for the type of community served. Answers to the application's activity-specific questions provide information used to determine each application ranking relative to the stated priorities.

Preliminary Review Process

DHS will evaluate all applications received first through an automated preliminary review process to determine which projects best address the AFG Program's announced funding priorities. The automated preliminary review will evaluate and score the applicants' answers to the activity-specific questions in terms of the funding priorities and the evaluation criteria described in this document.

The projects that best meet the AFG Program priorities as determined by the preliminary review will be deemed to be in the ''competitive range'' and will be forwarded for the second level of application review, which is the peer review process. Once the competitive range is established, DHS will review the list of applicants that were not included in the competitive range to determine if any are responsible for protecting DHS-specified critical infrastructure or key resources.

Peer Review Process

All projects deemed to be in the competitive range will be subjected to a second level of review by a technical evaluation panel (TEP) made up of individuals from the fire service, including, but not limited to, firefighters, fire marshals, and fire training instructors.

A panel of at least three peer reviewers will evaluate each project in the competitive range using the project narratives, along with answers to the general questions and the activity-specific questions. Panelists will provide a subjective but qualitative judgment on the merits of each request. They will review and score projects based on the following evaluation criteria:

- Clarity and detail used to describe the proposed project and the project budget
- Organization's financial need for the project
- Benefits that will result from the project relative to its cost (cost benefit)
- Extent to which the project will enhance daily operations
- How the grant will positively impact the regional ability to protect life and property
- Additional information provided by the applicant

Each project will be judged on its own merits and not compared to other projects. As part of the cost-benefit review, the panelists will consider all expenses budgeted, including the individual costs of the items requested as well as the extraneous costs, such as warranties or maintenance costs, administrative costs, and/or indirect costs. Panelists may object to costs that are requested but not fully explained in the application.

All projects reviewed also will be evaluated relative to the critical infrastructure the applicant protects within their area of first-due response. They will assess such infrastructure and the hazards confronting the community as explained in the application's narrative statements, including requests for chemical, biological, radiological, nuclear, and explosive (CBRNE) equipment or training. Critical infrastructure includes any system or asset that, if attacked, could result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes public water, power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and/or natural gas transmission pipelines, storage facilities (e.g., chemical storage facilities), telecommunications facilities, and facilities that support large public gatherings, such as sporting events or concerts.

The panelists will evaluate and score each project individually and then discuss the merits and shortcomings of each application in an effort to reconcile any major discrepancies. However, a consensus among reviewers on the scores is not required. The project's total peer review score will be an average of the individual peer reviewers' scores. The projects receiving the highest scores during the peer review process will be deemed in the fundable range.

The total peer review score will be combined with the score earned from the preliminary review, with each score representing 50 percent of the total project score. Projects will be ranked according to the total project scores with DHS considering the highest-scoring projects for awards.

Technical Review Process

Projects receiving the highest scores then will undergo a technical review by a subject matter specialist to assess the technical feasibility of the project and a programmatic review to assess eligibility and other factors.

Applications that involve interoperable communications projects or projects related to chemical, biological, radiological, nuclear, and explosive (CBRNE) equipment or training will undergo a separate review by the responsible State Administrative Agency to assure that the projects are consistent with the Statewide Communications Interoperability Plan (SCIP). If the State determines that the project is inconsistent with the SCIP, the project will not be funded. Grantees requesting support for emergency communications activities should review and comply with the FY 2012 SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that

ensure and enhance interoperable communications.

After the completion of the technical reviews, DHS will select a sufficient number of awardees from this application period to obligate all of the available grant funding. It will evaluate and act on applications within 90 days following the close of the application period. The majority of awards will be made on or before September 30, 2012, but funds may be available for commitment until September 30, 2013. Awards will not be made in any specified order, i.e., awards will not be made by State, program, etc. DHS will notify unsuccessful applicants as soon as it is feasible.

Environmental and Historic Preservation Review

Applications seeking assistance to modify facilities or to install equipment that require building renovations may undergo additional screening. All modification to facility projects will be subject to all applicable Federal requirements for environmental and historic preservation (EHP). No project that involves a modification to facility can proceed—except for project planning—without prior formal written approval from DHS and the completion of any required EHP review. If an award includes a modification to a facility, the applicant will be responsible for contacting the AFG staff to receive instructions on how to proceed. Noncompliance with these provisions may jeopardize an applicant's award and subsequent funding.

Application Review Considerations

The governing statute requires that each year DHS publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

Fire Department Priorities

Specific rating criteria for each of the eligible programs and activities are discussed below. The funding priorities described in this Notice have been recommended by a panel of representatives from the Nation's fire service leadership and have been accepted by DHS for the purposes of implementing the AFG. These rating criteria provide an understanding of the AFG Program's priorities and the expected cost-effectiveness of any proposed project(s). The activities listed below are in no particular order of priority.

Within the Vehicle Grants activity, DHS will consider the population served by the applicant, with applicants that serve larger populations afforded a higher consideration than applicants that serve smaller populations. DHS will explain further the Program priorities in the Guidance and Application Kit that will be published separately.

(1) *Fire Operations and Firefighter Safety Program.*

(i) *Firefighter Training Activities.* The Criteria Development Panel recommended that AFG continue to emphasize the importance of training in the FY 2012 program with respect to fire departments.

Funding Priorities. Due to inherent differences among urban, suburban, and rural firefighting needs, AFG has different priorities in the Firefighting Training program area for departments that serve different types of communities. These are described in detail in the ''FY 2012 AFG Guidance and Application Kit.'' The High priorities for training in all types of communities are NFPA 1001, 1002, 472, 1581, 1021; confined space awareness; wildland firefighting (basic and red card training); rapid intervention or RIT; first responder; firefighter safety and survival; safety officer; driver/operator; fire prevention; fire inspector; fire investigator; fire educator; instructor; NIMS/ICS; firefighting physical ability program; emergency scene rehab; critical incident debriefing; vehicle rescue, rescue technician; emergency medical technician–paramedic (EMT–P), emergency medical technician–basic (EMT–B); and training needed to comply with State-mandated and federally mandated programs. Please see the ''FY 2012 AFG Guidance and Application Kit'' for additional information on the High, Medium, and Low Priorities for training in urban, suburban, and rural communities.

Additional Considerations. Factors such as whether multiple departments will be trained, instructor-led vs. media-led training, and the number of firefighters to be trained. Large departments with a high number of active firefighters also will receive additional consideration.

(ii) Firefighting Equipment Acquisition. AFG funds are available for equipment to enhance the safety or effectiveness of firefighting, rescue, and fire-based EMS functions. Equipment requested must meet all mandatory requirements as well as any national and/or state DHS-adopted standards. See NFPA standards at *www.NFPA.org/nfpaafg.2012.* The equipment requested should improve the health and safety of the public and firefighters.

Funding Priorities. High priority for funding will be first-time equipment purchases to support an existing mission and/or the replacement of obsolete or broken and inoperable equipment. A medium priority will be equipment purchases to increase capabilities within the department's existing mission or to meet a new risk. Low priority for funding will be requests for equipment for a new mission to meet an existing risk and/or request additional supplies or reserve equipment. A department takes on a ''new mission'' when it expands its services into areas not previously offered, such as a fire department seeking funds to provide EMS for the first time. A ''new risk'' presents itself when a department must address risks that have materialized in the department's area of responsibility, e.g., the construction of a new nuclear power plant could constitute a ''new mission.''

Additional Considerations. Will be given for the following factors:

- Equipment that has a direct effect on firefighters' health and safety
- Age of equipment being replaced
- Equipment that benefits other jurisdictions
- Equipment that brings the department into compliance with nationally recommended standards (i.e., NFPA) or statutory compliance (i.e., Occupational Safety & Health Administration (OSHA))

(iii) Firefighter Personal Protective Equipment (PPE) Acquisition. AFG funds are available to acquire primarily OSHA-required and NFPA-compliant PPE for firefighting personnel. Equipment requested must meet all current mandatory requirements, as well as any national and/or state DHS-adopted standards. Equipment requested should have the goal of increasing firefighter safety. Information on the relevant NFPA standards can be obtained from the organization's Web site at *www.NFPA.org/nfpaafg.2012.* If requesting training for any items in this section, please list it in the Other section under Additional Funding for each item for which training is needed. Applicants will be required to provide the age of the PPE to be replaced.

Funding Priorities. The highest priorities for funding will be requests from departments to buy new PPE for the first time, to replace or update obsolete PPE to the current standard, and to replace torn, tattered, or damaged PPE. (Obsolete is defined as any PPE that is 10 years or older or is outdated by two NFPA cycles.) The medium priority for funding will be requests to replace contaminated PPE or to address a new risk. A low priority for funding will be requests to replace new or used PPE, replace worn but usable PPE that

is not compliant to the current edition of the NFPA standard, to meet a new mission, or to increase current inventory.

Self-contained breathing apparatus (SCBA) Priorities. Awards will be based on number of seated riding positions in the department's vehicle fleet and the age of existing SCBAs, limited to one spare cylinder (unless justified otherwise in the Request Details narrative for the PPE activity). New SCBAs must have automatic-on or integrated Personal Alert Safety System (PASS) devices and be CBRNE-compliant to the current edition of the NFPA 1981 standard. All requests must be justified in the Request Details narrative for the PPE activity.

Funding Priorities. Highest priority will be to replace SCBAs that are compliant with NFPA 1981, pre-2002 Edition. A medium priority will be to replace SCBAs that are compliant with the 2002 edition of NFPA 1981 (must be justified in PPE narrative). It will be a low priority to replace SCBAs that are compliant with the 2007 edition of NFPA 1981 (must be justified in the PPE narrative).

Additional Considerations for PPE. Additional consideration will be given to applicants that have the oldest PPE and/or are trying to bring the department into 100 percent NFPA compliance and for the number of firefighters who will have compliant gear.

(iv) Firefighter Wellness and Fitness Activities. Wellness and Fitness programs are intended to strengthen first responders so that their mental, physical, and emotional capabilities are resilient enough to withstand the demands of emergency services response. To be eligible for FY 2012 funding of this activity, fire departments must offer, or plan to offer, all four of the following basic programs:

- Periodic health screenings
- Entry physical examinations
- Immunizations
- Behavioral health programs

Funding Priorities. In this activity, funding priorities are described as either Priority 1 or Priority 2, with Priority 1 programs being the highest priority for funding. Departments that have some of the Priority 1 programs in place must apply for funds to implement the other Priority 1 programs listed before applying for funds for additional Wellness and Fitness programs or equipment. The following programs are Priority 1: initial medical exams (must meet NFPA 1582 requirements), job-related immunization programs, annual medical and fitness evaluations, and behavioral health programs.

To be eligible for Priority 2 items, the department must offer or be requesting funds to provide all four of the programs in Priority 1. Priority 2 items include candidate physical ability evaluations, formal fitness and injury prevention programs and equipment, injury and illness rehab, and IAFF or IAFC Peer Fitness Trainer programs.

(v) Modifications to Fire Stations. FY 2012 AFG Grants may be used to modify and retrofit existing fire stations and other facilities or structures built before 2003. New fire station construction is not eligible for funding. To be eligible, the modification must not change the structure footprint or profile. If requesting multiple items in this activity, total funding for all project and activities cannot exceed $100,000 per fire station. Eligible projects under this activity must have a direct effect on the health and safety of firefighters.

FEMA is legally required to consider the potential impacts of all grant-funded projects on environmental resources and historic properties through an environmental and historic preservation (EHP) review. Any project with the potential to impact natural resources or historic properties cannot be initiated until FEMA has completed the required FEMA EHP review. Grantees that implement projects before receiving EHP approval from FEMA risk having grant funds deobligated. Modification projects that must undergo EHP reviews include but are not limited to the installation of equipment; ground-disturbing activities, such as building a concrete pad for a station generator; communications tower installations, or the modification or renovation of existing buildings and structures. Any project not specifically excluded from a FEMA EHP review must undergo such a review, per the Grant Programs Directorate's Programmatic Environmental Assessment (PEA). For more information, see Information Bulletin 345. Grantees must comply with all applicable EHP laws, regulations, and Executive Orders (EOs) to draw down their FY 2012 AFG funds.

Funding Priorities. Highest priority for funding will be requests to install modifications such as sole-source capture exhaust systems, sprinkler systems, or smoke/fire alarm notification systems in stations, including maritime and air operations facilities, that are occupied 24/7 and offer sleeping quarters. Medium priority will be given to requests for air quality systems and/or emergency generators from departments that may or may not offer sleeping quarters. Low priority will be given to requests to modify facilities that are not occupied 24/7 and do not offer sleeping quarters, and for training facilities.

Additional Considerations: Will be given for the age of the building, with older facilities receiving higher priority.

(2) *Firefighting Vehicles Acquisition Program.*

AFG provides grants for new firefighting vehicles, used fire apparatus originally designed for firefighting, or refurbished apparatus originally designed for firefighting. Funds also may be used to refurbish a vehicle the department currently owns, but only if the vehicle to be refurbished was designed originally for firefighting. New vehicles purchased with AFG funds must be compliant with NFPA 1901 (*Standard for Automotive Apparatus*) or NFPA 1906 (*Standard for Wildland Fire Apparatus*). Used apparatus must be compliant with NFPA 1901 or 1906 for the year the vehicle was manufactured. Refurbished apparatus must meet the current NFPA 1912 (*Standard for Fire Apparatus Refurbishing*). Converted vehicles not originally designed for firefighting are not eligible for refurbishment.

Applicants are allowed to apply for more than one vehicle, but requests cannot exceed the financial cap based on population listed in the application. If a department submits multiple applications and more than one of those requests are approved, the department will be held to the same financial cap.

FEMA reserves the right to reduce the amount of any vehicle request, in whole or in part, that is considered excessive in cost. AFG funding is meant to supplement, not replace, an organization's funding.

Applicants requesting vehicles that do not have driver/operators trained to U.S. Department of Transportation Emergency Vehicle Operators Course (EVOC) National Standard Curriculum, or equivalent, and are not planning to have a training program in place by the time the vehicle is delivered, will not receive an award. Training may be requested in the Other section under Additional Funding in the Vehicle request application.

Funding Priorities. Inherent differences exist between urban, suburban, and rural firefighting conventions. For this reason, DHS has developed different priorities in the Firefighting Vehicles Program for departments that serve different types of communities. The chart below delineates the priorities for firefighting vehicles for each type of community.

Note: Due to nationwide statistics indicating the high number of fire-based EMS calls, ambulances will be the equivalent to a pumper as a high priority item.

FIREFIGHTING VEHICLE PROGRAM PRIORITIES

[Firefighting vehicles are categorized by community type and as High (H), Medium (M), or Low (L) funding priorities and within that priority the vehicles have an equal value]

Priority	Urban communities	Suburban communities	Rural communities
H	Pumper Ambulance Aerial Rescue	Pumper Ambulance Aerial Tanker—Tender Rescue	Pumper Ambulance Brush—Attack Tanker—Tender Aerial
M	Command Hazmat Light/Air Unit Rehab Unit	Hazmat Command Light/Air Unit Brush—Attack Rehab Unit	Command Hazmat Rescue Light/Air Unit
L	Aircraft Rescue and Firefighting Vehicle (ARFFV) Brush—Attack Foam Truck Fire Boat Tanker—Tender Highway Safety Unit	ARFF Foam Truck Highway Safety Unit Fire Boat	Foam Truck Highway Safety Unit ARFF Rehab Unit Fire Boat

Additional Considerations. Will be given for the following factors:

- Existence of automatic aid agreements, mutual aid agreements, or both
- Request the replacement of open cab/jump seat configurations
- Age of the vehicle being replaced; older equipment receives higher consideration
- Age of the newest vehicle in the department's fleet that is like the vehicle to be replaced
- Average age of the fleet; older equipment within the same class
- Converted vehicles not designed or intended for use in the fire service

Compliance with standards:

- New fire apparatus must be compliant with NFPA 1901 or 1906 for the year it was ordered or manufactured.
- Used fire apparatus must be compliant with NFPA 1901 or 1906 standards for the year the vehicle was manufactured
- Ambulances must meet NFPA, General Services Administration (GSA) KKK–1822F standards for the year ordered or manufactured
- Applicants must certify that unsafe vehicles will be permanently removed from service if awarded a grant
- Acceptable uses of unsafe vehicles include farming, nursery, scrap metal, salvage, construction, etc
- Refurbished vehicles must meet current NFPA 1912 standards

(3) *Administrative Costs.*

Panelists will assess the administrative costs requested in any application and determine if the request is reasonable and in the best interest of the Program.

Nonaffiliated EMS Organization Priorities

AFG funds may be used to enhance emergency medical services provided by nonaffiliated EMS organizations, but the authorizing statute limits funding for these organizations to no more than 2 percent of the appropriated amount.

The Criteria Development Panel recommended that it is more cost-effective to enhance or expand an existing EMS organization, by providing training or equipment, than it is to create a new service. Therefore, communities attempting to initiate EMS services will receive the lowest competitive rating. Requests for equipment and training to prepare for response to incidents involving CBRNE are available under the applicable Equipment and Training activities.

Specific rating criteria and funding priorities for each of the grant categories are provided below following the descriptions of this year's eligible programs. The rating criteria, in conjunction with the program description, provide an understanding of the evaluation standards. DHS will explain further the funding priorities in the ''FY 2011 AFG Guidance and Application Kit.''

(1) *EMS Operations and Safety Program.*

Five different activities may be funded under this program area:

- First responder/Emergency Medical Responder (EMR) training
- EMS equipment acquisition
- EMS personal protective equipment
- EMS wellness and fitness
- Modifications to EMS facilities

Applicants may apply for as many of the activities within the Operations and Safety Program as they deem necessary.

(i) First Responder/EMS Training Activities. AFG provides grants to train EMS personnel. Examples of training activities include, but are not limited to, first responder/emergency responder, Basic Life Support (BLS), Advanced Life Support (ALS), Paramedic, Hazmat Operations, or Rescue Operations.

Funding Priorities. Since training is a prerequisite to the effective use of EMS equipment, organizations that request items more focused on training activities will receive a higher competitive rating than organizations that focus on equipment.

A higher competitive rating will be given to nonaffiliated EMS organizations that are planning to upgrade services to the ALS level of response. Specifically, requests for training to elevate an organization's response level from EMT–B to EMT–I will receive the highest priority for funding. Requests for training to elevate the organization's response level from EMT–I to EMT–P also will receive a high priority for funding.

The second priority for funding is training to elevate emergency responders' capabilities from first responder to the BLS level of response, i.e., EMT–B. Due to the amount of time and cost required, upgrading an organization's response level from EMT–B to EMT–P is a lower priority. Organizations seeking training in rescue or Hazmat operations will receive lower consideration than organizations seeking training for medical services. The lowest priority is to fund first responder training.

Additional Considerations. Organizations seeking to train a high percentage of its active first responders will receive additional consideration.

(ii) EMS Equipment Acquisition. AFG funds are available for equipment to enhance the safety or effectiveness of EMS response. Equipment requested must meet all mandatory requirements as well as any national, state, or DHS-adopted standards. Equipment requested should solve interoperability or compatibility problems as may be required by local jurisdictions. Requests will be funded up to an organization's current capabilities, particularly requests for decontamination and Hazmat equipment.

Note: All communications equipment or systems purchased with grant funds should comply with the FY 2012 SAFECOM Guidance on Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The FY 2012 SAFECOM Guidance can be found at: *http://www.safecomprogram.gov.*

Funding Priorities. Highest priority will be given to equipment requests associated with upgrading EMS from BLS to ALS, i.e., EMT–I and EMT–P. High priority also will be given to requests for equipment that will bring the department into compliance with NFPA standards and other national, state, or local jurisdictional requirements. Medium priority will be given to requests for equipment that brings a department into voluntary compliance with NFPA/OSHA standards and requests to expand current EMS. Low priority will be given to the following requests: To begin a new service, to replace used or obsolete equipment, to buy equipment that does not affect statutory or voluntary compliance with a national standard, and equipment for Hazmat operations/technicians and for rescue operations/technicians.

Additional Considerations. Additional consideration will be given to requests that support regional collaborations benefiting multiple jurisdictions.

(iii) EMS Personal Protective Equipment. AFG funds are available to acquire EMS PPE for first responder personnel. Equipment requested must meet all mandatory requirements, as well as any current national and/or state DHS-adopted standards or local EMS protocols. Applicants must indicate grant-purchased equipment will be operated by sufficiently trained staff, and failure to meet this requirement will result in ineligibility for funding. Funding for PPE training is eligible but must be requested in the Other section under Additional Funding for the item requested.

Funding Priorities. High priority for funding will be requests to buy new PPE for the first time, to replace or update obsolete PPE to the current standard, and to replace torn, tattered, or damaged PPE. (Obsolete PPE is defined as any SCBA/PPE that is 10 years or older or is outdated by two NFPA cycles.) Medium priority will be given to requests to replace contaminated PPE, PPE to meet a new risk, and used PPE. Low priority will be given to requests to replace worn but still usable PPE that is not compliant to the current edition of NFPA standard, to replace new PPE, PPE for a new mission, and to increase the inventory or supply of PPE.

SCBA Priorities. All SCBA requests must be justified in the PPE narrative. Awards will be based on the number of seated riding positions in department's vehicle fleet and the age of existing SCBAs, limited to one spare cylinder (unless justified in the PPE activity narrative). Highest priority for funding of SCBAs will be to replace SCBA that are compliant with the pre-2002 edition of NFPA 1981. Medium priority will be given to replacing SCBA that are compliant with the 2002 edition of NFPA 1981. Low priority will be given to requests to replace SCBA that are compliant with the 2007 edition of NFPA 1981.

Additional Considerations. Will be given to the percentage of firefighters/EMS personnel served by the project and the age of the equipment being replaced.

(iv) EMS Wellness and Fitness Activities. Wellness programs are intended to strengthen uniformed personnel so the mental, physical, and emotional capabilities are resilient to withstand the demands of emergency services response. To be eligible for funding under this activity in FY 2012, organizations must offer, or plan to offer, all four of the following basic wellness and fitness programs:

- Periodic health screenings
- Entry physical examinations (compliant with current NFPA 1582)
- Immunizations
- Behavioral health programs

Funding Priorities. In this activity, funding priorities are described as either Priority 1 or Priority 2, with Priority 1 programs being the highest priority for funding. Organizations that have some of the Priority 1 programs in place must apply for funds to implement the other Priority 1 programs listed before applying for funds for additional Wellness and Fitness programs or equipment. The following programs are Priority 1: Initial medical exams (must be compliant with current NFPA 1582), job-related immunization programs (as required by the department or by law), annual medical and fitness evaluations, and behavioral health programs.

To be eligible for Priority 2 items, the department must offer or be requesting funds to provide all four of the programs in Priority 1. Priority 2 items include candidate physical ability evaluations, formal fitness and injury prevention programs and equipment, injury and illness rehab, and IAFF or IAFC Peer Fitness Trainer programs.

(v) Modification to EMS Facilities. Grants may be used to modify and retrofit existing fire stations and other facilities or structures built before 2003 that do not have the requisite safety features. New facility construction is not eligible for funding. To be eligible, the modification must not change the structure footprint or profile. If requesting multiple items in this activity, total funding for all project and activities cannot exceed $100,000 per facility. Remodeling to fulfill other grant initiatives is limited to $10,000. Eligible projects under this activity must have a direct effect on the health and safety of first responders.

FEMA is legally required to consider the potential impacts of all grant-funded projects on environmental resources and historic properties through an EHP review. Any project with the potential to impact natural resources or historic properties cannot be initiated until FEMA has completed the required FEMA EHP review. Grantees that implement projects before receiving EHP approval from FEMA risk having grant funds deobligated. Grantees should submit the FEMA EHP Screening Form for each project as soon as possible upon receiving the grant award.

Modification projects that must undergo EHP reviews include but are not limited to the installation of equipment; ground-disturbing activities, such as building a concrete pad for a station generator; communications tower installations, or the modification or renovation of existing buildings and structures. Any project not specifically excluded from a FEMA EHP review must undergo such a review, per the Grant Programs Directorate's PEA. For more information, see Information Bulletin 345. Grantees must comply with all applicable EHP laws, regulations, and EOs to draw down their FY 2012 AFG funds.

Funding Priorities. Highest priority for funding will be requests to install modifications such as sole-source capture exhaust systems, sprinkler systems, or smoke/fire alarm notification systems in stations, including maritime and air operations facilities, that are occupied 24/7 and offer sleeping quarters. Medium priority

will be given to requests for air quality systems and/or emergency generators from departments that may or may not offer sleeping quarters. Low priority will be given to requests to modify facilities that are not occupied 24/7 and do not offer sleeping quarters, and for training facilities.

Additional Considerations: Will be given for the age of the building, with older facilities receiving higher priority.

Grants may be used only to modify or retrofit existing EMS facilities that were built before 2003 and do not have specific safety features. The construction of new facilities is not eligible for funding. Grant funds may only be used to retrofit existing structures built prior to 2003 that do not have the requisite safety features. If requesting multiple items in this activity, funding cannot exceed a maximum of $100,000 per station. Remodeling to fulfill other grant initiatives is limited to $10,000. Eligible projects under this activity must have a direct effect on the health and safety of first responders.

FEMA is legally required to consider the potential impacts of all grant-funded projects on environmental resources and historic properties. For AFG and other preparedness grant programs, this is accomplished via FEMA's EHP Review. Grantees must comply with all applicable EHP laws, regulations, and Executive Orders (EOs) in order to draw down their FY 2012 AFG grant funds. Any project with the potential to impact natural resources or historic properties cannot be initiated until FEMA has completed the required FEMA EHP review. Grantees that implement projects prior to receiving EHP approval from FEMA risk de-obligation of funds.

AFG projects that involve the installation of equipment, ground-disturbing activities, and new construction, including communication towers, or modification/renovation of existing buildings or structures must undergo a FEMA EHP review. Activities not specifically excluded from a FEMA EHP review also will require an EHP review per the GPD Programmatic Environmental Assessment (PEA). For more information on the PEA, see Information Bulletin 345 at *http://www.fema.gov/pdf/government/grant/bulletins/info345.pdf.*

Funding Priorities. Highest priority in this activity will go to departments requesting direct sole-source capture exhaust systems, sprinkler systems, or smoke/fire alarm notification systems for stations with sleeping quarters, including maritime/air operations facilities, that are occupied 24/7. Medium priority will be given to departments (with or without sleeping quarters) that request air quality systems and/or emergency generators. Low priority will be given to departments requesting funding of one of the high or medium priorities listed above but do not have facilities that are occupied 24/7 and do not have sleeping quarters and also to requests for training facilities.

Additional Considerations. Additional consideration will be given for the age of the building, with older facilities receiving higher priority.

(2) *EMS Vehicles Acquisition Program.*

Funds may be used to acquire new, used, or refurbished EMS vehicles. Funds may also be used to refurbish a vehicle the organization currently owns. To be eligible for funding, EMS vehicles purchased with AFG funds must be compliant with current General Services Administration standards, specifically KKK–A–1822 (''Guide for Emergency Medical Services and Systems''), found at *http://www.gsa.gov/vehiclestandards/index.cfm.*

Applicants are allowed to apply for more than one vehicle, but requests cannot exceed the financial cap based on population listed in the application. If a department submits multiple applications and more than one of those requests are approved, the department will be held to the same financial cap. FEMA reserves the right to reduce the amount of any vehicle request, in whole or in part, that is considered excessive in cost. AFG funding is meant to supplement, not replace, an organization's funding.

Applicants requesting vehicles that do not have driver/operators trained to U.S. Department of Transportation Emergency Vehicle Operators Course (EVOC) National Standard Curriculum, or equivalent, and are not planning to have a training program in place by the time the vehicle is delivered, will not receive an award. Training may be requested in the Other section under Additional Funding in the Vehicle request application. Driver training programs must be in place prior to vehicle delivery.

Funding Priorities. The following chart shows the priorities in the EMS Vehicle Program for FY 2012. The priorities are the same for all types of communities: urban, suburban, and rural.

EMS VEHICLE PROGRAM PRIORITIES

H	Ambulances or transport units to support EMS functions.
M	Non-transport (vehicles that do not transport a patient).

Compliance with standards: New and refurbished ambulances must meet current applicable standards for the year of ordered or manufactured, e.g., NFPA, General Services Administration (GSA) KKK–1822.

(3) *Regional Project Priorities.*

A regional project is one in which multiple organizations serving more than one local jurisdiction benefit directly from the activities implemented with the grant funds. Regional projects are designed to facilitate efficiency and communications on the fire ground among multiple jurisdictions. Any eligible applicant may act as a host applicant and apply for a regional project. A list of all the participating organizations that will benefit from the proposed regional project must be listed in the application. Note that a county fire department applying for a countywide communications system would NOT be considered a regional project because it does not benefit multiple jurisdictions.

Fire departments or nonaffiliated EMS organizations acting as host applicants for a regional project also may apply for their own project funding to meet non-regional needs by submitting a separate grant application. However, the request may not duplicate the items being requested in the regional project application.

Funding Priorities. The activities eligible for Regional Project funding are training, equipment, and PPE. The funding priorities for these activities are the same as those indicated previously in the Operations and Safety Program for fire and nonaffiliated EMS organizations.

Not Eligible for Regional Funding: Wellness and fitness, modification to facilities, and vehicle acquisition.

Award Information

Applications for regional projects will not be included in the host applicant's funding limitations detailed in Part II of the Guidance and Application Kit. However, regional applicants will be subject to their own limitation based on the total population that the regional project will serve. For example, a regional project serving a population of fewer than 500,000 people will be limited to $1 million. A regional project's cost share will be based on the total population of the entire region rather than on the population served by the host applicant.

(4) *Administrative Costs.*

Panelists will assess the administrative costs requested in each application and determine whether the request is reasonable and in the best interest of the Program.

Dated: June 18, 2012.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–15333 Filed 6–21–12; 8:45 am]

BILLING CODE 9111–64–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Importer ID Input Record

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Importer ID Input Record (CBP Form 5106). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before August 21, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importer ID Input Record.

OMB Number: 1651–0064.

Form Number: CBP Forms 5106.

Abstract: The collection of the information on the Importer ID Input Record (CBP Form 5106) is the basis for identifying entities who wish to import merchandise in to the United States, act as consignee on an importation when not the importer of record, or otherwise do business with CBP that would involve the payment of duties, taxes, fees or other monies or the refund of same. Each person, business firm, Government agency, or other organization that intends to file an import entry must file CBP Form 5106 with the first formal entry or request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. This form must also be filed by or on behalf of the ultimate consignee at the first importation in which the party acting as ultimate consignee is so named.

CBP Form 5106 is authorized by 19 U.S.C. 1484 and provided for by 19 CFR 24.5. The current version of this form is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_5106.pdf*

Action: CBP proposes to extend the expiration date of this information collection with a increased from 1,000 hours to 75,000 due to revised estimates by CBP of the number of respondents filing Form 5106. The change in the estimated burden is also due to CBP revising the estimate for the time to complete Form 5106 from 6 minutes to 15 minutes. There are no changes to CBP Form 5106 or to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents Annually: 300,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 75,000.

Dated: June 18, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–15299 Filed 6–21–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5608–N–01]

Notice of Proposed Information Collection: Survey and Collection of Information From HUD Lead Hazard Control Grantees To Support HUD and EPA Requirements To Study the Lowering of the Lead Hazard Standards and the Lead-Based Paint Standard

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement concerning a survey of selected lead hazard control grantees funded by HUD will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 21, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Brittany M. Birdsong, Reports Liaison Officer, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 7th Street, SW., Room 8236, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Peter J. Ashley, Department of Housing and Urban Development, 451 7th Street SW., Room 8236, Washington, DC 20410, telephone number (202) 402–7595 (this is not a toll-free number) for copies of the proposed survey and other available documents. Hearing- or speech-challenged individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed

collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Survey and Collection of Information from HUD Lead Hazard Control Grantees to Support HUD and EPA Requirements to Study the Lowering of the Lead Hazard Standards and the Lead-Based Paint Standard.

OMB Control Number: Pending.

Need for the Information and Proposed Use: Leaded paint in housing remains as the last major source of lead exposure to young children. Efforts to reduce childhood lead poisoning have focused on controlling lead paint hazards, specifically lead dust and deteriorated lead-based paint. Lead hazard control programs are looking for ways to make this housing safer without placing an undue financial burden on the property owners or tenants.

On August 10, 2009, a petition was submitted to EPA *www.regulations.gov*; search for EPA–HQ–OPPT–2009–0655) to lower the definition of lead-based paint in pre-1978 ''target'' housing to some value below the current value of 1 mg/cm ^{2} or 0.5% by weight (42 U.S.C. 4822(c)), and to lower the lead hazard control standards and clearance standards for lead in dust on floors and window sills in such housing and in pre-1978 child-occupied facilities below the current values of 40 and 250 μg/ft ^{2} (micrograms per square foot), respectively (40 CFR 745.65(b) and 745.227(e)(8)(viii), and 24 CFR 35.1320(b)(2)(i)), and below the current clearance standard for window troughs of 400 μg/ft^2 (40 CFR 745.227(e)(8)(viii), and 24 CFR 35.1320(b)(2)(i)). The HUD Secretary may reduce the level that defines lead-based paint in target housing (42 U.S.C. 4822(c)), and the EPA Administrator identifies the lead-based paint hazard standards (15 U.S.C. 2683), and the lead-based paint standard in child-occupied facilities.

In a response dated October 22, 2009, EPA, writing on behalf of itself and HUD, agreed to study the issues and decide whether the lead hazard standards and/or the lead-based paint standard should be changed, and to collaborate with HUD on this effort. (*www.epa.gov/oppt/chemtest/pubs/epa-response.pdf*) The Agency and the Department intend to have identical standards for the sake of maximizing their effectiveness in this matter.

One of the issues to be considered is the ability to actually determine ''clearance'' (a work area is sufficiently clean of lead dust) before allowing re-occupancy. The clearance levels for floors and window sills are the same as the lead hazard standards. This survey will question HUD grantees as to their ability to achieve clearance at the current level for floors and windowsills, and whether it would be technically feasible to achieve clearance at potentially lower levels.

Agency Form Numbers: None.

Members of Affected Public: HUD Office of Healthy Homes and Lead Hazard Control's Lead-Based Paint Hazard Control grantees and Lead Hazard Reduction Demonstration grantees, and the grantees' lead hazard control contractors.

TOTAL BURDEN ESTIMATE

Requirement	Number of respondents	Hours per respondent	Total hours	Cost per hour	Labor cost	Startup cost	O&M cost	Total cost
Complete questionnaire ...	100	16	1600	$32.75	$52,400	$0	$0	$52,400
Total	100	.....	1600	.....	52,400	0	0	52,400

Status of the Proposed Information Collection: New request.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 15, 2012.

Jon L. Gant,

Director, HUD Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 2012–15313 Filed 6–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5606–N–01]

Notice of Proposed Information Collection: Comment Request; Ginnie Mae Mortgage-Backed Securities Guide 5500.3, Revision 1 (Forms and Electronic Data Submissions)

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 21, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Q, Administrator Support Specialist, Department of Housing and Urban Development, 451 7th Street SW., Room 4160, Washington, DC 20410; email *Colette.Pollard@hud.gov;* telephone (202) 708–0306, ext. 3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

FOR FURTHER INFORMATION CONTACT: Debra Murphy, Ginnie Mae, 451 7th Street SW., Room B–133, Washington, DC 20410; email—*Debra.L.Murphy@hud.gov;* telephone—(202) 475–4923; fax—(202) 485–0225 (this is not a toll-free number); Victoria Vargas, Ginnie Mae, 451 7th Street SW., Room B–133, Washington, DC 20410; email—*Victoria.Vargas@hud.gov;*

telephone—(202) 475–6752; fax—(202) 485–0225 (this is not a toll-free number); or the Ginnie Mae Web site at *www.ginniemae.gov* for other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden hours of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Ginnie Mae Mortgage-Backed Securities Guide 5500.3, Revision 1 (Forms and Electronic Data Submissions).

OMB Control Number, if applicable: 2503–0033.

Description of the need for the information and proposed use:

Ginnie Mae's Mortgage-Backed Securities Guide 5500.3, Revision 1 (''Guide'') provides instructions and guidance to participants in the Ginnie Mae Mortgage-Backed Securities (''MBS'') programs (''Ginnie Mae I and Ginnie Mae II''). Under the Ginnie Mae I program, securities are backed by single-family or multifamily loans. Under the Ginnie Mae II program, securities are only backed by single-family loans. Both the Ginnie Mae I and II MBS are modified pass-through securities. The Ginnie Mae II multiple Issuer MBS is structured so that small issuers, who do not meet the minimum number of loans and dollar amount requirements of the Ginnie Mae I MBS, can participate in the secondary mortgage market. In addition, the Ginnie Mae II MBS permits the securitization of adjustable rate mortgages (''ARMs'').

In order to provide more relevant disclosure information on outstanding Ginnie Mae securities, Ginnie Mae will be collecting additional information on the loans backing securities at issuance.

Included in the Guide are the appendices, forms, and documents necessary for Ginnie Mae to properly administer its MBS programs.

Agency form numbers, if applicable: 11700, 11701, 11702, 11704, 11705, 11706, 11707, 11708, 11709, 11709–A, 11710A, 1710–B, 1710–C, 11710D, 11710E, 11711–A, 11711–B, 11714, 11714–SN, 11715, 11720, 11732, 11785.

While most of the calculations are based on the number of respondents multiplied by the frequency of response, there are several items whose calculations are based on volume.

Form	Appendix No.	Title	Number of respondents	Frequency of responses per year [a]	Total annual responses	Hours per response [a]	Total annual hours
11700	II–1	Letter of Transmittal	210	4	840	0.033	27.7
11701	I–1	Application for Approval Ginnie Mae Mortgage-Backed Securities Issuer.	100	1	100	1	100.0
11702	I–2	Resolution of Board of Directors and Certificate of Authorized Signatures.	210	1	210	0.08	16.8
11704	II–2	Commitment to Guaranty Mortgage-Backed Securities.	210	4	840	0.033	27.7
11707	III–1	Master Servicing Agreement.	210	1	210	0.016	3.4
11709	III–2	Master Agreement for Servicer's Principal and Interest Custodial Account.	210	1	210	0.033	6.9
11715	III–4	Master Custodial Agreement.	210	1	210	0.033	6.9
11720	III–3	Master Agreement for Servicer's Escrow Custodial Account.	210	1	210	0.033	6.9
11732	III–22	Custodian's Certification for Construction Securities.	144	1	144	0.016	2.3
	IX–1	Financial Statements and Audit Reports.	210	1	210	1	210.0
		Mortgage Bankers Financial Reporting Form.	350	4	1,400	0.5	700.0
11709–A	I–6	ACH Debit Authorization	210	1	210	0.033	6.9
11710 D	VI–5	Issuer's Monthly Summary Reports.	210	12	2,520	0.033	83.2
11710A, 1710B, 1710C &11710E.	VI–12	Issuer's Monthly Accounting Report and Liquidation Schedule.	110	1	110	0.5	55.0
		Data Verification Form	210	2	420	0.05	21.0
	III–13	Electronic Data Interchange System Agreement.	40	1	40	0.166	6.6

Form	Appendix No.	Title	Number of respondents	Frequency of responses per year [a]	Total annual responses	Hours per response [a]	Total annual hours
	III–14	Enrollment Administrator Signatories for Issuers and Document Custodians.	54	1	54	2	108.0
	I–4	Cross Default Agreement	10	1	10	0.05	0.5
	VI–18	WHFIT Reporting	210	4	840	0.25	210.0
	VI–19	Monthly Pool and Loan Level Report (RFS).	210	12	2,520	4.3	10,836.0
The burden for the items listed below is based on volume and/or number of requests.							
11705	III–6	Schedule of Subscribers and Ginnie Mae Guaranty Agreement.	210	12	24,800	0.0075	186.0
11706	III–7	Schedule of Pooled Mortgages.	210	12	24,800	0.0085	210.8
11708	V–5	Document Release Request.	210	1	374	0.05	18.7
	XI–6, XI–8, XI–9	Soldiers' and Sailors' Quarterly Reimbursement Request and SSCRA Loan Eligibility Information.	32	4	8,000	0.033	1,056.0
11711A and 11711B.	III–5	Release of Security Interest and Certification and Agreement.	210	1	24,800	0.005	124.0
11714 and 11714SN.	VI–10, VI–11	Issuer's Monthly Remittance Advice and Issuer's Monthly Serial Note Remittance Advice.	210	12	56,500	0.016	10,848.0
	VI–2	Letter for Loan Repurchase.	210	12	420	0.033	13.9
	VII–1	Collection of Remaining Principal Balances.	210	12	344,000	0.0125	51,600.0
	III–21	Certification Requirements for the Pooling of Multifamily Mature Loan Program.	11	1	11	0.05	0.6
	VI–9	Request for Reimbursement of Mortgage Insurance Claim Costs for Multifamily Loans.	56	1	56	0.25	14.0
	VIII–3	Assignment Agreements	63	1	63	0.13	8.2
	III–9	Authorization to Accept Facsimile Signed Correction Request Forms.	210	12	128	0.016	2.0
Total					495,260		76,518

[a] Varies.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 4, 2012.

Mary K. Kinney,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 2012–15324 Filed 6–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5612–N–01]

Notice of Proposed Information Collection: Comment Request OSHC Financial Reporting Form

AGENCY: Office of Sustainable Housing and Communities (OSHC), Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and

$30,000,000 is available for the Community Challenge Planning Grant Program.

The Department of Housing and Urban Development's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program and the Community Challenge Planning Grant Program, require the financial reporting by grantees. This tracking of grantee financial data is solely in regards to the HUD–OSHC SCI grant. Such tracking is obligatory during the prescribed reporting periods, reimbursement requests for award funds, proof of in-kind contributions toward grant match funding, and the close-out of the award.

DATES: *Comments Due Date:* August 21, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Thaddeus Wincek, Office of Sustainable Housing and Communities, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–6617 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: OSHC Financial Reporting Form.

OMB Control Number, if applicable: N/A.

Description of the need for the information and proposed use: The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Department of Housing and Urban Development's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program and the Community Challenge Planning Grant Program, require the financial reporting by grantees. This tracking of grantee financial data is solely in regards to the HUD–OSHC SCI grant. Such tracking is obligatory during the prescribed reporting periods, reimbursement requests for award funds, proof of in-kind contributions toward grant match funding, and the close-out of the award.

Agency form numbers, if applicable: N/A.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 300. The number of respondents is 200, the number of responses is 1200, the frequency of response is on occasion, and the burden hour per response is 0.25.

Status of the proposed information collection: This is a revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 14, 2012.

Shelley Poticha,

Director, Office of Sustainable Housing and Communities, U.S. Department of Housing and Urban Development.

[FR Doc. 2012–15319 Filed 6–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–24]

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: June 14, 2012.

Ann Marie Oliva,

Deputy Assistant Secretary, for Special Needs (Acting).

[FR Doc. 2012–14871 Filed 6–21–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2012–N146; FXES11130800000–123–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with

endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

DATES: Comments on these permit applications must be received on or before July 23, 2012.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicant

Permit No. TE–66381A

Applicant: Paul T. Schwartz, Trabuco Canyon, California

The applicant requests a permit to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–66255A

Applicant: Roger K. Radd, Cornville, Arizona

The applicant requests a permit to take (monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring activities in San Diego, Orange, and Riverside Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–66266A

Applicant: San Diego State University, San Diego, California

The applicant requests a permit to remove and reduce to possession from lands under Federal jurisdiction the *Chorizanthe orcuttiana* (Orcutt's spineflower) in conjunction with floristic surveys and research activities on Naval Base Point Loma in San Diego County, California, for the purpose of enhancing the species' survival.

Permit No. TE–67397A

Applicant: Timothy W. Ricks, Las Vegas, Nevada

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and the Yuma clapper rail (*Rallus longirostris yumanensis*) in conjunction with surveys in Clark County, Nevada, for the purpose of enhancing the species' survival.

Permit No. TE–67390A

Applicant: Benjamin J. Smith, Mission Viejo, California

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–007520

Applicant: Julie A. Simonsen, San Diego, California

The applicant requests an amendment to a permit to take (harass by survey) the Casey's June beetle (*Dinacoma caseyi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–007581

Applicant: Tito A. Marchant, San Diego, California

The applicant requests an amendment to a permit to take (harass by survey) the Casey's June beetle (*Dinacoma caseyi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–67570A

Applicant: Brett A. Hanshew, Oakland, California

The applicant requests a permit to take (survey, capture, handle, mark, take biological samples, translocate and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–67583A

Applicant: Jessie D. Golding, Oakland, California

The applicant requests a permit to take (survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with survey and annual monitoring activities on State Park lands throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–820658

Applicant: Paul J. Galvin, Irvine, California

The applicant requests an amendment to a permit to take (harass by survey, locate and monitor nests) the light-footed clapper rail (*Rallus longirostris levipes*), Yuma clapper rail (*Rallus longirostris yumanensis*), and California clapper rail (*Rallus longirostris obsoletus*) in conjunction with surveys and population monitoring activities throughout the range of each species in California, Nevada, and Arizona, for the purpose of enhancing the species' survival.

Permit No. TE–816187

Applicant: David G. Cook, Santa Rosa, California

The applicant requests an amendment to a permit to take (survey, capture, handle, and release) the California tiger salamander (*Ambystoma californiense*) in conjunction with conducting focused training workshops throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–72050A

Applicant: Henry M. Page, Santa Barbara, California

The applicant requests a permit to take (survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with surveys and fish density studies within Naval Base Ventura, in Ventura County, California, for the purpose of enhancing the species' survival.

Permit No. TE–787716

Applicant: Scott B. Tremor, San Diego, California

The applicant requests an amendment to a permit to take (capture, handle, and release) the Stephens' kangaroo rat

(*Dipodomys stephensi*) and San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with surveys and population monitoring activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–72044A

Applicant: Carl A. Demetropoulos, Thousand Oaks, California

The applicant requests a permit to take (survey, capture, handle, relocate, and release) the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) in conjunction with survey activities and population studies throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–068189

Applicant: Archaeological Consulting Services, Tempe, Arizona

The applicant requests an amendment to a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and the Yuma clapper rail (*Rallus longirostris yumanensis*) in conjunction with surveys in Nevada for the purpose of enhancing the species' survival.

Permit No. TE–039571

Applicant: Kenneth Burton, Arcata, California

The applicant requests an amendment to a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys throughout the range of the species in California and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–237061

Applicant: Daniel A. Chase, San Francisco, California

The applicant requests an amendment to take (capture, handle, collect, and sacrifice) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with competition, stress, and hormone level research throughout the range of the species in Sonoma and Marin Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–73366A

Applicant: Michael L. Treglia, College Station, Texas

The applicant requests a permit to take (survey, capture, handle, and release) the arroyo toad (=arroyo southwestern) (*Anaxyrus californicus* (*Bufo microscaphus c.*)) in conjunction with survey and annual monitoring activities in Orange, Riverside, and San Diego Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–74630A

Applicant: Marc G. Beccio, Colfax, California

The applicant requests a permit to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE–74785A

Applicant: Barry S. Nerhus, Costa Mesa, California

The applicant requests a permit to take (harass by survey, locate and monitor nests) the light-footed clapper rail (*Rallus longirostris levipes*) in conjunction with surveys and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–17841A

Applicant: Michelle A. Bates, Santa Barbara, California

The applicant requests a permit to take (survey, locate and monitor nests) the California least tern (*Sterna antillarum browni*) in conjunction with survey and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–036499

Applicant: Golden Gate National Recreation Area, San Francisco, California

The applicant requests an amendment to an existing permit to take (survey, capture, handle, photograph, mark, take biological samples, translocate, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), take (survey, restore habitat, collect, transport, and release) the Mission blue butterfly (*Icaricia icarioides missionensis*) and San Bruno elfin butterfly (*Callophrys mossii bayensis*), and to remove and remove to possession from lands under Federal jurisdiction the *Potentilla hickmanii* (Hickman's potentilla) and *Arenaria paludicola* (Marsh sandwort) in conjunction with survey, population monitoring, and restoration activities within the boundaries of the Golden Gate National Recreation Area in San Mateo County, California, for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Michael Long,

Regional Director, Region 8, Sacramento, California.

[FR Doc. 2012–15391 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2012–N051; 1265–0000–10137–S3]

Grays Lake National Wildlife Refuge, Caribou and Bonneville Counties, ID; Comprehensive Conservation Plan and Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) for Grays Lake National Wildlife Refuge (refuge, NWR). An Environmental Impact Statement (EIS) evaluating effects of various CCP alternatives will also be prepared. We provide this notice in compliance with the National Environmental Policy Act and our CCP policy to advise other Federal and State agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the

planning process. We are also requesting public comments.

DATES: To ensure consideration, we must receive your written comments by August 21, 2012. We will announce opportunities for public input in local news media throughout the CCP planning process; see *Public Participation* under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Send your comments or requests for more information by any of the following methods:

Email: william_smith@fws.gov. Include ''Grays Lake CCP EA'' in the subject line of the message.

Fax: Attn: William Smith, 208–574–2756.

U.S. Mail: Grays Lake NWR, 74 Grays Lake Road, Wayan, ID 83285.

In-Person Drop-off: You may drop off comments during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William Smith, 208–574–2755.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Grays Lake NWR in Caribou and Bonneville Counties, ID. This notice complies with the National Environmental Policy Act, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), and our CCP policy to (1) advise other Federal and State agencies, Tribes, and the public of our intention to conduct detailed conservation planning for this refuge, and (2) obtain suggestions and information on the scope of issues to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Each unit of the NWRS was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge to contribute to the NWRS mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of NWRS. Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of Grays Lake NWR.

We will conduct the environmental review of this project and develop an EIS in accordance with the requirements of NEPA; NEPA regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Grays Lake National Wildlife Refuge

Grays Lake NWR was established in 1965 and is located in Caribou and Bonneveille Counties, near the community of Wayan, in southeast Idaho. Grays Lake lies within a high mountain valley at approximately 6,400 feet in elevation and at the base of Caribou Mountain. The refuge boundary encompasses approximately 32,800 acres. The area immediately surrounding the refuge is dominated by agricultural uses, principally summer livestock and haying operations.

The refuge purposes are ''for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.'' 16 U.S.C. 715d (Migratory Bird Conservation Act) ''* * * suitable for—(1) Incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species * * *'' 16 U.S.C. 460k–1 ''* * * the Secretary * * * may accept and use * * * real * * * property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors * * *'' 16 U.S.C. 460k–2 (Refuge Recreation Act (16 U.S.C. 460k–460k–4), as amended). ''* * * for the development, advancement, management, conservation, and protection of fish and wildlife resources * * *'' 16 U.S.C. 742f(a)(4) ''* * * for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude '' 16 U.S.C. 742f(b)(1) (Fish and Wildlife Act of 1956).

The refuge is composed of a 21,000-acre hardstem bulrush marsh and 7,000 acres of sedge and rush wet meadows. The remaining habitats are comprised of upland sagebrush, dry grass meadows, willow, and aspen. There are approximately 200 species of wildlife which utilize the refuge during various periods of the year. Approximately 80 species of migratory birds nest at Grays Lake, including the largest breeding concentration of greater sandhill cranes in North America.

Throughout the marsh are a series of canals and drainage ditches, which were constructed to facilitate the withdrawal of water from Grays Lake for the Fort Hall Irrigation Project. This alteration of Grays Lake's natural water levels has gradually changed the extent and composition of the marsh's habitats. Consequently, the marsh is less productive for wildlife than it was in earlier times.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. We have briefly summarized these issues below. During public scoping, we may identify additional issues.

At Grays Lake NWR, the Service will evaluate the following:

(1) Water management structures, methods, and schedules to improve refuge wildlife habitats and values, while assuring Tribal water rights are preserved in perpetuity;

(2) How the Service can protect and improve the quantity and quality of water for fish and wildlife resources;

(3) Means required to minimize disturbance within the refuge to nesting and migrating waterbirds and wildlife;

(4) How the refuge can meet increasing demands for recreational opportunities and provide quality visitor services programs in consideration of wildlife disturbance issues;

(5) The best means to attain productive deep marsh habitats for

refuge wildlife which match or mimic the natural and historic vegetative composition and open water interspersion of the Grays Lake basin;

(6) What can be done to prevent the introduction and dispersal of invasive plants and animals and facilitate their removal from the refuge;

(7) The refuge's role in supporting native fish and riparian habitat restoration;

(8) The restoration of native sagebrush habitats to support the long-term viability of native wildlife populations;

(9) The means to minimize sandhill crane conflicts with small grain farms;

(10) The most appropriate management techniques for the refuge's wet meadow and upland habitats to maximize habitat values for key wildlife species (e.g., sandhill cranes, trumpeter swans, Canada geese) while assuring other native wildlife cover and forage requirements are also satisfied;

(11) How to best address high nest predation rates on the refuge;

(12) How the refuge can best contribute to the conservation of rural character and open space in the Grays Lake basin;

(13) How the refuge can adaptively manage in response to predicted and unpredicted challenges of climate change; and

(14) How the refuge can most appropriately assess the efficacy of management actions at the appropriate spatial and temporal scale.

Public Participation

We will involve the public through open houses, informational and technical meetings, and written comments. We will release mailings, news releases, and announcements to provide information about opportunities for public participation in the planning process.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 10, 2012.

Robyn Thorson,

Regional Director, Pacific Region, Portland, Oregon.

[FR Doc. 2012–15330 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[USGS–GX12LR000F60100]

Agency Information Collection Activities: Comment Request for the Industrial Minerals Surveys (40 Forms)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–0062).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to the Office of Management and Budget (OMB) an Information Collection Request (ICR) for the revision of the currently approved paperwork requirements for the *Industrial Minerals Surveys.* This collection consists of 40 forms. The revision includes adding USGS Form 9–4144–S; transferring USGS Form 9–4142–Q from Information Collection 1028–0065; and modifying the following forms: USGS Form 9–4004–A, USGS Form 9–4027–A, and USGS Form 9–4035–S. This notice provides the public and other Federal agencies an opportunity to comment on the nature of this collection which is scheduled to expire on June 30, 2012.

DATES: Please submit your comments on or before July 23, 2012.

ADDRESSES: Please submit written comments on this ICR to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via email to *oira_docket@omb.eop.gov* or fax at 202–395–5806; and reference Information Collection 1028–0062 in the subject line. Please also submit a copy of your comments to Shari Baloch, Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 807, Reston, VA 20192 (mail); 703–648–7199 (fax); or *smbaloch@usgs.gov* (email); and reference Information Collection 1028–0062 in the subject line.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Carleen Kostick at 703–648–7940 (telephone); *ckostick@usgs.gov* (email); or by mail at U.S. Geological Survey, 985 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently under Review).

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents use these forms to supply the USGS with domestic production and consumption data of industrial mineral commodities, some of which are considered strategic and critical. This information will be published as chapters in Minerals Yearbook, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0062.

Form Number: Various (40 forms).

Title: Industrial Minerals Surveys.

Type of Request: Revision of a currently approved collection.

Affected Public: Private sector: U.S. nonfuel minerals producers and consumers of industrial minerals; Public sector: State and local governments.

Respondent Obligation: Voluntary.

Frequency of Collection: Monthly, quarterly, semiannually, and annually.

Estimated Number of Annual Responses: 20,255

Annual Burden Hours: 13,794 hours. We expect to receive 20,255 annual responses. We estimate an average of 10 minutes to 5 hours per response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

III. Request for Comments

On February 8, 2012, we published a **Federal Register** Notice (77 FR 6580) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on April 9, 2012. We did not receive any public comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number,

email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at anytime. Although you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: June 15, 2012.

John H. DeYoung, Jr.,

Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2012–15368 Filed 6–21–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT000000.L11200000.DD0000.241A.00]

Notice of Public Meetings, Twin Falls District Resource Advisory Council, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) and subcommittee for the proposed Monument and Cassia Land Use Plan amendments will meet as indicated below.

DATES: On July 10, 2012, the Twin Falls District RAC subcommittee members for the proposed Monument and Cassia Land Use Plan amendments will meet at the Rock Creek Fire Station, 1559 Main Street North, Kimberly, Idaho. The meeting will begin at 6:00 p.m. and end no later than 9:00 p.m. The public comment period for the RAC subcommittee meeting will take place 6:10 p.m. to 6:40 p.m.

FOR FURTHER INFORMATION CONTACT: Heather Tiel-Nelson, Twin Falls District, Idaho, 2536 Kimberly Road, Twin Falls, Idaho 83301, (208) 736–2352.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. During the July 10th meeting, RAC subcommittee members will discuss rock climbing, camping, staging, trail-building and other recreational issues at Cedar Fields and Castle Rocks.

Additional topics may be added and will be included in local media announcements. More information is available at *www.blm.gov/id/st/en/res/resource_advisory.3.html* RAC meetings are open to the public.

Dated: June 14, 2012.

Jenifer Arnold,

District Manager (Acting).

[FR Doc. 2012–15331 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO260000 L10600000 XQ0000]

Notice of Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public nominations for three positions on the Wild Horse and Burro Advisory Board (Board). The Board provides advice concerning the management, protection, and control of wild free-roaming horses and burros on the public lands administered by the Department of the Interior, through the Bureau of Land Management (BLM), and the Department of Agriculture, through the U.S. Forest Service.

DATES: Nominations must be post marked or submitted to the address listed below no later than August 6, 2012.

ADDRESSES: All mail sent via the U.S. Postal Service should be sent as follows: National Wild Horse and Burro Program, U. S. Department of Interior, Bureau of Land Management, 1849 C Street NW., Room 2134 LM, Attn: Sharon Kipping, WO 260, Washington, DC 20240. All mail and packages that are sent via FedEx or UPS should be addressed as follows: National Wild Horse and Program, U. S. Department of Interior, Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attn: Sharon Kipping, Washington, DC 20003. You may also send a fax to Sharon Kipping at 202–912–7182, or email her at *skipping@blm.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Kipping, Wild Horse and Burro Program Specialist, 202–912–7263. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Members of the Board serve without compensation. However, while away from their homes or regular places of business, Board and subcommittee members engaged in Board or subcommittee business, approved by the Designated Federal Official (DFO), may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under Section 5703 of Title 5 of the United States Code. Nominations for a term of 3 years are needed to represent the following categories of interest:

- Humane Advocacy;
- Wildlife Management; and
- Livestock Management.

The Board will meet no less than two times annually. The DFO may call additional meetings in connection with special needs for advice. Individuals may nominate themselves or others. Any individual or organization may nominate one or more persons to serve on the Board. Nominations will not be accepted without a complete resume. The following information must accompany all nominations for the individual to be considered for a position:

1. The position(s) for which the nominee wishes to be considered;
2. The nominee's first, middle, and last name;
3. Business address and phone number;
4. Home address and phone number;
5. Email address;
6. Present occupation/title and employer;
7. Education (colleges, degrees, major field of study);
8. *Career Highlights:* Significant related experience, civic and professional activities, and elected offices. Please include prior advisory committee experience or career achievements related to the interest to be represented. Attach additional pages, if necessary;
9. *Qualifications:* Education, training, and experience that qualify you to serve on the Board;
10. Experience or knowledge of wild horse and burro management;
11. Experience or knowledge of horses or burros (Equine health, training, and management);
12. Experience in working with disparate groups to achieve collaborative solutions e.g., civic organizations, planning commissions, school boards, etc.;

13. Indicate any BLM permits, leases, or licenses held by you or your employer;

14. Indicate whether you are a federally-registered lobbyist; and

15. Explain why you want to serve on the Board.

Attach or have at least one letter of references sent from special interests or organizations you may represent, including, but not limited to, business associates, friends, co-workers, local, State, or Federal Government representatives, or members of Congress. Please include any other information that speaks to your qualifications.

As appropriate, certain Board members may be appointed as special government employees. Special government employees serve on the Board without compensation, and are subject to financial disclosure requirements in the Ethics in Government Act and 5 CFR 2634. Nominations are to be sent to the address listed under **ADDRESSES** above.

Privacy Act Statement: The authority to request this information is contained in 5 U.S.C. 301, the Federal Advisory Committee Act (FACA), and Part 1784 of Title 43, Code of Federal Regulations. It is used by the appointment officer to determine education, training, and experience related to possible service on an advisory council of the BLM. If you are appointed as an advisor, the information will be retained by the appointing official for as long as you serve. Otherwise, it will be destroyed 2 years after termination of your membership or returned (if requested) following announcement of the Board's appointments. Submittal of this information is voluntary. However, failure to provide any or all items will inhibit fair evaluation of your qualifications, and could result in you not receiving full consideration for appointment.

Membership Selection: Individuals shall qualify to serve on the Board because of their education, training, or experience that enables them to give informed and objective advice regarding the interest they represent. They should demonstrate experience or knowledge of the area of their expertise and a commitment to collaborate in seeking solutions to resource management issues. The Board is structured to provide fair membership and balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented. Members are selected with the objective of providing representative counsel and advice about public land and resource planning. No person is to be denied an opportunity to serve because of race, age, sex, religion, or national origin. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees, or councils. Pursuant to Section 7 of the Wild Free-Roaming Horses and Burros Act, members of the Board cannot be employed by either Federal or State governments.

Certification Statement: I hereby certify that the Board is necessary and in the public interest in connection with the Secretary's responsibilities to manage the lands, resources, and facilities administered by the BLM.

Edwin L. Roberson,

Assistant Director, Renewable Resources and Planning.

[FR Doc. 2012–15271 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW177129]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW177129, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from Ridgeland Wyoming Inc., for competitive oil and gas lease WYW177129 for land in Converse County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW177129 effective September 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Fluid Minerals Adjudication.

[FR Doc. 2012–15165 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–BSD–CONC–10370; 2410–OYC]

Agency Information Collection Activities: 30–Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection request (ICR) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR which is an extension of a currently approved collection of information (OMB #1024–0126). We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that your comments on this ICR are considered, please submit them on or before July 23, 2012.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via email to *OIRA_DOCKET@omb.eop.gov* or fax at 202–395–5806; and identify your

submission as 1024–0126, Proposed Sale of Concession Operations, 36 CFR 51, Subpart J. Please send a copy your comments to Madonna L. Baucum, Acting Information Collection Clearance Officer, National Park Service, 1849 C Street NW., Mailstop 2605 (Rm. 1242), Washington, DC 20240 (mail); or *madonna_baucum@nps.gov* (email).

FOR FURTHER INFORMATION CONTACT: Ms. Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1849 C Street NW., Mailstop 2410, Washington, DC 20240 (mail); *jo_pendry@nps.gov* (email); or (202) 371–2090 (fax). To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently under Review).

I. Abstract

The NPS authorizes private businesses known as concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. Concession authorizations may be assigned, sold, transferred, or encumbered by the concessioner subject to prior written approval of the NPS. The NPS requires that certain information be submitted for review prior to the consummation of any sale, transfer, assignment, or encumbrance. The information requested is used to determine whether or not the proposed transaction will result in an adverse impact on the protection, conservation, or preservation of the resources of the unit of the National Park System; decreased services to the public; the lack of a reasonable opportunity for profit over the remaining term of the authorization; or rates in excess of approved rates to the public. In addition, pursuant to the regulations at 36 CFR part 51, the value of rights for intangible assets such as the concession contract, right of preference in renewal, user days, or low fees, belongs to the Government. If any portion of the purchase price is attributable either directly or indirectly to such assets, the transaction may not be approved. The amount and type of information to be submitted varies with the type and complexity of the proposed transaction. Without such information, the NPS would be unable to determine whether approval of the proposed transaction would be adequate.

II. Data

OMB Control Number: 1024–0126.

Title: Proposed Sale of Concession Operations, 36 CFR 51, Subpart J.

Form(s): None.

Type of Request: Extension of a previously approved collection of information.

Description of Respondents: Businesses, nonprofit organizations.

Respondent Obligation: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 20

Estimated Average Completion Time per Response: 80 hours.

Estimated Total Annual Burden Hours: 1,600 hours.

Estimated Annual Nonhour Burden Cost: $5,000.

III. Request for Comments

We invite comments concerning this ICR on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 19, 2012.

Madonna L. Baucum,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–15296 Filed 6–21–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–KATM–9814; 9926–0902–525]

Draft Environmental Impact Statement on Brooks River Visitor Access for Katmai National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement on Brooks River Visitor Access for Katmai National Park and Preserve.

SUMMARY: The National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (DEIS) on Brooks River Visitor Access for Katmai National Park and Preserve. The document evaluates the environmental impacts of four action alternatives that include bridge and boardwalk systems to replace the existing Brooks River floating bridge and sites to relocate the existing Naknek Lake barge landing area at the mouth of the Brooks River. A no-action alternative is also evaluated. If implemented, this EIS would amend the access provisions of the 1996 Brooks River Area Final Development Concept Plan and Environmental Impact Statement.

This notice announces the public comment period, the locations of public meetings, and solicits comments on the DEIS.

DATES: Comments on the DEIS must be received no later than August 21, 2012.

ADDRESSES: Written comments on the DEIS should be submitted to Glen Yankus, National Park Service, 240 West 5th Avenue, Anchorage, Alaska 99501.

Submit comments electronically through the NPS Planning, Environment and Public Comment system (PEPC) at *http://parkplanning.nps.gov.* The DEIS may be viewed and retrieved at this Web site as well. Hard copies of the DEIS are available by request from the aforementioned address. See **SUPPLEMENTARY INFORMATION** for the locations of public meetings.

FOR FURTHER INFORMATION CONTACT: Glen Yankus, National Park Service, Telephone: (907) 644–3535.

SUPPLEMENTARY INFORMATION: Five alternatives for access at the Brooks River area of Katmai National Park are presented in the EIS. Alternative 1 (the no-action alternative) presents a continuation of current management direction and is included as a baseline for comparing the consequences of implementing each alternative. Alternatives 2–5 present different ways of providing access to and within the Brooks River area.

Alternative 1 (No Action): This alternative represents a continuation of the existing situation. The no-action alternative would maintain seasonal use of the floating bridge, which is 8 feet wide and about 320 feet long. The bridge would be used by both pedestrians and light utility vehicles. NPS would continue to install and remove the bridge each spring and fall.

The existing barge landing and associated road would remain on the south side of Brooks River.

Alternative 2: This alternative evaluates construction of a new bridge and boardwalk system across the Brooks River. This alternative calls for a three-span bridge about 360 feet in length. This bridge would have an 8-foot-wide wooden bridge deck with a steel truss on each side, and span 120 feet between steel pile foundations. The bridge and boardwalk system would have a total estimated length of 1,600 feet. A barge landing would be located on the shore of Naknek Lake about 2,000 feet south of the existing barge landing. A new access road, approximately 1,500 feet long and 14 feet wide, would be constructed to intersect the Valley Road and extend to the new barge landing site on Naknek Lake.

Alternative 3: This alternative evaluates construction of a new bridge and boardwalk system across the Brooks River. The bridge would be a pre-engineered bridge approximately 415 feet in length. The bridge and boardwalk system would have a total estimated length of 850 feet. A new barge landing site would be located approximately 200 feet south of the mouth of the Brooks River. A new road segment (about 100 ft. long) would be constructed from the existing access road and extend to a new Naknek Lake barge landing site.

Alternative 4 (*NPS Preferred Alternative*): This alternative evaluates construction of a new wooden bridge and boardwalk system across the Brooks River. The bridge would be approximately 350 feet in length with a minimum distance of 24 feet between piles. The bridge and boardwalk system would have a total estimated length of 1,550 feet. A barge landing would be located on the shore of Naknek Lake about 2,000 feet south of the existing barge landing. A new access road, approximately 1,500 feet long and 14 feet wide, would intersect the Valley Road and extend to the new barge landing site on Naknek Lake.

Alternative 5: This alternative evaluates construction of a new wooden bridge and boardwalk system across the Brooks River. The bridge would be approximately 350 feet in length with a minimum distance of 24 feet between piles. The bridge and boardwalk system would have a total estimated length of 1,100 feet. A barge landing would be located on the shore of Naknek Lake about 2,000 feet south of the existing barge landing. A new access road, approximately 1,500 feet long and 14 feet wide, would intersect the Valley Road and extend to the new barge landing site on Naknek Lake.

Public meetings are scheduled in Alaska at the following locations: Anchorage, Homer, and King Salmon, Alaska. The specific dates and times of the meetings and public meetings will be announced in local media.

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 to withhold your personal information from public review we cannot guarantee that we will be able to do so. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Sue E. Masica,

Regional Director, Alaska.

[FR Doc. 2012–15285 Filed 6–21–12; 8:45 am]

BILLING CODE 4312–HD–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–TPS–9445: 2200–686]

Notice of Intent To Modify Schedule of Fees for Reviewing Historic Preservation Certification Applications

AGENCY: National Park Service, Interior.

ACTION: Notice; Request for public comment.

SUMMARY: This notice alerts the public to proposed changes to the fees the National Park Service (NPS) charges for reviewing Historic Preservation Certification Applications. The current fees were set in 1984 and have not been changed since then.

DATES: Written comments will be accepted until July 23, 2012.

ADDRESSES: You may submit comments by any of the following methods: email: *michael_auer@nps.gov;* fax: 202–371–1616, Attention: Michael Auer Mail: Michael Auer, Technical Preservation Services, National Park Service, 1201 ''Eye'' St. NW., Org Code 2200, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Brian Goeken, Chief, Technical Preservation Services, National Park Service, 1849 C St. NW., Org Code 2255, Washington, DC 20240, or email: *brian_goeken@nps.gov*, or telephone at 202–354–2033.

SUPPLEMENTARY INFORMATION:

Background

The NPS charges fees for reviewing certification applications for Federal tax incentives contained in Section 47 of the Internal Revenue Code (referred to herein as ''Historic Preservation Certification Applications''). The fees have not been changed since 1984, despite the increased costs to the government of administering the Historic Preservation Tax Incentives Program. Current fees do not cover the full costs of administering the program.

What is the authority for this action?

The authority for this action is title V of the Independent Offices Appropriations Act (IOAA) of 1952, codified at 31 U.S.C. 9701, which authorizes the head of a federal agency to ''prescribe regulations establishing the charge for a service or thing of value provided by the agency.'' *Id.* § 9701(b). Each charge must be fair and must be based on the costs to the Government, the value of the service or thing to the recipient, public policy, and other relevant facts. *Id.* § 9701(b)(2); *see also* OMB Circular A–25 and 36 CFR 67.11(a).

Why is the NPS adjusting fees at this time?

The fee schedule established in 1984 expressed the fees in fixed dollar amounts and did not contain provisions for adjusting the fees over time. This method contrasts with the now-standard Government practice of establishing and revising fees in periodic **Federal Register** notices, pursuant to the IOAA and OMB Circular A–25. Accordingly, the NPS published a final rulemaking, effective June 27, 2011, which stated that ''Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the **Federal Register** by NPS.'' 36 CFR 67.11(a) (2011). This rule authorizes the NPS to make the changes it now proposes.

In planning to revise fees, the NPS studied its direct and indirect costs associated with the review of Historic Preservation Certification Applications. The NPS found that the 1984 fee schedule does not cover these costs. The current fee schedule therefore fails to meet the IOAA objective that agencies such as the NPS establish fees for specific services provided to identifiable recipients such that the service provided may be ''self-sustaining to the extent possible.'' 31 U.S.C. 9701(a).

The NPS also studied application fees charged by State governments under similar State historic preservation tax credit programs, as well as fees charged

by local governments for review of development projects. On the basis of this comparison, the NPS concluded that its fees were not comparable to fees charged by other governmental agencies for similar services.

Accordingly, the NPS proposes to charge fees for reviewing Historic Preservation Certification Applications as set forth in the schedule and instructions appearing below. The proposed fees are projected to be less than the direct costs of the program, but would be at a higher percentage of direct and indirect costs than the 1984 fee structure.

When will the NPS implement the new fee schedule?

The NPS intends to implement this proposed schedule, and initiate collection of the fees set forth herein, as soon as practicable following the expiration of a 30-day public comment period following this notice's publication in the **Federal Register** and after the NPS has had the opportunity to fully consider any public comments received. The NPS will publish in the **Federal Register** a notice providing the newly established fee schedule.

Public Participation

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.

Fee Schedule Information

Fees will be charged for reviewing Historic Preservation Certification Applications in accordance with the schedule appearing below. The NPS will continue to charge part of the overall fee at the time the Part 2—Description of Rehabilitation, describing a proposed rehabilitation, is received by the NPS and the remainder of the fee when the Part 3—Request for Certification of Completed Work is received. However, the Part 2 fee will now be one-half of the overall fee, rather than the current flat fee of $250. This allocation of the fee will better reflect the true cost to the Government of reviewing Part 2 applications describing proposed rehabilitations, inasmuch as reviewing Part 2 applications and amendments describing proposed rehabilitations consumes much more staff time than reviewing the Part 3 applications for completed work. Additionally, a number of applicants never submit a Part 3 describing completed rehabilitation work. In such cases, the portion of the review fee represented by the balance of the Part 2 work is never recovered by the NPS.

The 1984 fee schedule set fixed fees of $500, $800, $1,500, and $2,500 for projects of $20,000 or more, grouped into four project size categories, with $2,500 being the maximum fee for projects $1,000,000 and above. In contrast, the new fee schedule sets the fee for projects $50,000 and above at $800 plus 0.15% (0.0015) of project costs over $50,000, with a maximum fee of $6,500 for projects $3,850,000 and above. The new schedule thus better reflects that review costs generally increase as projects increase in size. The new schedule charges no fee for projects under $50,000.

The new fee schedule applies only to new applications received by State Historic Preservation Offices after the effective date of this fee schedule. Part 3 applications describing completed work in previously reviewed Part 2 applications will be charged according to the schedule in effect at the time the Part 2 was reviewed.

Fee Schedule

Fees will be charged for reviewing certification applications in accordance with the schedule below. Applicants should make no payment until requested to do so by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

Application review fees (rounded to the nearest dollar) are based on the applicant's estimated rehabilitation costs (defined as ''Qualified Rehabilitation Expenditures'' or ''QREs,'' pursuant to section 47 of the Internal Revenue Code).

Cost of rehabilitation	Fee
Current Fee Schedule	
$0–$19,999	$0.
$20,000–$99,999	$500.
$100,000–$499,999	$800.
$500,000–$999,999	$1,500.
$1,000,000 or more	$2,500.
Proposed Fee Structure	
$0–$49,999	$-0-.
$50,000–$3,849,999	$800 + 0.15% (0.0015) of rehabilitation costs over $50,000.
$3,850,000 or more	$6,500.

1. The application review fee will, upon request by the NPS, be payable one-half upon NPS receipt of a Part 2—Description of Rehabilitation, and one-half upon NPS receipt of a Part 3—Request for Certification of Completed Work.

2. If the estimated rehabilitation costs reported on the Part 3 are lower than those reported on the Part 2 previously submitted, then the Part 3 portion of the application review fee will be based on the costs reported on the Part 3. No refund of the Part 2 fee difference—if any—will be made.

3. If the estimated rehabilitation costs reported on the Part 3 application are higher than those reported on the Part 2 previously submitted, then the Part 3 portion of the fee will be 100% of the review fee less the Part 2 portion of the fee previously paid.

4. If Part 2 and Part 3 applications are received at the same time, the application review fee will be assessed on the estimated rehabilitation costs reported on the Part 3.

5. For a project involving multiple buildings that were functionally related historically pursuant to 36 CFR 67, the application review fee will be based on the estimated rehabilitation costs of the entire project.

6. For a phased project pursuant to 36 CFR 67, the application review fee will be based on the total estimated rehabilitation costs for all phases.

7. Projects requiring submittal of a new Part 2 application will be assessed an application review fee equal to the fee for a new Part 2 application. No refunds or credits toward the new application will be issued for the fees paid for the prior Part 2 application.

Dated: April 26, 2012.

Jonathan B. Jarvis,

Director, National Park Service.

[FR Doc. 2012–15239 Filed 6–21–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF INTERIOR

National Park Service

[NPS–NERO–FLNI–10446; 4140–SZD]

Notice of July 28, 2012, Meeting for Flight 93 National Memorial Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets forth the date of the July 28, 2012, meeting of the Flight 93 Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on

Saturday, July 28, 2012, at 10:00 a.m. (Eastern).

Location: The meeting will be held at the Flight 93 National Memorial Office, 109 West Main Street Suite 104, Somerset, PA 15501.

Agenda

The July 28, 2012, Commission meeting will consist of the following:

1. Opening of Meeting, Review and Approval of Commission Minutes.
2. Reports.
3. Old Business.
4. New Business.
5. Public Comments.
6. Closing Remarks.

FOR FURTHER INFORMATION CONTACT: Further information concerning this meeting may be obtained from the Superintendent, Flight 93 National Memorial, P.O. Box 911, Shanksville, PA 15560, telephone (814) 893–6322.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 29, 2012.

Jeffrey P. Reinbold,

Superintendent, Flight 93 National Memorial.

[FR Doc. 2012–15302 Filed 6–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–10533; 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 June 1, 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 July 9, 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.

Dated: June 7, 2012.

Alexandra Lord,

Acting Chief National Register of Historic Places/National Historic Landmarks Program.

GEORGIA

Paulding County

Fannin—Cooper Farm, 620 & 511 Smith Rd., Hiram, 12000411

KANSAS

Labette County

Riverside Park, (New Deal-Era Resources of Kansas MPS) N. Oregon St., Oswego, 12000412

MASSACHUSETTS

Bristol County

Long Plain School, 1203 Main St., Acushnet, 12000413

MINNESOTA

Hennepin County

Northwestern National Life Insurance Company Home Office, 430 Oak Grove St., Minneapolis, 12000414

St. Louis County

First National Bank of Gilbert, 2 N. Broadway, Gilbert, 12000415

MISSOURI

Jasper County

Cave Spring School and Cave Spring Cemetery, (One-Teacher Public Schools of Missouri MPS) 4323 Cty. Rd. 4, Sarcoxie, 12000416

Johnson County

Grover Street Victorian Historic District, (Warrensburg, Missouri MPS) 209, 210, 211, 212, 214, 216, & 218 Grover St., Warrensburg, 12000417

NEW YORK

Albany County

Blaisdell, Dr. Wesely, House, S. Main St., Coeymans, 12000418

Greene County

Laraway, John and Martinus, Inn, Main St., Prattsville, 12000419

TENNESSEE

Davidson County

RCA Studio B, 1611 Roy Acuff Pl., Nashville, 12000420

WASHINGTON

Clark County

Kiggins Theater, (Movie Theaters in Washington State MPS) 1011 Main St., Vancouver, 12000421

A request to move has been made for the following resource:

KANSAS

Bourbon County

Long Shoals Bridge, Over Little Osage River, E of Fulton, Fulton, 89002182

A request for removal has been made for the following resources:

TENNESSEE

Benton County

Mount Zion Church, 5.5 mi. SE. of Big Sandy, Big Sandy, 73001752

Sullivan County

Alison, Jesse, House, SW. of Bluff City off U.S. 11E, Bluff City, 73001839

[FR Doc. 2012–15236 Filed 6–21–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval to continue the collection of information for two technical training program course effectiveness evaluation forms. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned clearance number 1029–0110.

DATES: Comments on the proposed information collection activity must be received by August 21, 2012, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John Trelease at (202) 208–2783, or by email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSM will be submitting to OMB for renewed approval. This collection is for OSM's Technical Training Program Course Effectiveness Evaluations (1029–0110). OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Technical Training Program Course Effectiveness Evaluation.

OMB Control Number: 1029–0110.

Summary: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The information supplied by this evaluation will determine customer satisfaction with OSM's training program and identify needs of respondents.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State regulatory authority and Tribal employees and their supervisors.

Total Annual Responses: 425.

Total Annual Burden Hours: 71 hours.

Dated June 14, 2012.

Andrew F. DeVito,

Chief, Division of Regulatory Support.

[FR Doc. 2012–15086 Filed 6–21–12; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–482–485 and 731–TA–1191–1194 (Final)]

Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation Nos. 701–TA–482–485 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731–TA–1191–1194 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from India, Oman, the United Arab Emirates, and Vietnam of circular welded carbon-quality steel pipe, provided for in subheading 7306.19, 7306.30, and 7306.50 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India and Vietnam of circular welded carbon-quality steel pipe, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The Department of Commerce has also made affirmative preliminary determinations with respect to circular welded carbon-quality steel pipe from Oman and the United Arab Emirates being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on October 26, 2011, by Allied Tube and Conduit, Harvey, IL; JMC Steel Group, Chicago, IL; Wheatland Tube, Sharon, PA; and United States Steel Corporation, Pittsburgh, PA.

Although the Department of Commerce has preliminarily determined that imports of circular welded carbon-quality steel pipe from Oman and the United Arab Emirates are not being and

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as welded carbon quality steel pipes and tube, of circular cross-section, with an outside diameter (''O.D.'') not more than 16 inches (406.4mm), regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g. American Society for Testing and Materials International (''ASTM''), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although they may also be referred to as mechanical tubing). For detailed scope language, see 77 FR 19635, April 2, 2012.

are not likely to be subsidized, for purposes of efficiency the Commission hereby waives rule 207.21(b)[2] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 2, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on October 17, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 12, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 16, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 10, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 24, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 24, 2012. On November 7, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 9, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 18, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–15307 Filed 6–21–12; 8:45 am]

BILLING CODE 7020–02–P

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–480 and 731–TA–1188 (Final)]

High Pressure Steel Cylinders From China

Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) and (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of high pressure steel cylinders from China, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States, that the U.S. Department of Commerce has determined are subsidized and sold in the United States at less than fair value (''LTFV'').[2]

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] All six Commissioners voted in the affirmative.

Background

The Commission instituted these investigations effective May 11, 2011, following receipt of a petition filed with the Commission and Commerce by Norris Cylinder Company, Longview, Texas. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of high pressure steel cylinders from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on January 23, 2012 (77 FR 3281). The hearing was held in Washington, DC, on May 1, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 11, 2012. The views of the Commission are contained in USITC Publication 4328 (June 2012), entitled *High Pressure Steel Cylinders from China: Investigation Nos. 701–TA–480 and 731–TA–1188 (Final).*

By order of the Commission.

Issued: June 19, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–15288 Filed 6–21–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for ETA 9162, Random Audit of EUC 2008 Claimants, Comment Request for Extension Without Change

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about Random Audit of Claimants in the Emergency Unemployment Compensation Program of 2008 (EUC08), which expires November 30, 2012.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 21, 2012.

ADDRESSES: Submit written comments to Scott Gibbons, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3008 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *gibbons.scott@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting Mr. Gibbons.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 9162 report is intended to provide data describing random audits of the work search provision of Public Law 112–96 (see Section 2141(b)). Random audits are conducted to ensure that claimants in EUC08 are performing an appropriate work search as required by state and Federal law. States will audit, on a weekly basis, a cohort of EUC08 claimants of pre-defined size. Any EUC08 claimant that receives a week of payment is potentially subject to random audit of their work search documentation.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Random Audit of EUC 2008 Claimants.

OMB Number: 1205–0495.

Affected Public: State Workforce Agencies.

Form(s): ETA 9162.

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response (hours)	Burden hours
Claimant burden in responding to audit	475,650	Onetime	475,650	0.94	445,921.9
State burden in conducting audit	53	Onetime	475,650	0.25	118,912.5
Record Keeping	475,650	Onetime	475,650	0.25	118,912.5
Ongoing Reporting	53	Quarterly	212	3.00	636
Total			1,427,162		684,382.9

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, this 15th day of June, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–15213 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Unemployment Insurance (UI) Trust Fund Activity Reports, Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about UI Trust Fund Activity Reporting, expiring 10/31/2012.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 21, 2012.

ADDRESSES: Submit written comments to Joe Williams, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue NW., Frances Perkins Bldg., Room S–4524, Washington, DC 20210, telephone number (202) 693–2928 (this is not a toll-free number) or by email: *Williams.joseph@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Section 303(a)(4) of the Social Security Act (SSA) and Section 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) require that all monies received in the unemployment fund of a state be paid immediately to the Secretary of Treasury to the credit of the Unemployment Trust Fund (UTF). This is the ''immediate deposit'' standard.

Section 303(a)(5) of the SSA and Section 3304(a)(4) of the FUTA require that all monies withdrawn from the UTF be used solely for the payment of unemployment compensation, exclusive of the expenses of administration. This is the ''limited withdrawal'' standard.

Federal law (Section 303(a)(6) of the SSA) gives the Secretary of Labor the authority to require the reporting of information deemed necessary to assure state compliance with the provisions of the SSA.

Under this authority, the Secretary of Labor requires the following reports to monitor state compliance with the immediate deposit and limited withdrawal standards:

ETA 2112: UI Financial Transactions Summary, Unemployment Fund
ETA 8401: Monthly Analysis of Benefit Payment Account
ETA 8403: Summary of Financial Transactions—Title IX Funds
ETA 8403A: Spending Plans for Special Distributions
ETA 8405: Monthly Analysis of Clearing Account
ETA 8413: Income—Expense Analysis UC Fund, Benefit Payment Account
ETA 8414: Income—Expense Analysis UC Fund, Clearing Account

These reports are submitted to the Office of Unemployment Insurance (OUI) within ETA which uses them to:

- Monitor cash flows into and out of the UTF to determine state compliance with the immediate deposit and limited withdrawal standards.
- Assure proper accounting for unemployment funds, an integral part of preparing the Department's consolidated financial statements required by the Chief Financial Officer Act of 1990. The UTF is the single largest asset and liability on the statements.
- Reconcile the Department's records with the U.S. Treasury records.
- Support UI research and actuarial reports analyzing the solvency of the UTF.

II. Review Focus

The Department seeks renewal of this collection since the reports are essential to the Department's financial statements and program oversight responsibilities. The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Unemployment Insurance (UI) Trust Fund Activities Reports.

OMB Number: 1205–0154.

Affected Public: State Workforce Agencies.

Form(s): ETA 2112, 8401, 8405, 8413, 8414, 8403, 8403A.

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response (in hours)	Burden hours
Reporting of ETA 2112	53	Monthly	636	0.5	318
Reporting of ETA 8401	53	Monthly	636	0.5	318
Reporting of ETA 8405	53	Monthly	636	0.5	318

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response (in hours)	Burden hours
Reporting of ETA 8413	53	Monthly	636	0.5	318
Reporting of ETA 8414	53	Monthly	636	0.5	318
Reporting of ETA 8403	53	As Needed	318	0.5	159
Reporting of ETA 8403A	53	As Needed	106	0.5	53
Total			3,604		1,802

Total Annual Burden Cost for Respondents: There are no annualized costs to respondents.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, this 15th day of June, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–15215 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Self-Employment Assistance (SEA) for UI Claimants, Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about SEA activities, expiring 09/30/2012.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 21, 2012.

ADDRESSES: Submit written comments to Scott Gibbons, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3008 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *gibbons.scott@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting Mr. Gibbons.

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 112–96, the Middle Class Tax Relief and Job Creation Act of 2012, provides states with the opportunity to allow Unemployment Insurance (UI) claimants in the Federal Emergency Unemployment Compensation program of 2008 (EUC08) to participate in a reemployment program that helps them start their own businesses known as SEA. Currently, a handful of states use this reemployment program, for which a minor amount of information (claimants entering the program, and weeks and amounts of dollars paid) is collected under OMB Control Number 1205–0010.

In accordance with statutory requirements and to assist states in establishing, improving, and administering SEA programs (section 2183(a)), the Employment and Training Administration (ETA) uses the ETA 9161 to collect information specific to the SEA program.

Section 2183(b)(1) of the 2012 Act directs the Secretary of Labor to establish reporting requirements for States that have established SEA programs, which shall include reporting on—(A) The total number of individuals who received unemployment compensation and—(i) Were referred to a SEA program; (ii) participated in such program; and (iii) received an allowance under such program; (B) the total amount of allowances provided to individuals participating in a SEA program; (C) the total income (as determined by survey or other appropriate method) for businesses that have been established by individuals participating in a SEA program, as well as the total number of individuals employed through such businesses; and (D) any additional information, as determined appropriate by the Secretary. ETA currently uses Form ETA–9161 as an electronic reporting mechanism to collect this required information. In addition to Public Law 112–96, collection of data is used for oversight of the program as authorized under Section 303(a)(6) of the Social Security Act.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Self-Employment Assistance for UI Claimants.

OMB Number: 1205–0490.

Affected Public: State Workforce Agencies.

Form(s): ETA 9161.

Total Annual Respondents: 26.

Annual Frequency: Quarterly for three different reports.

Total Annual Responses: 26 respondents × 4 quarterly reports × 3 programs = 312 responses.

Average Time per Response: 2 hours per report.

Estimated Total Annual Burden Hours: 26 respondents × 4 quarterly reports × 3 programs × 2 hours per report = 624 hours.

Total Annual Burden Cost for Respondents: There are no other costs associated with this collection of information.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, this 15th day of June, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–15216 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Claims and Payment Activities, Extension Without Revisions.

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data ETA uses to record data concerning claims and payment activities in the Unemployment Insurance (UI) system.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 21, 2012.

ADDRESSES: Submit written comments to Scott Gibbons, Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3008 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Email: *gibbons.scott@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting Mr. Gibbons.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 5159, Claimant and Payment Activities report, contains information on claims activities including the number of initial claims, first payments, weeks claimed, weeks compensated, benefit payments, and final payments. These data are used in budgetary and administrative planning, program evaluation, actuarial and program research, and reports to Congress and the public.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without changes.

Title: Claims and Payment Activities.

OMB Number: 1205–0010.

Affected Public: State Workforce Agencies.

Form(s): ETA 5159.

Data collection activity	Number of respondents	Frequency	Total responses	Average time per response (hours)	Burden hours
Reporting of Regular 5159	53	Monthly	636	2	1,272
Reporting of EB 5159	53	Monthly	636	2	1,272
Reporting of STC 5159	53	Monthly	636	7	4,452
Reporting of TEUC 5159	53	Monthly	636	2	1,272
Reporting of EUC08 5159	53	Monthly	636	2	1,272
Total			3,180		9,540

Total Annual Burden Cost for Respondents: There is no burden cost.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, this 15th day of June, 2012.

Jane Oates,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2012–15214 Filed 6–21–12; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting Notice; Matters To Be Deleted From the Agenda of a Previously Announced Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: June 18, 2012 (77 FR 36298).

TIME AND DATE: 10:00 a.m., Thursday, June 21, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's Rules and Regulations, Credit Union Service Organizations.

RECESS: 10:45 a.m.

TIME AND DATE: 11 a.m., Thursday, June 21, 2012.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Consideration of Supervisory Activities (1). Closed pursuant to exemptions (8), (9)(i)(B) and 9(ii).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304

Mary Rupp,

Board Secretary.

[FR Doc. 2012–15466 Filed 6–20–12; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0146]

Electrical Cable Test Results and Analysis During Fire Exposure

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is making the proposed draft, NUREG–2128, ''Electrical Cable Test Results and Analysis during Fire Exposure (ELECTRA–FIRE), A Consolidation of the Three Major Fire-Induced Circuit and Cable Failure Experiments Performed between 2001 and 2011,'' available for public comment.

DATES: Comments on this document should be submitted by Tuesday, July 31, 2012. Comments received after that date will be considered to the extent practicable. To ensure efficient and complete comment resolution, comments should include section, page, and line numbers of the document to which the comment applies, if possible.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0146. You may submit comments by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0146. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gabriel Taylor, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–251–7576; email: *Gabriel.Taylor@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0146 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0146.
- *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. The proposed draft NUREG–2128 is available in ADAMS under Accession Number ML12166A028.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0146 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

Three major test programs have been conducted to realistically explore the electrical functionality of electrical cables under severe fire conditions. The Electric Power Research Institute (EPRI) performed the first series of tests, followed by two confirmatory testing

programs sponsored by the Office of Nuclear Regulatory Research. These test programs provided a substantial amount of information concerning the cable electrical response characteristics for common nuclear power plant electrical cable types exposed to severe fire conditions. However, the results from these three test programs have never been collected and analyzed as a whole to obtain insights to specific parameters that may influence the failure modes of electrical cables exposed to fire conditions. This report documents such an effort by identifying circuit parameters that may influence the failure mode of fire damaged electrical cables and then evaluating the test data by circuit parameter. This report also provides an analysis of the direct current test data specifically looking at the phenomena associated with multiple cable shorts to ground resulting in equipment spurious operation when a common ungrounded power supply is present.

The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to the information contained within this document is correct and accurate. This document is issued for comment only and is not intended for interim use. The NRC will review public comments received on the document, incorporate suggested changes as necessary, and make the final NUREG-report available to the public.

Dated at Rockville, Maryland, this 15th day of June 2012.

For the Nuclear Regulatory Commission.

David W. Stroup,

Acting Chief Fire Research Branch, Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 2012–15372 Filed 6–21–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30105; 812–13900]

Franklin Advisers, Inc. and Franklin Templeton International Trust; Notice of Application

June 18, 2012.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940, as amended (the ''Act''), for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

APPLICANTS: Franklin Advisers, Inc. (the ''Manager'') and Franklin Templeton International Trust (the ''Trust'').

DATES: *Filing Dates:* The application was filed on May 4, 2011, and amended on December 28, 2011, and May 3, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 16, 2012, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Franklin Advisers, Inc., One Franklin Parkway, San Mateo, California 94403–1906.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Attorney, at (202) 551–6990, or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company that offers series of shares (each a ''Series''), each with their own distinct investment objectives, policies and restrictions.[1] Franklin Advisers, Inc., a direct, wholly-owned subsidiary of Franklin Resources, is a California corporation registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as investment manager to each Series pursuant to an investment advisory agreement with the Trust (each an ''Investment Advisory Agreement'' and together the ''Investment Advisory Agreements''). Any future Manager also will be registered with the Commission as an investment adviser under the Advisers Act. Franklin Resources is a global investment management organization operating as Franklin Templeton Investments and is engaged primarily, through various subsidiaries, in providing investment management, share distribution, transfer agent and administrative services to a family of registered funds. Each Investment Advisory Agreement has been or will be approved by the Trust's board of trustees (the ''Board''),[2] including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust or the Adviser (the ''Independent Board Members''), and by the shareholders of the relevant Subadvised Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder.[3]

2. Under the terms of each Investment Advisory Agreement, the Manager, subject to oversight of the Board, furnishes a continuous investment program for each Series. The Manager periodically reviews each Series'

[1] Applicants request that the relief apply to the Applicants, as well as to any existing or future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Manager or another registered investment adviser or their successors that now or in the future is directly or indirectly wholly owned by Franklin Resources or its successors (included in the term ''Manager''); (b) uses the multi-manager structure described in the application (the ''Multi-Manager Structure''); and (c) complies with the terms and conditions of the application (each a ''Subadvised Fund'' and collectively, the ''Subadvised Funds''). For the purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. The only existing registered open-end investment company that currently intends to rely on the requested order is named as an Applicant. Each Series that is or currently intends to be a Subadvised Fund and each Wholly-Owned Sub-Adviser to a Subadvised Fund that currently intends to rely on the requested order is identified in this application.

[2] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Fund.

[3] Franklin Advisers, Inc. and other Managers will enter into investment advisory agreements with respect to future Subadvised Funds (any such agreement include in the term ''Investment Advisory Agreements'').

investment policies and strategies and based on the need of a particular Series may recommend changes to the investment policies and strategies of the Series for consideration by its Board. For its services to each Series, the Manager receives an investment advisory fee from that Series as specified in the applicable Investment Advisory Agreement.

3. The terms of each Subadvised Fund's Investment Advisory Agreement permit the Manager, subject to the approval of the Board, including a majority of the Independent Board Members, and the shareholders of the applicable Subadvised Fund (if required by applicable law), to delegate portfolio management responsibilities of all or a portion of the assets of the Subadvised Fund to sub-advisers that are directly or indirectly wholly-owned, as defined in section 2(a)(43) of the Act, by Franklin Resources (each, a ''Wholly-Owned Sub-Adviser'') pursuant to an investment sub-advisory agreement (each, a ''Sub-Advisory Agreement'').[4] The Manager has overall responsibility for the management and investment of the assets of each Series, and with respect to each Subadvised Fund, the Manager's responsibilities include, recommending the removal or replacement of Wholly-Owned Sub-Advisers, and determining the portion of that Subadvised Fund's assets to be managed by any given Wholly-Owned Sub-Adviser and reallocating those assets as necessary from time to time.[5] Each existing Sub-Advisory Agreement was approved by the Board, including a majority of the Independent Board Members and the shareholders of the applicable Subadvised Fund, in accordance with sections 15(a) and 15(c) under the Act and rule 18f–2 thereunder. The terms of each Sub-Advisory Agreement comply fully with the requirements of section 15(a) of the Act. The Wholly-Owned Sub-Advisers, subject to the supervision of the Manager and oversight of the Board, determine the securities and other instruments to be purchased, sold or entered into by a Subadvised Fund's portfolio and place orders with brokers or dealers that they select. The Manager is responsible for paying subadvisory fees to each Wholly-Owned Sub-Adviser out of the fee paid to the Manager under the relevant Investment Advisory Agreement.

4. Applicants request an order to permit the Manager, subject to the approval of the Board, including a majority of the Independent Board Members, to take certain actions without obtaining shareholder approval: (i) Select Wholly-Owned Sub-Advisers to manage all or a portion of the assets of one or more of the Series pursuant to a Sub-Advisory Agreement; and (ii) materially amend Sub-Advisory Agreements with the Wholly-Owned Sub-Advisers.[6]

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of securities in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the relief sought with respect to Wholly-Owned Sub-Advisers would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants assert that the shareholders expect the Manager, subject to the review and approval of the Board, to select the Wholly-Owned Sub-Advisers who are best suited to achieve the Subadvised Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Wholly-Owned Sub-Adviser is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants state that requiring shareholder approval of each Sub-Advisory Agreement would impose unnecessary delays and expenses on the Subadvised Funds and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants note that the Investment Advisory Agreement for each Subadvised Fund and sub-advisory agreements with sub-advisers other than Wholly-Owned Sub-Advisers, if any, will continue to be subject to the shareholder approval requirement of section 15(a) of the Act and rule 18f–2 thereunder the Act.

4. Subadvised Funds will inform shareholders of the hiring of a new Wholly-Owned Sub-Adviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Wholly-Owned Sub-Adviser is hired for any Subadvised Fund, that Subadvised Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;[7] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. In the circumstances described in this Application, a proxy solicitation to approve the appointment of new Wholly-Owned Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Moreover, as indicated above, the Board would comply with the requirements of Sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

[4] The Manager has entered into Sub-Advisory Agreements with multiple Wholly-Owned Sub-Advisers to serve as sub-advisers to Franklin World Perspectives Fund and Franklin Templeton Global Allocation Fund.

[5] If the name of any Subadvised Fund contains the name of a Wholly-Owned Sub-Adviser, the name of the Manager that serves as the primary adviser to the Subadvised Fund, or a trademark or trade name owned by that Manager, will precede the name of the Wholly-Owned Sub-Adviser.

[6] The requested relief set forth in the Application will not extend to sub-advisers other than Wholly-Owned Sub-Advisers.

[7] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Wholly-Owned Sub-Adviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Funds.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the requested order, the operation of the Subadvised Fund in the manner described in the application, will be approved by a majority of the Subadvised Fund's outstanding voting securities, as defined in the Act, or in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. In addition, each Subadvised Fund will hold itself out to the public as employing the Multi-Manager Structure described in the application. The prospectus will prominently disclose that the Manager has the ultimate responsibility, subject to oversight by the Board, to oversee the Wholly-Owned Sub-Advisers and recommend their hiring, termination, and replacement.

3. Subadvised Funds will inform shareholders of the hiring of a new Wholly-Owned Sub-Adviser within 90 days after the hiring of the new Wholly-Owned Sub-Adviser pursuant to the Modified Notice and Access Procedures.

4. The Manager will not enter into a Sub-Advisory Agreement with any sub-adviser that is not a Wholly-Owned Sub-Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Fund.

5. At all times, at least a majority of the Board will be Independent Members, and the nomination of new or additional Independent Board Members will be placed within the discretion of the then-existing Independent Board Members.

6. Whenever a sub-adviser change is proposed for a Subadvised Fund, the applicable Board, including a majority of the Independent Board Members, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Subadvised Fund and its shareholders, and does not involve a conflict of interest from which the Manager or any sub-adviser that is an affiliated person of the Manager derives an inappropriate advantage.

7. The Manager will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of each Subadvised Fund's assets and, subject to review and approval of the Board, will: (a) Set each Subadvised Fund's overall investment strategies; (b) evaluate, select and recommend Wholly-Owned Sub-Advisers to manage all or a portion of each Subadvised Fund's assets; (c) allocate and, when appropriate, reallocate each Subadvised Fund's assets among Wholly-Owned Sub-Advisers; (d) monitor and evaluate the Wholly-Owned Sub-Advisers' performance; and (e) implement procedures reasonably designed to ensure that the Wholly-Owned Sub-Advisers comply with each Subadvised Fund's investment objective, policies and restrictions.

8. No trustee or officer of the Trust or a Subadvised Fund, or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a sub-adviser to a Subadvised Fund except for ownership of interests in the Manager or any entity, except a Wholly-Owned Sub-Adviser, that controls, is controlled by, or is under common control with the Manager.

9. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15262 Filed 6–21–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67210; File No. SR–OPRA–2012–03]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan To Revise the Definition of the Term ''Nonprofessional''

June 15, 2012.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on May 31, 2012, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The proposed amendment would revise OPRA's definition of the term ''Nonprofessional.'' The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

I. Description and Purpose of the Plan Amendment

The purpose of the proposed amendment is to revise OPRA's definition of the term ''Nonprofessional.''

A person may become an OPRA ''Subscriber'' in one of two ways.[4] The first way is that the person may sign a ''Professional Subscriber Agreement'' directly with OPRA. In this case, the person pays fees directly to OPRA on the basis of the number of the person's ''devices'' and/or ''UserIDs.''

The second way is that the person may enter into a ''Subscriber Agreement,'' not directly with OPRA, but with an OPRA ''Vendor''—an entity that has entered into a ''Vendor Agreement'' with OPRA authorizing the entity to redistribute OPRA Data to third persons. In this case, OPRA collects fees from the Vendor with respect to the receipt of the OPRA Data by the person entering into the Subscriber Agreement. If the person qualifies as a ''Nonprofessional Subscriber,'' OPRA caps the fee that it charges the Vendor, and the fees that the person is required to pay to the Vendor may be less than they would be if the person is classified as a ''Professional Subscriber.'' [5]

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[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 SE.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.*

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The ten participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., NASDAQ Stock Market LLC, NYSE Amex, LLC n/k/a NYSE MKT LLC, and NYSE Arca, Inc.

[4] OPRA defines a ''Subscriber,'' in general, as an entity or person that receives OPRA Data for the person's own use.

[5] OPRA's Fee Schedule provides that a Vendor may determine the fee that it pays with respect to its distribution of current OPRA data to a Nonprofessional Subscriber in one of two ways: Either the Vendor may pay OPRA's flat monthly Nonprofessional Subscriber Fee (currently $1.25/month), or the Vendor may count the

OPRA's current definition of the term ''Nonprofessional'' is set out in an ''Addendum for Nonprofessionals'' that is attached to its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement. These two forms, in turn, are Attachments B–1 and B–2 to OPRA's form of Vendor Agreement.[6]

One element of OPRA's current definition of the term ''Nonprofessional'' specifies that to qualify as a ''Nonprofessional'' a person must not be ''a securities broker-dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, member of a securities exchange or association or futures contract market, or an owner, partner, or associated person of any of the foregoing.''[7] For persons employed by securities broker-dealers, OPRA has interpreted the term ''associated person'' in this language with reference to the definition of the term ''associated person of a broker or dealer'' in Section 3(a)(18) of the Securities Exchange Act of 1934 (the ''Act'').[8] That definition includes within its scope ''any employee'' of a broker or dealer, and accordingly employees of broker/dealers have not been eligible to be Nonprofessionals.

Two inconsistencies created by this language have been brought to OPRA's attention. First, OPRA's language on this point is different from the counterpart language in the definition of ''Nonprofessional'' used by the Consolidated Tape Association (''CTA'') and the ''Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis'' (''Nasdaq/UTP Plan''). CTA and the Nasdaq/UTP Plan define the term ''Nonprofessional'' substantially identically, and by reference to whether the person seeking to qualify as a Nonprofessional is required to register in some capacity, not by reference to whether the person is an associated person of an entity or person that is required to register in some capacity.[9] Second, because the definition of the term ''associated person'' is defined differently in the commodity futures industry, a person who is employed by a commodity futures merchant (subject to regulation under the Commodity Exchange Act) may be able to qualify as a Nonprofessional under the language of the current OPRA definition even though a person who is employed by a securities broker to perform identical functions cannot.[10]

In order to eliminate these inconsistencies, OPRA proposes to replace paragraphs 1(c) and 1(d) of each Addendum for Nonprofessionals with a new paragraph 1(c) that tracks the counterpart language used by CTA and the UTP/Nasdaq Plan. In essence the revised language will allow a person who is not himself or herself registered in some capacity with the Commission or the CFTC, but who is employed by an entity that is so registered, to qualify as a ''Nonprofessional'' for purposes of the person's personal, non-business-related, investment activities. OPRA believes that the changes that it is proposing in its definition of the term ''Nonprofessional'' will add clarity to the definition and more closely align the language of the definition with the definitions used by CTA and the UTP/Nasdaq Plan.

OPRA believes that, in the vast majority of cases, its definition of the term ''Nonprofessional'' and those of CTA and the UTP/Nasdaq Plan have always classified Subscribers as Professionals or Nonprofessionals consistently. OPRA believes that revising its definition in the manner described in this filing will reduce the small subset of cases in which its definition and those of CTA and the UTP/Nasdaq Plan generate different results.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, *http://opradata.com*, and on the Commission's Web site at *www.sec.gov*.

II. Implementation of the OPRA Plan Amendment

OPRA is proposing to begin to permit Vendors to use revised versions of its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement as soon as this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under the Securities Exchange Act of 1934. OPRA will send notice to Vendors advising them of the change and informing them that, if they believe that they have Subscribers who can be classified as Nonprofessionals under the revised definition, they may reclassify them after the Subscribers have agreed to a new Subscriber Agreement that includes a revised Addendum for Nonprofessionals. The change in the definition will not require Vendors to take any action with respect to their existing populations of Nonprofessionals, since all persons who qualify as Nonprofessionals under OPRA's current definition will continue to qualify under the revised definition.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the

Nonprofessional Subscriber's queries for OPRA data and pay Usage-based Vendor Fees based on the actual usage of OPRA data by the Nonprofessional Subscriber, subject to a cap that OPRA has always set at the amount of the flat Nonprofessional Subscriber Fee.

[6] These forms are posted on OPRA's Web site, *www.opradata.com*. OPRA most recently amended them in File No. SR–OPRA–2008–02; Release No. 34–58434 (August 27, 2008).

[7] *See* Paragraph 1(c) in each Addendum for Nonprofessionals (emphasis added).

[8] The complete definition of the term ''associated person'' in the Act is: ''The term ''person associated with a broker or dealer'' or ''associated person of a broker or dealer'' means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or *any employee* of such broker or dealer, except that any person associated with a broker or dealer whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of section 15(b) of this title (other than paragraph (6) thereof).'' (Emphasis added.)

[9] The term ''Nonprofessional Subscriber'' is defined by CTA as follows:

''Nonprofessional Subscriber'' refers to any natural person who receives market data solely for his/her personal, non-business use and who is not a Securities Professional, meaning that the person is:

(a) Not registered or qualified with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange/association, or any commodities/futures contract market/association

(b) Not engaged as an ''investment adviser,'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); and

(c) Not employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require him/hr to be so registered or qualified if he/she were to perform such functions for an organization not so exempt.

See the CTA ''Nonprofessional Subscriber Policy,'' available at *http://www.nyxdata.com/Docs/Market-Data/Policies*.

[10] For example, the term ''Associated Person'' is defined in the Regulations of the Commodity Futures Trading Commission (the ''CFTC'') with respect to a futures commission merchant as follows:

(aa) Associated person. This term means any natural person who is associated in any of the following capacities with:

(1) A futures commission merchant as a partner, officer, or employee (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged[.]

17 CFR 1.3(aa). The definition defines the term ''associated person'' in a similar manner for natural persons associated with other entities that are subject to regulation under the Commodity Exchange Act.

Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–OPRA–2012–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OPRA–2012–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OPRA. 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–OPRA–2012–03 and should be submitted on or before July 13, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15261 Filed 6–21–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67211; File No. SR–ISE–2012–53]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate the Rules and Fees Related to the Second Market

June 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 6, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate the rules and fees related to the listing and trading of low-volume options classes in what is known as the Second Market. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

When the ISE was launched in 2000, it began trading options on approximately 900 equity securities that qualified for options trading pursuant to the listing standards contained in ISE Rule 502. The listing standards for underlying securities is uniform across all of the options exchanges, and while there were many additional underlying equity securities that qualified for options trading under these standards, ISE did not list options on these securities although they were traded on one or more of the other options exchanges. In general, the Exchange had chosen not to list and trade these options classes because of their low average daily trading volume (''ADV'').

In 2006, however, the Exchange decided to pursue this segment of the market and adopted rules for the listing and trading of these low-volume options classes that qualified for listing under Rule 502 in a ''Second Market.''[3] While the Exchange's total volume modestly increased by listing these low-volume options classes, ISE does not believe the separate structure has added any appreciable value. In particular, all of the market makers that participate in the Second Market are also market makers in the First Market, so the creation of the Second Market did not attract additional market makers. On the other hand, the Exchange believes that the cost associated with maintaining the infrastructure to support the two separate structures outweighs the benefits of maintaining the Second Market. Accordingly, ISE proposes to eliminate the Second Market structure altogether and incorporate the securities currently traded thereunder into the First Market.

The consolidation of securities into the First Market will be accomplished through database changes by the Exchange's Technology staff. The Exchange notes that the elimination of the Second Market will be seamless for ISE Members. No action will be required on part of ISE Members. Additionally, options listed on the Exchange, whether in the First Market or the Second Market, must meet the qualification standards in Chapter 5. The Exchange is not making any changes to these listing standards and all options listed on the

[3] *See* Securities Exchange Act Release No. 54580 (October 6, 2006), 71 FR 60781 (October 16, 2006) (SR–ISE–2006–40).

Exchange will continue to be subject to these listing standards.

With the Second Market, the Exchange provided members that are only approved as Electronic Access Members (''EAMs'') with an opportunity to register as competitive market makers with the requirement that they pay a $0.10 transaction surcharge over those market makers that own or lease ISE market maker memberships. The Exchange believed that providing greater access to make markets in the Second Market would help to attract additional liquidity in these low-volume options classes from firms that did not participate on the ISE as market makers. However, as noted above, all market makers in the Second Market options classes are currently also First Market market makers thus, the introduction of the Second Market did not attract additional market makers, as the Exchange had hoped.

Once the Second Market has been eliminated, all of the market makers currently quoting in the Second Market options classes can continue to do so. The Exchange notes that the quoting requirements for market makers, whether quoting in the First Market or the Second Market are the same. Thus, market makers currently quoting in the Second Market who want to quote in the First Market will be required to meet all of the requirements of Rules 803, 804 and 805. The Exchange is not proposing any changes to the Exchange's quoting rules. The Second Market options classes are allocated to the Exchange's current Primary Market Makers, and they will be transferred into those Primary Market Makers' ''bins'' in the First Market. With respect to Competitive Market Makers (''CMMs''), appointments to these options classes will have no impact on their membership points, as the percentage of total industry volume for each Second Market option class is zero.[4]

With this proposed rule change, the Exchange proposes to delete ISE Rules 900 through 904. The Exchange also proposes several changes to its Schedule of Fees, as follows: (1) Remove the execution fee of $0.00 per contract for customer orders in Second Market options; (2) remove the $.10 per contract surcharge currently applied to transactions executed by market makers that do not own or lease an ISE market maker membership (i.e., EAMs that make markets in the Second Market); (3) remove the $2,000 per month access fee for market makers; and (4) remove the $5,000 annual regulatory fee paid by firms that are only market makers in the Second Market (i.e., EAMs that make markets in the Second Market).

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities, and the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes it is reasonable and equitable to eliminate the Second Market and incorporate the low-volume options classes that were in the Second Market into the Exchange's First Market because the Second Market did not achieve its intended objective of attracting additional liquidity in those low-volume options. Further, the Exchange notes that the transition of Second Market securities to the First Market will be seamless for ISE Members and no action will be required on their part. The Exchange further believes that the proposed rule change is not unfairly discriminatory because it treats all market participants equally and will not have an adverse impact on any market participant, in particular, ISE's EAMs. While this segment of the Exchange's membership would have been impacted the most by the elimination of the Second Market, the Exchange notes that no EAM currently operates as a market maker in the Second Market thus, the proposed rule change will not have any adverse impact on this group.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[5] of the Act and Rule 19b–4(f)(6)[6] thereunder. The Exchange provided the Commission with 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 the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2012–53 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–ISE–2012–53. 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

[4] Options classes are assigned CMM member points based on their percentage of overall options industry volume rounded down to the nearest one hundredth of a percentage. *See* Securities Exchange Act Release No. 65100 (August 11, 2011), 76 FR 51075 (August 17, 2011) (SR–ISE–2011–33).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–53 and should be submitted on or before July 13, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15316 Filed 6–21–12; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67209; File No. SR–CBOE–2012–048]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Distribution of Auction Messages

June 18, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 6, 2012, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend rules regarding the distribution of certain auction messages. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

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 this proposed rule change is: (i) To amend Rule 6.13A relating to the Simple Auction Liaison (''SAL''); (ii) to delete Rule 6.14 relating to the Hybrid Agency Liaison system (''HAL''); (iii) to amend Rule 6.14A relating to the Hybrid Agency Liaison 2 system (''HAL2'') and rename HAL2 as HAL; and (iv) to amend Rule 6.53C relating to Complex Orders on the Hybrid System. The proposed rule change modifies the provisions in each of these rules regarding who is eligible to respond to auction messages on a class-by-class basis to be more consistent. The proposed rule change provides that all Trading Permit Holders[3] may respond to SAL, HAL2 and COA auction messages in certain classes designated by the Exchange and that Trading Permit Holders may redistribute auction messages in these classes.

[3] By definition, all Market-Makers are Trading Permit Holders; therefore, references to ''Trading Permit Holders'' include all Market-Makers. *See* Rule 8.1.

SAL

Rule 6.13A governs the operation of SAL, a feature within the Hybrid System that auctions marketable orders for price improvement over the national best bid or offer (''NBBO''). The Exchange determines the eligible order size, eligible order types, eligible origin code (*i.e.,* public customer orders, non-Market-Maker broker-dealer orders and Market-Maker broker-dealer orders), and classes in which SAL is activated.[4] For these classes, SAL automatically initiates an auction process for any order that is eligible for automatic execution by the Hybrid System (''Agency Order'').[5] Prior to commencing an auction, SAL stops the Agency Order at the NBBO against Market-Maker quotations displayed at the NBBO on the opposite side of the Market as the Agency Order.[6]

Rule 6.13A(b) provides that auction responses may be submitted by Market-Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of the Exchange's book opposite the Agency Order. Interpretation and Policy .05 provides that in lieu of permitting auction responses by Market-Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of the Exchange's book opposite the Agency Order (''Qualifying Trading Permit Holders''), the Exchange may determine on a class-by-class basis to permit SAL responses by all CBOE Market-Makers and Qualifying Trading Permit Holders.

The proposed rule change allows the Exchange to determine on a class-by-class basis to permit all Trading Permit Holders to respond to auction messages and eliminates the concept of Qualifying Trading Permit Holders under this provision. Additionally, the proposed rule change moves this language from Interpretation and Policy .05 to paragraph (b), which relates to Auction responses. The Exchange also proposes to amend Rule 6.13A, Interpretation and Policy .02 to allow Trading Permit Holders to redistribute

[4] Rule 6.13A(a).

[5] *Id.* SAL will not initiate an auction process if the Exchange's disseminated quotation on the opposite side of the market from the Agency Order does not contain sufficient Market-Maker quotation size to satisfy the entire Agency Order.

[6] Rule 6.13A(b). These quotations may not be cancelled or moved to an inferior price or size throughout the duration of the auction. The auction may last no longer than two seconds, as determined by the Exchange on a class-by-class basis. *Id.* Rule 6.13A(c) describes the manner in which an Agency Order is allocated under SAL, and Rule 6.13A(d) lists the circumstances in which an auction would terminate early.

Auction messages in classes in which the Exchange allows all Trading Permit Holders to submit Auction responses. The purpose of this proposed change is to increase the opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in SAL auctions in certain classes. This broader participation could lead to more robust competition in these auctions because more market participants will be able to submit responses in these auctions, which responses may result in better prices for customers.

The proposed rule change also adds a new Interpretation and Policy .05 to provide that all pronouncements regarding determinations by the Exchange pursuant to Rule 6.13A and the Interpretations and Policies thereunder will be announced to Trading Permit Holders via Regulatory Circular. This method of notification will allow the Exchange to promptly inform Trading Permit Holders of any new or modification to any determinations made by the Exchange, such as in which classes all Trading Permit Holders will be allowed to respond to auction messages.

HAL

Rule 6.14 governs the operation of HAL, a feature within the Hybrid System that provides automated order handling in designated classes trading on the Hybrid System for qualifying electronic orders that are not automatically executed by the Hybrid System. The Exchange proposes to delete Rule 6.14, as it is outdated and no longer applicable. In connection with the Exchange's adoption of updated linkage rules in 2009, the Exchange created HAL2, which created an opportunity for price improvement, similar to HAL but with advanced functionality.[7] After enabling HAL2 (which was gradually rolled out so that for a period of time some classes traded pursuant to HAL while others traded pursuant to HAL2), the Exchange phased out the use of HAL, which is now no longer used for any classes. Rule 6.14A currently governs automated order handling on the Hybrid System through HAL2 for all designated classes. This proposal also amends Rules 6.2B, 6.13, 6.14A, 6.25 and 6.53 to delete cross-references to Rule 6.14 and HAL and correct other cross-references to conform to numbering changes in this proposal throughout the Rules.

HAL2 [8]

Rule 6.14A governs the operation of HAL 2, a feature within the Hybrid System that provides automated order handling in designated classes trading on Hybrid for qualifying electronic orders that are not automatically executed by the Hybrid System. The Exchange determines the eligible order size, eligible order types, eligible origin code (*i.e.,* public customer orders, non-Market-Maker broker-dealer orders and Market-Maker broker-dealer orders), and classes in which HAL2 is activated.[9] When the Exchange receives a qualifying order that is marketable against the NBBO and/or the Exchange's best bid or offer (''BBO''),[10] HAL2 electronically exposes the order [11] at the NBBO price to allow Market-Makers appointed in that class as well as all Trading Permit Holders acting as agent for orders at the top of the Exchange's book in the relevant series (or all Trading Permit Holders if allowed by the Exchange) [12] to step-up to the NBBO price.

Rule 6.14A(b) provides that the exposure message will be made available to all Market-Makers appointed to the relevant option class and all Trading Permit Holders acting as agent for orders at the top of the Exchange's book in the relevant option series, or to all Market-Makers or all Trading Permit Holders on a class-by-class basis, as determined by the Exchange. The proposed rule change revises the language to be more consistent with similar provisions in other rules discussed in this filing and provides that all Market-Makers with an appointment in the relevant option class and all Trading Permit Holders acting as agent for orders at the top of the Exchange's book in the relevant option series, or all Trading Permit holders if determined by the Exchange on a class-by-class basis, may submit responses to exposure messages. The proposed rule change also clarifies that only Trading Permit Holders acting as agent for orders at the top of the Exchange's book in the relevant option series may respond to exposure messages if they represent orders on the opposite side of the order submitted to HAL. The System currently only accepts responses that are on the opposite side of the exposed order; this proposed change amends the Rule to more clearly reflect this current practice. The Exchange also proposes to amend Rule 6.14A, Interpretation and Policy .01 to allow Trading Permit Holders to redistribute HAL2 exposure messages in classes in which the Exchange allows all Trading Permit Holders to submit HAL2 Auction responses. The purpose of this proposed change is to increase the opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in HAL2 auctions in certain classes. This broader participation could lead to more robust competition in these auctions because more market participants will be able to submit responses in these auctions, which responses may result in better prices for customers.

The Exchange also proposes to amend paragraph (b) in Rule 6.14A to change the word ''flashed'' to ''exposed.'' The Rule contains variations of the word ''expose'' throughout to describe the exposure of orders in HAL2, except in two instances in paragraph (b). The Exchange proposes to amend these two instances to create consistency of terminology in this Rule.

The proposed rule change also adds a new Interpretation and Policy .03 to provide that all pronouncements regarding determinations by the Exchange pursuant to Rule 6.14A and the Interpretations and Policies thereunder will be announced to Trading Permit Holders via Regulatory Circular. This method of notification will allow the Exchange to promptly inform Trading Permit Holders of any new or modification to any determinations made by the Exchange, such as in which classes all Trading Permit Holders will be allowed to respond to exposure messages.

COA

On a class-by-class basis, the Exchange may activate the electronic complex order request for responses (''RFR'') auction (''COA''), which is a

[7] *See* Securities Exchange Act Release No. 34–60551 (August 20, 2009), 74 FR 43196 (August 26, 2009) (SR–CBOE–2009–040) (approval of proposed rule change to amend and adopt new CBOE rules to implement the Options Order Protection and Locked/Crossed Market Plan).

[8] The Exchange notes that this proposed rule change renames ''HAL2'' as ''HAL'' in the CBOE Rules since the initial HAL is no longer in use and is being deleted. The Exchange believes this will eliminate any potential confusion that investors may have if there was a HAL2 but no HAL. However, for purposes of this filing, this filing uses the current terms ''HAL'' and ''HAL2'' to distinguish between the two separate mechanisms and avoid any confusion.

[9] Rule 6.14A(a).

[10] HAL2 will not electronically expose the order if the Exchange's quotation contains resting orders and does not contain sufficient Market-Maker quotation interest to satisfy the entire order.

[11] The duration of the exposure period may not exceed one second. Rule 6.14A(c) describes the manner in which an exposed order is allocated under HAL2, and Rule 6.14A(d) lists the circumstances in which an exposure period would terminate early.

[12] The Exchange notes that, pursuant to this authority under Rule 6.14A(b), it currently permits all Trading Permit Holders to respond to HAL2 exposure messages, effective August 23, 2010. *See* CBOE Regulatory Circular RG10–91.

process by which eligible complex orders [13] are given an opportunity for price improvement before being booked in the electronic complex order book (''COB'') or once on a PAR workstation. Rule 6.53C(d) provides that prior to routing a complex order to the COB or once on PAR, eligible complex orders may be subject to a COA. On receipt of a COA-eligible order and request from a Trading Permit Holder representing the order that it be COA'd, the Exchange will send an RFR message to all Trading Permit Holders who have elected to receive RFR messages.[14] Each Market-Maker with an appointment in the relevant option class and each Trading Permit Holder acting as agent for orders resting at the top of the COB in the relevant options series may then submit responses to the RFR message during the Response Time Interval.[15]

Rule 6.53(C)(d)(iii) provides that Market-Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of the COB in the relevant option series may submit responses to the RFR messages during the Response Time Interval. Interpretation and Policy .07 provides that in lieu of permitting auction responses by Market-Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of the Exchange's book opposite the Agency Order (''Qualifying Trading Permit Holders''), the Exchange may determine on a class-by-class basis to permit COA responses by all CBOE Market-Makers and Qualifying Trading Permit Holders.

The proposed rule change allows the Exchange to determine on a class-by-class basis to permit all Trading Permit Holders to respond to auction messages and eliminates the concept of Qualifying Trading Permit Holders under this provision. Additionally, the proposed rule change moves this language from Interpretation and Policy .07 to paragraph (d)(iii), which relates to RFR responses. The proposed rule change also clarifies that only Trading Permit Holders acting as agent for orders at the top of the Exchange's book in the relevant option series may respond to exposure messages if they represent orders on the opposite side of the order submitted to COA. The System currently only accepts responses that are on the opposite side of the Agency Order; this proposed change amends the Rule to more clearly reflect this current practice. The Exchange also proposes to amend Interpretation and Policy .05 to Rule 6.53C to allow Trading Permit Holders to redistribute RFR messages in classes in which the Exchange allows all Trading Permit Holders to submit RFR responses. The purpose of this proposed change is to increase the opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in COAs in certain classes. This broader participation could lead to more robust competition in these auctions because more market participants will be able to submit responses in these auctions, which responses may result in better prices for customers.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[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.

In particular, the Exchange believes the proposed rule change to allow the Exchange to open up auctions in certain classes to all Trading Permit Holders and allow redistribution of the auction messages in these classes protects investors and is in the public interest because it will increase the opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in SAL auctions, HAL2 auctions and COAs in these classes. This broader participation could lead to more robust competition in these auctions because more market participants will be able to submit responses in these auctions, which responses may result in better prices for customers. Ultimately, this proposal will provide additional opportunities for price improvement over the NBBO for its customers, because responses to exposure or RFR messages, as applicable, may be better than the NBBO. Additionally, the Exchange believes that deleting Rule 6.14 regarding HAL, which is no longer in use, and renaming HAL2 as HAL protects investors and is in the public interest because the deletion of the obsolete language will alleviate any potential confusion by investors.

The Exchange also believes that having consistent language among these rules regarding which Trading Permit Holders are eligible to respond to auction messages will provide more clarify [sic] and uniformity to these auction rules. These changes simplify and reorganize these provisions so that the requirements related to auction responses for each auction type are included in a single paragraph, making it easier to read and understand. Additionally, allowing this information to be more widely available to market participants rather than only Trading Permit Holders also helps remove impediments to and to perfect the mechanism for a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[13] An eligible complex order, referred to in Rule 6.53C as a ''COA-eligible order,'' means a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type and complex order origin type (*i.e.,* non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange). All determinations by the Exchange on COA-eligible order parameters are announced to Trading Permit Holders by Regulatory Circular. *See* Rule 6.53C(d)(i)(2) and Interpretation and Policy .01 to Rule 6.53C.

[14] *See* Rule 6.53C(d)(ii). The RFR message will identify the component series, the size of the COA-eligible order and any contingencies, but will not identify the side of the market.

[15] *See* Rule 6.53C(d)(iii). A ''Response Time Interval'' means the period of time during which responses to the RFR may be entered, the length of which is determined by the Exchange on a class-by-class basis but may not exceed three seconds. *See* Rule 6.53C(d)(iii)(2). RFR response sizes will be limited to the size of the COA-eligible order for allocation purposes and may be expressed on a net price basis in a multiple of the minimum increment or in a small [sic] increment that may not be less than $0.01, as determined by the Exchange on a class-by-class basis. RFR responses are not visible other than by the COA system. *See* Rule 6.53C(d)(iii)(1). Paragraphs (d)(iv)–(viii) of Rule 6.53C describe the processing, execution and routing of COA-eligible orders, firm quote requirements for COA-eligible orders and handling of unrelated complex orders.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2012–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2012–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–048, and should be submitted on or before July 13, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15260 Filed 6–21–12; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13087 and # 13088]

Georgia Disaster # GA–00039

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of GEORGIA dated 06/14/2012.

Incident: Severe storms and flooding.

Incident Period: 06/06/2012.

Effective Date: 06/14/2012.

Physical Loan Application Deadline Date: 08/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 03/14/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties Thomas.

Contiguous Counties

Georgia: Brooks, Colquitt, Grady, Mitchell.

Florida: Jefferson, Leon.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.125
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13087 B and for economic injury is 13088 0.

The States which received an EIDL Declaration # are Georgia, Florida.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008.)

Dated: June 14, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–15301 Filed 6–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13093 and # 13094]

New Hampshire Disaster #NH–00023

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA—4065—DR), dated 06/15/2012.

Incident: Severe Storm and Flooding.

Incident Period: 05/29/2012 through 05/31/2012.

DATES: *Effective Date:* 06/15/2012.

Physical Loan Application Deadline Date: 08/14/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 03/15/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/15/2012, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cheshire.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13093B and for economic injury is 13094B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–15304 Filed 6–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13089 and # 13090]

Oklahoma Disaster # OK–00060

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4064–DR), dated 06/14/2012.

Incident: Severe Storms, Tornadoes, Straight-Line Winds, and Flooding.

Incident Period: 04/28/2012 through 05/01/2012.

Effective Date: 06/14/2012.

Physical Loan Application Deadline Date: 08/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 03/14/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/14/2012, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Alfalfa, Craig, Grant, Kay, Nowata.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13089B and for economic injury is 13090B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–15303 Filed 6–21–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0299]

GMB Mezzanine Capital II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that GMB Mezzanine Capital II, L.P., 50 South Sixth Street, Suite 1460, Minneapolis, MN 55402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730).

GMB Mezzanine Capital II, L.P. proposes to provide debt and equity financing to Eckler's, L.L.C., 5140 South Washington Avenue, Titusville, FL 32780 (''Eckler's''). The financing is contemplated to facilitate the acquisition of the company.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because GMB Mezzanine Capital II, L.P.'s sister fund, GMB Mezzanine Capital, L.P., is also invested in the company and is an Associate. Therefore, this transaction is considered *Financing an Associate,* requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction within 15 days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: June 13, 2012.

Sean J. Greene,

Associate Administrator for Investment.

[FR Doc. 2012–15300 Filed 6–21–12; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one revision and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OPLM.RCO@ssa.gov*.

I. The information collection below is pending at SSA. SSA will submit the information collection to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 21, 2012. Individuals can obtain copies of the collection instruments by writing to the above email address.

Request for Deceased Individual's Social Security Record—20 CFR 402.130—0960–0665. When a member of the public requests an individual's Social Security record, SSA needs the name and address of the requestor as well as a description of the requested record to process the request. SSA uses the information the respondent provides on Form SSA–711, or via an Internet request through SSA's electronic Freedom of Information Act (eFOIA) Web site, to (1) verify the wage earner is deceased and 2) access the correct Social Security record. Respondents are members of the public requesting deceased individuals' Social Security records.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Request through eFOIA	49,800	1	7	5,810
SSA–711 (paper)	200	1	7	23
Total	50,000			5,833

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 23, 2012. Individuals can obtain copies of the OMB clearance package by writing to *OPLM.RCO@ssa.gov*.

Representative Payment Policies Regulation—20 CFR 404.2011, 404.2025, 416.611, 416.625—0960–0679. If SSA determines it may cause substantial harm for beneficiaries to receive their payments directly, beneficiaries may dispute that decision. To do so, beneficiaries must provide SSA with information the agency will use to re-evaluate its determination. In addition, after SSA selects a representative payee to receive benefits on a beneficiary's behalf, the payees provide SSA with information on their continuing relationship and responsibility for the beneficiaries, and explain how they use the beneficiaries' payments. This Information Collection Request is for the Code of Federal Regulations (CFR) citations that mandate the above provisions.

Type of Request: Extension of an OMB-approved information collection.

CFR section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
404.2011(a)(1), 416.611(a)(1)	250	1	15	63
404.2025, 416.625	3,000	1	6	300
Totals	3,250			363

Dated: June 19, 2012.

Faye Lipsky,

Reports Clearance Director, Office of Regulations and Reports Clearance, Social Security Administration.

[FR Doc. 2012–15263 Filed 6–21–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7929]

30-Day Notice of Proposed Information Collections: DDTC Brokering Collections

ACTION: Notice of request for public comment and submission to OMB of proposed collections of information.

SUMMARY: The Department of State has submitted the following information collection requests to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- Title of Information Collection: *Annual Brokering Report.*
- OMB Control Number: *1405–0141.*
- Type of Request: *Extension of Currently Approved Collection.*
- Originating Office: *Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.*
- Form Number: *None.*
- Respondents: *Business and Nonprofit Organizations.*
- Estimated Number of Respondents: *1,515.*
- Estimated Number of Responses: *1,515.*
- Average Hours per Response: *2 hours.*
- Total Estimated Burden: *3,030 hours.*
- Frequency: *Annually.*
- Obligation to Respond: *Mandatory.*
- Title of Information Collection: *Brokering Prior Approval (License).*
- OMB Control Number: *1405–0142.*
- Type of Request: *Extension of Currently Approved Collection.*
- Originating Office: *Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.*
- Form Number: *None.*
- Respondents: *Business and Nonprofit Organizations.*

- Estimated Number of Respondents: *1,515.*
- Estimated Number of Responses: *150.*
- Average Hours per Response: *2 hours.*
- Total Estimated Burden: *300 hours.*
- Frequency: *On occasion.*
- Obligation to Respond: *Required to Obtain Benefits.*

DATES: Submit comments to the Office of Management and Budget (OMB) until 30 days from June 22, 2012.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collections listed in this notice, including requests for copies of the information collection and supporting documents, to Nicholas Memos, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC, 20522–0112, who may be reached via phone at (202) 663–2829, or via email at *memosni@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The export, temporary import, temporary export and brokering of defense articles, defense services and related technical data are licensed by the Directorate of Defense Trade Controls in accordance with the International Traffic in Arms Regulations (22 CFR parts 120–130) and Section 38 of the Arms Export Control Act. Any person who manufactures or exports defense articles, defense services, and related technical data, or the brokering thereof, must register with the Department of State. Persons desiring to engage in brokering activities must submit an application or written request to conduct the transaction to the Department to obtain a decision whether it is in the interests of U.S. foreign policy and national security to approve the transaction. Also, registered brokers must submit annual reports regarding all brokering activity that was transacted, and registered manufacturers and exporter must maintain records of defense trade activities for five years.

Methodology: These forms/information collections may be sent to the Directorate of Defense Trade Controls via the following methods: mail or personal delivery.

Dated: June 11, 2012 .

Robert S. Kovac,

Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2012–15322 Filed 6–21–12; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 7928]

Culturally Significant Objects Imported for Exhibition Determinations: ''Nomads and Networks: The Ancient Art and Culture of Kazakhstan''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Nomads and Networks: The Ancient Art and Culture of Kazakhstan,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Freer and Sackler Galleries, Smithsonian Institution, Washington, DC, from on or about August 11, 2012, until on or about November 12, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: June 14, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012–15355 Filed 6–21–12; 8:45 am]

BILLING CODE 4710–05–P

TRADE REPRESENTATIVE

[Dispute No. WTO/DS437]

WTO Dispute Settlement Proceeding Regarding United States—Countervailing Duty Measures on Certain Products from China

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on May 25, 2012, the People's Republic of China (''China'') requested consultations with the United States under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning countervailing duty determinations and orders by the Department of Commerce (''DOC'') on imports of the products from China listed below. The request for consultations may be found at *www.wto.org* contained in a document designated as WT/DS437/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 22, 2012, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2012–0010. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Ben Kostrzewa, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508, (202) 395–9579.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by China

On May 25, 2012, China requested consultations concerning the preliminary and final countervailing duty determinations and countervailing duty orders issued by the DOC on the following imports from China: Lightweight Thermal Paper (Investigation C–570–921); Circular Welded Austenitic Stainless Pressure Pipe (Investigation C–570–931); Certain Circular Welded Carbon Quality Steel Line Pipe (Investigation C–570–936); Citric Acid and Certain Citrate Salts (Investigation C–570–938); Certain Tow Behind Lawn Groomers and Certain Parts Thereof (Investigation C–570–940); Certain Kitchen Appliance Shelving and Racks (Investigation C–570–942); Certain Oil Country Tubular Goods (Investigation C–570–944); Pre-Stressed Concrete Steel Wire Strand (Investigation C–570–946); Certain Steel Grating (Investigation C–570–948); Wire Decking (Investigation C–570–950); Certain Magnesia Carbon Bricks (Investigation C–570–955); Certain Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe (Investigation C–570–957); Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses (Investigation C–570–959); Drill Pipe (Investigation C–570–966); Aluminum Extrusions (Investigation C–570–968); Multilayered Wood Flooring (Investigation C–570–971); Certain Steel Wheels (Investigation C–570–974); Steel Wire (Investigation C–570–976); High Pressure Steel Cylinders (Investigation C–570–978); Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules (Investigation C–570–980); Utility Scale Wind Towers (Investigation C–570–982); and Drawn Stainless Steel Sinks (Investigation C–570–984) (together, the ''challenged determinations and orders''). China alleges that the United States acted inconsistently with Article VI of the *General Agreement on Tariffs and Trade 1994* (''GATT 1994''); Articles 1, 2, 10, 11, 12, 14, and 32 the *Agreement on Subsidies and Countervailing Measures* (''SCM Agreement''); and Article 15 the *Protocol on the Accession of the People's Republic of China* (''Protocol of Accession''). The challenged determinations and orders are available at the following web page of the Department of Commerce: *http://ia.ita.doc.gov/frn/index.html*.

China also states that it is requesting consultations with respect to the "'rebuttable presumption' established and applied by the USDOC, under which the USDOC considers majority government ownership of an enterprise sufficient to determine that an enterprise is a 'public body' within the meaning of Article 1.1 of the SCM Agreement, unless a party is able to demonstrate that majority government ownership does not result in 'control' of the enterprise.''

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov* docket number USTR–2012–0010. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2012–0010 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment'' (for further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* site provides the option of providing comments by filling in a ''Type Comments'' field, or by attaching a document using an ''upload file'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''Business Confidential'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter:

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE''at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection. Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public at *www.regulations.gov*, docket number USTR–2012–0010.

The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR's Web site at *www.ustr.gov,* and

the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the Web site of the World Trade Organization, *www.wto.org.* Comments open to public inspection may be viewed on the *www.regulations.gov* Web site.

Bradford L. Ward,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2012–15375 Filed 6–21–12; 8:45 am]

BILLING CODE 3290–F2–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 9, 2012

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2003–16316.

Date Filed: June 7, 2012.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: June 28, 2012.

Description: Application of Hapag-Lloyd Executive GmbH (''HLE'') requesting a renewal of exemption authority to engage in: (i) Foreign charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charters; and (iv) transportation authorized by any additional route rights made available to European Community carriers in the future. HLE further requests issuance of a foreign air carrier permit pursuant to the Air Transport Agreement Between the United States and the European Community and the Member States of the European Community to enable HLE to engage in the same air transportation described above.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–15234 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourteenth Meeting: RTCA Special Committee 223, Airport Surface Wireless Communications

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

ACTION: Meeting Notice of RTCA Special Committee 223, Airport Surface Wireless Communications.

SUMMARY: The FAA is issuing this notice to advise the public of the meeting of RTCA Special Committee 223, Airport Surface Wireless Communications.

DATES: The meeting will be held July 24–25, 2012, from 9 a.m.–5 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 223. The agenda will include the following:

July 24, 2012

- Welcome, Introductions, and Administrative Remarks by Special Committee Leadership.
- Designated Federal Official (DFO): Mr. Brent Phillips.
- Co-Chair: Mr. Aloke Roy, Honeywell International.
- Co-Chair: Mr. Ward Hall, ITT–Exelis.
- Agenda Overview.
- Review/Approve prior Plenary meeting Summary and action item status.
- General Presentations of interest.
- ICAO WG–S Status Aloke Roy.
- WiMAX Forum status WiMAX Forum.
- MSS interference analysis update NASA.
- AT4 Wireless analysis and recommendations.
- AeroMACS Profile CCB status Art Ahrens.
- MOPS Status Rockwell Collins.
- Establish Agenda, Date and Place for RTCA plenary meetings #15 and #16.
- Review of Meeting summary report.
- Adjourn—Plenary meeting.

July 25, 2012

MOPS WG Breakout Session

- Wednesday Morning—MOPS WG Breakout Session.
- Detailed review of Sections 1, 2.1, and 2.2.
- Wednesday Afternoon—MOPS WG Breakout Session.
- Working session to review and update section 2.3—Environmental Conditions.

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 June 15, 2012.

Kathy Hitt,

Program Analyst, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–15275 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourteenth Meeting: RTCA Special Committee 224, Audio Systems and Equipment

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

ACTION: Meeting Notice of RTCA Special Committee 224, Audio Systems and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of the fourteenth meeting of RTCA Special Committee 224, Audio Systems and Equipment.

DATES: The meeting will be held July 11, 2012, from 10 a.m.–4 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 224. The agenda will include the following:

July 11, 2012

- Welcome, Introductions, and Administrative Remarks.
- Review/Approve Summary—Thirteenth Meeting.
- Updates from TSA (as required).
- Workgroup Reports.
- Industry Solicitation Progress Report.
- Time and Place of Next Meeting.
- Any Other Business.
- Adjourn.

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 June 15, 2012.

Kathy Hitt,

Program Analyst, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–15276 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: RTCA Special Committee 226, Audio Systems and Equipment

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

ACTION: Meeting Notice of RTCA Special Committee 226, Audio Systems and Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of the third meeting of RTCA Special Committee 226, Audio Systems and Equipment.

DATES: The meeting will be held July 10–12, 2012, from 9 a.m.–5 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 226. The agenda will include the following:

July 10–12, 2012

- Welcome and Administrative Remarks.
- Introductions.
- Agenda Overview.
- Review previous action items.
- Assess work required and timelines for conclusion of committee work.
- Solicit proposals for further changes to DO–214.
- Continue discussion on the following:
- Risks of usage of adaptive technology during test.
- Discuss results of proposed committee letter(s) to invite additional. headsets, MIC's and CVR manufacturers.
- Addition of noise test requirement to the vibration test variable nature of Oxygen Mask.
- Microphone and Hand Microphone performance in the marketplace.
- Re-examine proposal to remove CVR Area Microphone requirements from standard in lieu of ED–112.
- FAA info letter addressing use of Active Noise Reduction (ANR) and Powered ANR headsets to discuss concern of EMI, EMC effects on power leads affecting communications.
- Sensitivity versus output power as they correlate with its specified ratings.
- Continue review of DO–214 and draft updates/changes.
- Review draft language for noise test requirement to combine with the vibration test.
- Other Business.
- Establish agenda for next meeting.
- Adjourn.

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 June 15, 2012.

Kathy Hitt,

Program Analyst, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–15277 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Standard Order (TSO)-C68a, Airborne Automatic Dead Reckoning Computer Equipment Utilizing Aircraft Heading and Doppler Ground Speed and Drift Angle Data (for Air Carrier Aircraft)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to cancel Technical Standard Order (TSO)-C68a, Airborne automatic dead reckoning computer equipment utilizing aircraft heading and Doppler ground speed and drift angle data (for air carrier aircraft).

SUMMARY: This notice announces the FAA's intent to cancel TSO-C68a, Airborne automatic dead reckoning computer equipment utilizing aircraft heading and Doppler ground speed and drift angle data. The effect of the cancelled TSO–68a will result in no new TSO-C68a design or production approvals.

DATES: Comments must be received on or before July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Sayadian, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024. Telephone (202) 385–4652, fax (202) 385–4651, email to: *albert.sayadian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the cancellation of the TSO-C68a by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date at the above address, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

Doppler radar is a semiautomatic self-contained dead reckoning navigation system (radar sensor plus computer) which is not continuously dependent on information derived from ground based or external aids. The system employs radar signals to detect and measure ground speed and drift angle, using the aircraft compass system as its directional reference. Doppler is less accurate than Inertial Navigation System (INS), however, and the use of an external reference is required for periodic updates if acceptable position

accuracy is to be achieved on long range flights. Use of INS and Global Positioning System (GPS) has rendered TSO-C68a systems obsolete. The FAA has no record of any applications for TSO-C68a since it was published in 1983. Given the obsolescence of the equipment and the lack of industry interest in TSO-C68a product designs, we propose cancelling TSO-C68a.

Issued in Washington, DC, on June 18, 2012.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2012–15237 Filed 6–20–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Standard Order (TSO) C-122a, Equipment That Prevent Blocked Channels Used in Two-Way Radio Communications Due to Simultaneous Transmissions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice announces the FAA's intent to cancel TSO-C122a, Equipment That Prevent Blocked Channels Used in Two-Way Radio Communications Due to Simultaneous Transmissions. The effect of the cancelled TSO will not affect design or production according to an existing TSO authorization (TSOA). Articles produced under an existing TSOA can still be installed according to existing airworthiness approvals and applications for new airworthiness installation approvals will still be processed.

DATES: Comments must be received on or before July 23, 2012.

FOR FURTHER INFORMATION CONTACT: Mrs. Veronica Gardner, AIR–130, Federal Aviation Administration, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024. Telephone (202) 385–4690, fax (202) 385–4651, email to: *veronica.gardner@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to comment on the proposed cancellation of the TSO by submitting written data, views, or arguments to the above address. Comments received may be examined, both before and after the closing date at the above address, weekdays except federal holidays, between 8:30 a.m. and 4:30 p.m. The Director, Aircraft Certification Service, will consider all comments received on or before the closing date.

Background

In 1984, the FAA was petitioned to enact rulemaking requiring two-way radio communication systems employing anti-blocking and stuck microphone protection circuitry. Our response to this rulemaking petition was the issuance of TSO-C128, Devices that Prevent Blocked Channels Used in Two-Way Radio Communications Due to Unintentional Transmissions, for preventing blocked channels used in two-way radio communication due to unintentional transmissions. TSO-C128, and the subsequent revision, has proven effective and popular with VHF radio manufacturers. Since 1994, there has been only one application for TSOA for TSO-C122a. Therefore, we believe it is appropriate to cancel TSO-C122a, given the eventual obsolescence of TSO-C122a equipment and the lack of industry interest in new TSO-C122a product designs. We continue to coordinate with industry's federal advisory committee through RTCA Special Committee (SC) 226, Audio Systems and Equipment, for any new developments on other means being used to address blocked channels caused by simultaneous transmissions.

Issued in Washington, DC, on June 18, 2012.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2012–15238 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0049]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 21, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID 2012–0049 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marlys Osterhues, 202–366–2052, Department of Transportation, Federal Highway Administration, Office of Project Development and Environmental Review, E76–312, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* FHWA Environmental Excellence Awards.

Background: In 1995 FHWA established the biennial Environmental Excellence Awards to recognize partners, projects and processes that use FHWA funding sources to go beyond environmental compliance and achieve environmental excellence. Awardees must make an outstanding contribution that goes beyond traditional transportation projects and that encourages environmental stewardship and partnerships to achieve a truly multi-faceted, environmentally sensitive transportation solution.

Award: Anyone can nominate a project, process, person or group that has used Federal Highway Administration funding sources to make an outstanding contribution to transportation and the environment. The nominator is responsible for submitting an application via the FHWA Environmental Excellence Awards Web site that gives a summary of the outstanding accomplishments of the entry. The collected information will be used by FHWA to evaluate, showcase and enhance the public's knowledge on incorporating environmental stewardship into the planning and project development process. Nominations will be reviewed by an independent panel of judges from

varying backgrounds. It is anticipated that awards will be given every two years. The winners are presented plaques at an awards ceremony.

Respondents: Anyone who has used Federal Highway funding sources in the fifty states, the District of Columbia and Puerto Rico.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 8 hours per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 150 applications for an estimated total of 1200 annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, 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.

Issued On: June 19, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15357 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0054]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 30, 2012. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 23, 2012.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2012–0054.

FOR FURTHER INFORMATION CONTACT: Mark Ferroni, 202–366–9237, Office of Natural Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Possible Inclusion of Specific Pavement Types in the FHWA Traffic Noise Model: Regulatory and Procedural Changes.

Background: The Federal Highway Administration (FHWA) has been actively involved in what today; the highway noise industry refers to as ''quieter pavements.'' In 2003, FHWA entered into the Quiet Pavement Pilot Program with the Arizona Department of Transportation, co-sponsored the 2004 International Scan on ''Quieter Pavement Systems in Europe,'' and funded several national workshops, trainings, and informational outreach pieces on this topic. In 2005, the FHWA began funding the ''Pavement Effects Implementation Study'' (PEI) to see how more specific pavement types could be incorporated into the FHWA Traffic Noise Model (FHWA TNM). The incorporation of specific pavement types into TNM would require State Departments of Transportation to use these more specific pavement types in TNM and would result in additional regulatory and procedural changes.

The PEI currently is out of funding but an interim report will soon be released. Before additional time, effort and funding are put into completing the PEI, it is important to conduct a user-needs analysis to determine whether our stakeholders, primarily State Departments of Transportation, still want us to complete this research, knowing that it would result in regulatory and procedural changes. The information collected would cover the topics of: (1) Being required to use a more specific pavement type(s); (2) Being required to maintain the specific pavement type selected; and (3) being required to call a project a Type I project if the original pavement is replaced or overlaid with a louder pavement.

Respondents: Approximately 60 entities.

Frequency: Once.

Estimated Average Burden per Response: Approximately 30 minutes.

Estimated Total Annual Burden Hours: Approximately 30 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, 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.

Issued On: June 19, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15364 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0057]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below

under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 21, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID 2012–0057 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Howell, 202 366–5707, Office Administration, Information Technology Division, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Customer Satisfaction Surveys.

Background: Executive Order 12862, ''Setting Customer Service Standards'' requires that federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our existing services and products. The surveys covered in the existing generic clearance will provide the FHWA a means to gather this data directly from our customers.

The information obtained from the surveys will be used to assist in evaluating service delivery and processes. The responses to the surveys will be voluntary and will not involve information that is required by regulations. There will be no direct cost to the respondents other than their time. The FHWA plans to provide an electronic means for responding to the majority of the surveys via the World Wide Web.

Respondents: State and local governments, highway industry organizations, general public.

Frequency: Generally, on an annual basis.

Estimated Average Burden per Response: The burden hours per response will vary with each survey; however, we estimate an average burden of 15 minutes for each survey.

Estimated Total Annual Burden Hours: We estimate that FHWA will survey approximately 21,000 respondents annually during the next three years. Therefore, the estimated total annual burden is 5,250 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of computer technology, 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.

Issued On: June 19, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15363 Filed 6–21–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0053]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 28, 2012. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 23, 2012

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2012–0053.

FOR FURTHER INFORMATION CONTACT: Mark Ferroni, 202–366–9237, Office of Natural Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: FHWA Traffic Noise Model Version 3.0 Beta-Tester Information.

Background: Prior to the release of the Federal Highway Administration Traffic Noise Model (FHWA TNM), the FHWA Highway Traffic Noise Prediction Model (FHWA–RD–77–108), or ''108 model,'' was in use for over 20 years. Although an effective model for its time, the ''108 model'' was comprised of acoustic algorithms, computer architecture, and source code that dated to the 1970s. Since that time, significant advancements have been made in the methodology and technology for noise prediction, barrier analysis and design, and computer software design and coding. Given the fact that over $500 million were spent on barrier design and construction between 1970 and 1990, the FHWA identified the need to design, develop, test, and document a state-of-the-art highway traffic noise prediction model that utilized these advancements. This need for a new traffic noise prediction model resulted in the FHWA TNM.

In March 1998, the FHWA released the FHWA TNM Version 1.0. It was developed as a means for aiding compliance with policies and procedures under FHWA regulations. Since its release in March 1998, Version 1.0a was released in March 1999, Version 1.0b in August 1999, Version 1.1 in September 2000, Version 2.0 in June 2002, Version 2.1 in March 2003 and the current version, Version 2.5 was released in April 2004.

The FHWA is currently developing the TNM version 3.0, with anticipated beta-testing of this version towards the end of 2012. Version 3.0 is an entirely new, state-of-the-art computer program used for predicting noise impacts in the vicinity of highways. It uses advances in personal computer hardware and software to improve upon the accuracy and ease of modeling highway noise, including the design of effective, cost-efficient highway noise barriers. This information request is to gather information from the beta-testers on their computer configurations, their experiences using the FWHA TNM and the availability of TNM files.

Respondents: Approximately 25 entities.

Frequency: Once.

Estimated Average Burden per Response: Approximately 15 minutes.

Estimated Total Annual Burden Hours: Approximately 6.25 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, 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.

Issued On: June 19, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15362 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the Northeast Corridor Between Washington, DC, New York, NY, and Boston, MA

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: FRA is issuing this Notice of Intent (Notice) to advise the public of the preparation of a Tier 1 Environmental Impact Statement (EIS) to evaluate potential passenger rail improvements between Washington, DC, New York City, and Boston, MA. FRA is leading the planning and environmental evaluation of the Northeast Corridor (NEC), an effort known as NEC FUTURE, in close coordination with the involved states, Northeast Corridor Infrastructure and Operations Advisory Commission (NEC Commission), Amtrak and other stakeholders. The purpose of the NEC FUTURE program is to define current and future markets for improved rail service and capacity on the NEC, develop an integrated passenger rail transportation solution to incrementally meet those needs, and create a regional planning framework to engage stakeholders throughout the region in the development of the program.

NEC FUTURE is being advanced consistent with the federal High-Speed Intercity Passenger Rail (HSIPR) program and includes the development of a Passenger Rail Corridor Investment Plan (PRCIP). A PRCIP provides the data necessary to support an FRA decision to fund and implement major investments in a passenger rail corridor. A PRCIP is comprised of two components: A Tier 1 EIS and a Service Development Plan (SDP). The Tier 1 EIS will be developed in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 and the Council on Environmental Quality (CEQ) regulations, 40 CFR part 1500 *et seq.,* and will address documentation on a broad corridor level. The SDP articulates the overall scope, alternatives, approach and business case for proposed service and improvements.

As part of the Tier 1 EIS, FRA will evaluate various passenger rail alternatives: A No Action Alternative, consisting of already planned improvements to the corridor, and Build Alternatives consisting of a full array of passenger rail alternatives which could range from operational and service enhancements to new physical improvements. FRA will consider the type, location and need for ancillary facilities for each alternative. The primary passenger rail route is the existing NEC passenger rail spine and its connecting corridors; however, in some areas, FRA may consider alternatives off of the existing NEC.

FRA is issuing this Notice to alert the public and agencies about the preparation of the Tier 1 EIS and associated SDP. To ensure that all significant issues are identified and considered, all interested parties are invited to comment on the proposed scope of environmental review, project purpose and need, alternatives to be considered, environmental effects to be considered and evaluated, and methodologies to be used for evaluating effects.

DATES: Submit comments by Friday, September 14, 2012. See the NEC FUTURE Web site (*www.necfuture.com*) for information on the scoping meeting dates.

ADDRESSES: Interested parties are encouraged to comment on-line at the NEC FUTURE Web site (*www.necfuture.com*), via email at *info@necfuture.com*, or in person at the scoping meetings. For Further Information or Special Assistance Contact: Rebecca Reyes-Alicea, USDOT, Federal Railroad Administration, Office of Railroad Policy & Development, 1200 New Jersey Avenue SE., Washington, DC 20590; by email at *info@necfuture.com*, or; through the NEC FUTURE Web site (*www.necfuture.com*).

SUPPLEMENTARY INFORMATION: FRA is preparing a Tier 1 EIS and SDP for the NEC FUTURE program. Together the EIS and SDP comprise a PRCIP that will define a comprehensive and integrated passenger rail network in the Northeast region, looking at a range of service types and infrastructure needs, including plans for public investment in projects that contribute towards efficient service and increased capacity for intercity and high-speed passenger rail and freight and commuter rail service. The PRCIP will provide the economic, financial, transportation and environmental analyses necessary to support an investment in improved rail service as a core component of a more integrated, efficient, safer, and higher-capacity Northeast regional transportation network.

The FRA will use a tiered environmental review process for complying with NEPA, as per the CEQ regulations, 40 CFR 1508.28, and in accordance with FRA's Procedures for Considering Environmental Impacts, 64 FR 28454 (FRA Environmental Procedures). The Tier 1 EIS will also address the requirements of Section 106 of the National Historic Preservation Act, 36 CFR Part 800, Section 4(f) of the U.S. Department of Transportation Act of 1966, 49 U.S.C. 303, and other applicable Federal and state laws and regulations. The outcome of the Tier 1 EIS will be to identify markets to be served, service(s), general alignment and station locations.

The NEC FUTURE program is intended to develop a rail transportation investment program to support the Northeast region's economic competitiveness and growth potential

with energy-efficient and sustainable transportation services. For purposes of defining and analyzing transportation alternatives for NEC FUTURE, the study area has been broadly defined to encompass the region served by the NEC, plus those areas that can be reached from the NEC directly by train or via a single transfer to connecting corridors (e.g., the Empire Corridor in New York). The study area may be refined as the NEC FUTURE program progresses and off-corridor alternatives are identified.

Purpose and Need

The Northeast region is served by an extensive intermodal passenger and freight transportation system of highways, airports, ports, intercity, commuter and freight rail, and public transit systems. However, that transportation system lacks sufficient capacity or redundancy to support local and inter-regional mobility needs, resulting in major congestion and delays. Many components of the system are in a state of disrepair or, worse, have reached the point of obsolescence.

The need for the project is founded in the importance of mobility to the continued economic vitality of the Northeast region, coupled with projected population, economic and travel demand growth. Without investment, the limitations of the region's transportation network will constrain the growth, competitiveness and economic development of the region. The focus of NEC FUTURE is the rail network, an important component of the transportation network, and its role in providing and improving regional mobility.

Alternatives To Be Considered

The Tier 1 EIS will evaluate preliminary alternatives including a No Action Alternative and various Build Alternatives. The No Action Alternative will serve as a baseline for comparison of all alternatives. The No Action Alternative will draw upon State Transportation Improvement Programs and existing intercity passenger, commuter and freight rail plans as well as planned highway and air network improvements. The Tier 1 EIS will develop and evaluate a range of reasonable Build Alternatives. The Build Alternatives will be developed at a corridor level and will address travel markets, services, operations, general alignments and station locations. Build Alternatives could include physical improvements to the NEC spine to increase capacity, enhance safety, modernize the infrastructure, improve reliability and reduce trip time. Other alternatives could also be service- or operation-related that provide rail service to new markets or change existing patterns of service. In addition, there may be Build Alternatives off the existing NEC spine or its connecting corridors.

Possible Effects

FRA will evaluate direct, indirect and cumulative changes to the social, economic, and physical environment, including land use and socioeconomic conditions, ecological resources, water resources, cultural resources, hazardous contamination, transportation, air quality, noise and vibration at a level commensurate with a Tier 1 EIS. Analysis will be consistent with NEPA, CEQ regulations, Section 106 of the National Historic Preservation Act, the Endangered Species Act, Clean Air Act, Clean Water Act, FRA Environmental Procedures, applicable state environmental regulations, and Section 4(f) of the Department of Transportation Act of 1966, along with other applicable Federal and State regulations.

Scoping Process

The FRA is inviting comments and suggestions from all interested parties regarding the scope of the Tier 1 EIS to ensure that all uses are addressed related to this proposal and that any significant impacts are identified. Please direct comments or questions concerning the proposed action and the Tier 1 EIS to the FRA at the above address. FRA will send letters describing the proposed action and soliciting comments to the appropriate Federal, State, and local agencies, Native American tribes and to private organizations that might have previously expressed or that are known to have an interest in this proposal.

FRA is leading the outreach activities with agency and public meetings occurring in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts and the District of Columbia. The meetings and other public involvement initiatives, including newsletters and outreach, will be held throughout the course of this study. Dates, times and locations for the scoping meetings and other opportunities for public participation will be announced on the NEC FUTURE Web site (*www.necfuture.com*) and through mailings, notices, advertisements and press releases. In addition, the scoping meeting presentation will be available on the NEC FUTURE Web site along with a scoping package that can also be obtained upon request by contacting Rebecca Reyes-Alicea at the mailing address above or electronically at *info@necfuture.com*.

Comments will be accepted on the scoping of the EIS in meetings, through the NEC FUTURE Web site (*www.necfuture.com*) and by submitting written comments to Rebecca Reyes-Alicea at the address above. The formal comment period for scoping will be open from the date of this Notice until Friday, September 14, 2012.

Issued in Washington, DC, on June 18, 2012.

John Tunna,

Director of the Office of Research and Development, Federal Railroad Administration.

[FR Doc. 2012–15241 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT Docket No. NHTSA–2011–0084]

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for public comment on proposed collection of information.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), on June 24, 2011 (76 FR 37189) the agency published a 60-day notice in the **Federal Register** soliciting public comment on the proposed information collection abstracted below.

In further compliance with the PRA, the agency now publishes this second notice announcing the submission of its proposed collection to the Office of Management and Budget (OMB) for review and notifying the public about how to submit comments on the proposed collection to OMB during the 30-day comment period.

DATES: Comments must be submitted on or before July 23, 2012.

ADDRESSES: You may submit comments [identified by Docket No. DOT–NHTSA–2011–0084] through one of the following methods:

- *Internet Submission: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *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

Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann Burton, NHTSA, 1200 New Jersey Avenue SE., W46–492, NTI–200, Washington, DC 20590. Ms. Burton's telephone number is (202) 366–2685. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information.

Title: Racial Profiling, State Traffic Data, and Child Booster Seat Grant Program.

OMB Control Number: 2127–0653.

Type of Request: Extension of currently approved collection.

Affected Public: State Governments.

Abstract: The Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), Public Law 109–59, authorizes several grant programs covering fiscal years (FY) 2006–2009, to be administered by the National Highway Traffic Safety Administration (NHTSA). Specifically, these grant programs include the following: Section 1906 authorizing a grant program for States that enact and enforce a law that prohibits racial profiling in the enforcement of traffic laws on Federal-aid highways; Section 2006 (codified at 23 U.S.C. 408) authorizing a grant program for States to support the development and implementation of State traffic safety information systems; and Section 2011 authorizing a grant program for States for child safety seats and child booster seats.

Under each program, a State must indicate to NHTSA how it intends to obligate and expend grant funds for each fiscal year, and how grant funds were expended and spent each fiscal year. It is important for NHTSA to be notified about these activities so that it can effectively administer the programs and account for the expenditure of funds. To reduce burdens, a State will document these activities by submitting the information on its Uniform Safety Program Cost Summary Form (HS–217), a form with existing PRA clearance (OMB Control Number 2127–0003). The information is submitted electronically in the agency's grants tracking systems and periodically updated.

Estimated Annual Burden: 5,130.

Estimated Number of Respondents: 56 (fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) for Section 1906; 57 (fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs) for Section 2006 (codified at 23 U.S.C. 408); and 52 (fifty States, the District of Columbia, and Puerto Rico) for Section 2011.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Mary D. Gunnels,

Associate Administrator, Regional Operations and Program Delivery.

[FR Doc. 2012–15240 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT Docket No. NHTSA–2011–0045]

Request for Public Comment on Proposed Collections of Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), on March 30, 2011 (76 FR 17746) the agency published a 60-day notice in the **Federal Register** soliciting public comment on the proposed information collection abstracted below. On January 17, 2012 (77 FR 2344), the agency published a second notice in the **Federal Register**. In further compliance with the PRA, the agency now publishes this 30-day notice announcing the submission of its proposed collection to OMB for review and notifying the public about how to submit comments on the collection to OMB during the 30-day comment period.

DATES: Comments must be submitted on or before July 23, 2012.

ADDRESSES: You may submit comments [identified by Docket No. DOT–NHTSA–2011–0045] through one of the following methods:

- *Internet Submission: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *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 10 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann Burton, NHTSA, 1200 New Jersey Avenue SE., W46–492, NTI–200, Washington, DC 20590. Ms. Burton's telephone number is (202) 366–2685. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information.

(1) *Title:* 23 CFR 1200.10(d), Uniform Safety Program Cost Summary Form for Highway Safety Plan.

OMB Control Number: 2127–0003.

Type of Request: Extension of currently approved collection.

Affected Public: For Section 402, the public is the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs.

Abstract: Under Section 402, each State is required have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and associated property damage in order to qualify for certain formula grant funds. Under this program, States are required to submit a Highway Safety Plan and other documentation explaining how they intend to use the grant funds. In order to account for funds expended under these priority areas and other program areas, States are required to submit a Program Cost Summary. The Program Cost Summary is completed to reflect the State's proposed Allocation of funds by program area, based on the projects and activities identified in the Highway Safety Plan. It is important for the agency to receive this information so that it can administer the program and account for expenditures of funds.

Estimated Annual Burden: 570.

Estimated Number of Respondents: 57.

(2) *Title:* 23 CFR, 1345, Occupant Protection Incentive Grant-Section 405.

OMB Control Number: 2127–0600.

Type of Request: Extension of currently approved collection.

Affected Public: For Section 405, the public is the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Abstract: An occupant protection incentive grant is available to States that can demonstrate compliance with at least four of six criteria. Demonstration of compliance requires submission of copies of relevant seat belt and child passenger protection statutes plan and/or reports on statewide seat belt enforcement and child seat education programs and possibly some traffic court records. In addition, States eligible to receive grant funds must submit a Program Cost Summary (Form HS–217), allocating section 405 funds to occupant protection programs.

Estimated Annual Burden: 1,736.

Estimated Number of Respondents: 56.

Comments are invited on: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the collections will have practical utility; the accuracy of the Department's estimate of the burden of the proposed collections; ways to enhance the quality, utility and clarity of the collections; and ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology.

Mary D. Gunnels,

Associate Administrator, Regional Operations and Program Delivery.

[FR Doc. 2012–15242 Filed 6–21–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARMENT OF TRANSPORATION

Surface Transportation Board

[Docket No. MCF 21045 [1]]

Stagecoach Group plc and Coach USA, Inc., et al.—Acquisition of Control of Assets—American Coach Lines of Atlanta, Inc.; CUSA AT, LLC; CUSA AWC, LLC; CUSA ELKO, LLC; CUSA, KBC, LLC; CUSA PCSTC, LLC; CUSA PRTS, LLC; CUSA RAZ, LLC; Dillon's Bus Service, Inc.; and Lakefront Lines, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Finance Application.

SUMMARY: On May 25, 2012, Stagecoach Group plc (Stagecoach), a noncarrier, and a number of its noncarrier intermediate subsidiaries—Stagecoach Transport Holdings Limited; The Integrated Transport Company Limited; Stagecoach Aviation Europe Limited; SCOTO Limited; SCUSI Limited; Coach USA Administration, Inc.; and Coach USA, Inc. (Coach USA)—along with various carrier and noncarrier subsidiaries of Coach USA [2]—ASTI, Inc. (ASTI); Blue Bird Coach Lines, Inc. (Blue Bird Coach); K–T Contract Services, Inc. (K–T); Utica-Rome Bus Company, Inc. (Utica-Rome Bus); TRT Transportation, Inc. (TRT); Coach USA Tours Las Vegas, Inc. (Coach USA Tours); Coach USA MBT, LLC (Coach USA MBT); El Expresso, Inc. (El Expresso); Kerrville Bus Company, Inc. (Kerrville Bus); Powder River Transportation Services, Inc. (Powder River Transportation); Valen Transportation, Inc. (Valen); Antelope Valley Bus, Inc. (Antelope Valley); Coach Leasing, Inc. (Coach Leasing); and CAM Leasing, LLC (CAM Leasing) [3]—(collectively, Applicants) filed an application under 49 U.S.C. 14303 to acquire control of the assets of ten separate interstate motor passenger carrier subsidiaries of noncarrier Coach America Holdings, Inc. (Coach America)—American Coach Lines of Atlanta, Inc. (American Coach Lines); CUSA AT, LLC; CUSA AWC, LLC; CUSA ELKO, LLC; CUSA KBC, LLC; CUSA PCSTC, LLC; CUSA PRTS, LLC; CUSA RAZ, LLC; Dillon's Bus Service, Inc. (Dillon's); and Lakefront Lines, Inc. (Lakefront) (collectively, Coach America Subsidiaries).[4] On June 5, 2012, Michael Yusim, an individual, filed a letter in opposition to the proposed transaction, asserting that the public interest would not be served by allowing the transaction to proceed without certain Department of Labor proceedings first being completed. A copy of this notice will be served on Mr. Yusim. Persons wishing to oppose the application must follow the rules set forth at 49 CFR 1182.5 and 1182.8.

DATES: Comments must be filed by August 6, 2012. Applicants may file a reply to any comments by August 21, 2012.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21045 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jonathon P. Binet, (202) 245–0368. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Coach America Subsidiaries are currently involved in proceedings instituted under Chapter 11 of the Bankruptcy Code, having filed a voluntary petition for relief with the U.S. Bankruptcy Court for the District of Delaware on January 3, 2012, and a motion to sell substantially all of their assets and effectively to liquidate on January 13, 2012. According to Applicants, the transaction described above is evidenced by an Asset Purchase Agreement entered by the parties on May 17, 2012, and was approved by the U.S. Bankruptcy Court for the District of Delaware at a hearing on May 22, 2012.

On June 5, 2012, Mr. Yusim filed a letter in opposition to the proposed transaction. Applicants filed a reply to Mr. Yusim's letter on June 6, 2012, to which Mr. Yusim responded on June 8, 2012. The basis for Mr. Yusim's opposition relates to two cases pending before the Secretary of Labor (Secretary)

[1] A request for interim approval under 49 U.S.C. 14303(i) was included in this filing (Docket No. MCF 21045 TA). In a decision served on June 19, 2012, interim approval of the proposed finance transaction was granted, effective on the decision's date of service.

[2] In addition to the nine carrier applicants, Coach USA controls 47 other motor passenger carriers that hold interstate operating authority. A list of these 47 carriers is included as Exhibit 2 to the Verified Application for Control of Motor Passenger Carriers and Request for Interim Approval.

[3] ASTI, Blue Bird Coach, and Utica-Rome Bus are wholly-owned carrier subsidiaries of Coach USA. Coach USA Tours, TRT, Coach Leasing, and CAM Leasing are wholly-owned noncarrier subsidiaries of Coach USA. K–T is a carrier owned 50% by Coach USA and 50% by Coach USA Tours. Coach USA MBT is a wholly-owned noncarrier subsidiary of TRT. El Expresso, Kerrville Bus, Powder River Transportation, Valen, and Antelope Valley are wholly-owned carrier subsidiaries of Coach USA MBT.

[4] Specifically, the transaction contemplates that: (1) Antelope Valley will acquire the assets of Lakefront; (2) ASTI will acquire the assets of CUSA PCSTC, LLC; (3) Blue Bird Coach will acquire the assets of Dillon's; (4) El Expresso will acquire the assets of American Coach Lines; (5) Kerrville Bus will acquire the assets of CUSA KBC, LLC; (6) K–T will acquire the assets of CUSA AWC, LLC; (7) Powder River Transportation will acquire the assets of CUSA ELKO, LLC; (8) Utica-Rome Bus will acquire the assets of CUSA PRTS, LLC; and (9) Valen will acquire the assets of CUSA RAZ, LLC. The transaction also contemplates that the names of the acquiring carriers will be changed to reflect the trade names of the entities whose assets they will acquire. In addition, CUSA AT, LLC—which currently has no owned assets—will be acquired by Applicants and then likely terminated as a limited liability company and its operating authority surrendered. Further, certain of the motorcoach assets of the Coach America Subsidiaries will be acquired by Coach Leasing and CAM Leasing, which will in turn lease the motorcoach assets to the nine carrier applicants following approval of the transaction.

in which Mr. Yusim alleges that his employer, an entity called Midnight Sun Tours, Inc., and his employer's corporate parents (including Coach America) discriminated against drivers who accurately reported their hours of service. According to Mr. Yusim, these two cases were automatically stayed as a result of the bankruptcy proceedings pursuant to 11 U.S.C. 362. Mr. Yusim requests that the Board disallow the sale of any subsidiaries of Coach America until the Secretary is allowed to hear the two cases. Because we have received a timely comment in opposition to the application, we will not grant tentative authority under 49 CFR 1182.4(b). *See* 49 CFR 1182.6(a). Instead, we will institute a proceeding to address this matter as well as determine the merits of the application pursuant to 49 U.S.C. 14303. Comments and responses are to be submitted as ordered below. *See* 49 CFR 1182.5 & 1182.6.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Comments must be filed by August 6, 2012. Applicants may file a reply to any comments by August 21, 2012.

2. This notice will be effective on its date of service.

3. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 950 Pennsylvania Avenue NW., Washington, DC 20530; (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; (4) the Federal Trade Commission, Bureau of Competition, Premerger Notification Office, 600 Pennsylvania Avenue NW., Washington, DC 20580; and (5) Michael Yusim, 7499 Eagle Point Drive, Delray Beach, FL 33446.

Decided: June 18, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–15287 Filed 6–21–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the President's Advisory Council on Financial Capability

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: The President's Advisory Council on Financial Capability (''Council'') will convene for an open meeting on July 16, 2012, at the Department of Treasury, 1500 Pennsylvania Avenue NW., Washington DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public. The Council will: (1) Receive reports from the Council's subcommittees (Underserved and Community Empowerment, Research and Evaluation, Partnerships, and Youth) on their progress; and (2) hear from a panel of experts about research in financial capability.

DATES: The meeting will be held on July 16, 2012, at 10 a.m. Eastern Time.

SUBMISSION OF WRITTEN STATEMENTS: The public is invited to submit written statements to the Council. Written statements should be sent by any one of the following methods:

Electronic Statements

Email: *pacfc@treasury.gov.* or

Paper Statements

Send paper statements to the Department of the Treasury, Office of Financial Education, Financial Access, and Consumer Protection, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

In general, the Department will make all statements available in their original format, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers, for public inspection and photocopying in the Department's library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue NW., Washington DC, 20220, on official business days between the hours of 10 a.m. and 5 p.m. You can make an appointment to inspect statements by calling (202) 622–0990. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Louisa Quittman, Director, Office of Financial Education, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–5770 or *pacfc@treasury.gov.*

SUPPLEMENTARY INFORMATION: On January 29, 2010, the President signed Executive Order 13530, creating the Council to assist the American people in understanding financial matters and making informed financial decisions, thereby contributing to financial stability. The Council is composed of two *ex-officio* Federal officials and 15 non-governmental members appointed by the President with relevant backgrounds, such as financial services, consumer protection, financial access, and education. The role of the Council is to advise the President and the Secretary of the Treasury on means to promote and enhance individuals' and families' financial capability. The Council held its first meeting on November 30, 2010. At that meeting, the Chair recommended the establishment of five subcommittees to focus on the following strategic areas: National Strategy, Financial Access, Research and Evaluation, Partnerships, and Youth. The Council met again on April 21, 2011; July 12, 2011; November 8, 2011; January 19, 2012, and April 9, 2012. At the January 19, 2012, meeting, the Council presented an Interim Report to the President, which can be found at: *http://www.treasury.gov/resource-center/financial-education/Documents/PACFC%20Interim%20Report%2001-18-12%20Final.pdf.*

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the regulations thereunder, Louisa Quittman, Designated Federal Officer of the Council, has ordered publication of this notice that the Council will convene its seventh meeting on July 16, 2012, at the Department of Treasury, 1500 Pennsylvania Avenue NW., Washington DC, beginning at 10:00 a.m. Eastern Time. The meeting will be open to the public. Members of the public who plan to attend the meeting must RSVP with their name, organization represented (if any), phone number, and email address. To register, please go to *www.treasury.gov*, click on Resource Center, then Office of Financial Education and Financial Access, and then on the President's Advisory Council on Financial Capability by 5 p.m. Eastern Time on July 10, 2012. For entry into the building on the date of the meeting, attendees must present a government-issued ID, such as a driver's license or passport, which includes a photo. The purpose of the meeting is to receive an update from the Council's subcommittees on their progress. The

Council will also hear from experts on financial capability research.

Melissa Koide,

Deputy Assistant Secretary of Financial Education, Financial Access, and Consumer Protection, U.S. Department of the Treasury.

[FR Doc. 2012–15312 Filed 6–21–12; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for the FY 2012 Funding Round of the Bank Enterprise Award (BEA) Program.

Announcement Type: Announcement of funding opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.021.

DATES: Applications for the FY 2012 funding round of the BEA Program must be received by July 27, 2012. Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOFA. Applications received after July 27, 2012 will be rejected.

Executive Summary: This NOFA is issued in connection with the FY 2012 funding round of the BEA Program. The BEA Program is administered by the Community Development Financial Institutions (CDFI) Fund, a wholly owned government corporation within the Department of the Treasury. The BEA Program encourages Insured Depository Institutions to increase their levels of loans, investments, services, and technical assistance within Distressed Communities, and financial assistance to CDFIs through grants, stock purchases, loans, deposits, and other forms of financial and technical assistance, during a specified period.

I. Funding Opportunity Description

A. *Baseline Period and Assessment Period dates:* A BEA Program Award is based on an Applicant's increases in Qualified Activities from the Baseline Period to the Assessment Period. For the FY 2012 funding round, the Baseline Period is calendar year 2010 (January 1, 2010 through December 31, 2010), and the Assessment Period is calendar year 2011 (January 1, 2011 through December 31, 2011). If Qualified Activities in a specific category results in a decrease in activity from the Baseline Period to the Assessment Period, there is no need to report the activity.

B. *Program regulations:* The regulations governing the BEA Program can be found at 12 CFR part 1806 (the Interim Rule) and provide guidance on evaluation criteria and other requirements of the BEA Program. The CDFI Fund encourages Applicants to review the Interim Rule. Detailed BEA Program requirements are found in the Application related to this NOFA. Each capitalized term in this NOFA is more fully defined either in the Interim Rule or the Application.

C. *Qualified Activities:* Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103). CDFI Related Activities (12 CFR 1806.103(q)) include Equity Investments, Equity-Like Loans, and CDFI Support Activities). Distressed Community Financing Activities (12 CFR 1806.103(u)) include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments; Education Loans; Commercial Real Estate Loans and related Project Investments; Home Improvement Loans; and Small Business Loans and related Project Investments. Service Activities (12 CFR 1806.103(nn)) include Deposit Liabilities, Financial Services, Community Services, Targeted Financial Services, and Targeted Retail Savings/Investment Products.

When calculating BEA Program Award amounts, the CDFI Fund will count only the amount that an Applicant reasonably expects to disburse for a Qualified Activity within 12 months from the end of the Assessment Period. Subject to the requirements outlined in Section VII. B.1. of this NOFA, in the case of Commercial Real Estate Loans and related Project Investments, the total principal amount of the transaction must be $10 million or less to be considered a Qualified Activity. Notwithstanding the foregoing, the CDFI Fund, in its sole discretion, may consider transactions with a total principal value of over $10 million, subject to review.

Activities funded with prior BEA Award dollars, or funded to satisfy requirements of a BEA Award Agreement from a prior Award shall not constitute a Qualified Activity for the purposes of calculating or receiving an Award.

D. *Designation of Distressed Community:* Each CDFI Partner that is the recipient of CDFI Support Activities from an Applicant must designate a Distressed Community. CDFI Partners that receive Equity Investments are not required to designate Distressed Communities. Applicants applying for a BEA Program Award for carrying out Distressed Community Financing Activities or Service Activities must verify that addresses of both Baseline and Assessment Period activities are in Distressed Communities when completing their Application. Please note that a Distressed Community as defined by the BEA Program is not necessarily the same as an Investment Area as defined by the CDFI Program or a Low-Income Community as defined by the New Markets Tax Credit (NMTC) Program.

1. *Definition of Distressed Community:* A Distressed Community must meet certain minimum geographic area and distress requirements, which are defined in the Interim Rule at 12 CFR 1806.103(t) and more fully described in 12 CFR 1806.200. For the purpose of this NOFA, Distressed Communities labeled either ''Fully Qualified'' or ''Partially Qualified'' in the *CDFI Fund Mapping System (CIMS)* will satisfy the definition of a Distressed Community as long as the poverty rate is not less than 20 percent. Applicants should use CIMS to determine whether a Baseline Period activity or Assessment Period activity is located in a qualifying Distressed Community.

2. *Designation of Distressed Community:* A CDFI Partner (as appropriate) shall designate an area as a Distressed Community by:

(a) Selecting Geographic Units which individually meet the minimum area eligibility requirements; or

(b) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (1) of this section provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

A CDFI Partner designates a Distressed Community by submitting a map of the Distressed Community as described in the BEA Program Application. CDFI Partners must use CIMS to designate Distressed Communities. CIMS is accessed through *myCDFIFund* and contains step-by-step instructions on how to create and save the aforementioned map of the Distressed Community. *MyCDFIFund* is an electronic interface that is accessed through the CDFI Fund's Web site (*www.cdfifund.gov*). Instructions for registering with *myCDFIFund* are available on the CDFI Fund's Web site. If you have any questions or problems with registering, please contact the CDFI Fund IT HelpDesk by telephone at (202) 622–2455, or by email to *ITHelpDesk@cdfi.treas.gov*.

3. *Persistent Poverty Counties:* The Consolidated Appropriations Act of

2012 (Pub. L. 112–74) provided that of the funds awarded by the CDFI Fund in FY 2012, including the FY 2012 BEA Program, not less than 10 percent shall be used for projects that serve populations living in Persistent Poverty Counties (PPCs). PPCs are defined as any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and the 2010 American Community Survey census. The specific counties that qualify as meeting the criteria for ''persistent poverty'' can be found at: *www.cdfifund.gov/persistentpoverty*. Applicants that apply under this NOFA will be required to indicate the minimum and maximum percentage of the BEA Award that the Applicant will commit to invest in PPCs.

II. Award Information

A. *CDFI Applicants:* No CDFI Applicant may receive a FY 2012 Bank Enterprise Award if it has: (1) An application pending for assistance under the FY 2012 round of the Community Development Financial Institutions Program (CDFI Program); (2) Been awarded assistance from the CDFI Fund under the CDFI Program within the 12-month period prior to the date the CDFI Fund selects the Applicant to receive a FY 2012 Bank Enterprise Award; or (3) Ever received assistance under the CDFI Program for the same activities for which it is seeking a FY 2012 Bank Enterprise Award. Please note that Applicants may apply for both a CDFI Program Award and a BEA Program Award in FY 2012; however, receiving a FY 2012 CDFI Program award removes an Applicant from eligibility for a FY 2012 BEA Program Award.

B. *Award amounts:* The CDFI Fund expects that it may award approximately $18 million for FY 2012 BEA Program Awards, in appropriated funds under this NOFA. The CDFI Fund reserves the right to award in excess of said funds under this NOFA, provided that the appropriated funds are available. The CDFI Fund reserves the right to impose a maximum Award amount; however under no circumstances will an Award be higher than $2 million for any Awardee. The CDFI Fund also reserves the right to impose a minimum Award amount due to availability of funds. Further, the CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA. The CDFI Fund reserves the right to reallocate funds from the amount that is anticipated to be available under this NOFA to other CDFI Fund programs, or reallocate remaining funds to a future BEA Program funding round, if the CDFI Fund determines that the number of Awards made under this NOFA is fewer than projected.

When calculating Award amounts, the CDFI Fund will count only the amount that an Applicant reasonably expects to disburse on a transaction within 12 months from the end of the Assessment Period.

C. *Types of Awards:* BEA Program Awards are made in the form of grants.

D. *Notice of Award and Award Agreement:* Each Awardee under this NOFA must sign a Notice of Award and an Award Agreement prior to disbursement by the CDFI Fund of Award proceeds. The Notice of Award and the Award Agreement contains the terms and conditions of the Award. For further information, see Section VIII of this NOFA.

III. Eligibility

A. *Eligible Applicants:* Eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in Section 3 of the Federal Deposit Insurance Act 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured as of December 31, 2011 for the FY 2012 funding round to be eligible for consideration for a BEA Program Award under this NOFA. For the purposes of this NOFA, an eligible CDFI Applicant is an Insured Depository Institution that has been certified as a CDFI as of the end of the applicable Assessment Period. The depository institution holding company of an Insured Depository Institution may not apply on behalf of an Insured Depository Institution. Applications received from depository institution holding companies will be disqualified.

In determining eligibility to receive an Award, the CDFI Fund may take into consideration the views of the appropriate Federal bank regulatory agency, as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)). The CDFI Fund may choose not to approve a BEA Award to an Insured Depository Institution Applicant for which the appropriate Federal bank regulatory agency indicates safety and soundness concerns. In addition, the CDFI Fund may take into consideration Community Reinvestment Act (CRA) assessments of Insured Depository Institutions and/or their Affiliates.

1. *Prior Awardees:* Applicants must be aware that success in a prior round of any of the CDFI Fund's programs is not indicative of success under this NOFA. For purposes of this section, the CDFI Fund will consider an Affiliate to be any entity that Controls (as such term is defined in paragraph (f) below) the Applicant, is Controlled by the Applicant or is under common Control with the Applicant (as determined by the CDFI Fund) and any entity otherwise identified as an affiliate by the Applicant in its Application under this NOFA. Prior BEA Program Awardees and prior Awardees of other CDFI Fund programs are eligible to apply under this NOFA, except as follows:

(a) *Failure to meet reporting requirements:* The CDFI Fund will not consider an Application submitted by an Applicant if the Applicant or its Affiliate is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed Assistance, Award or allocation agreement(s), as of the Application deadline(s) stated in this NOFA. Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.

(b) *Pending resolution of noncompliance:* If an Applicant that is a prior awardee or allocatee under any CDFI Fund program: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award or allocation agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. Further, if an Affiliate of the Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous Assistance, award or allocation agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.

(c) *Default status:* The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI

Fund awardee or allocatee under any CDFI Fund program if, as of the applicable Application deadline of this NOFA, the CDFI Fund has made a final determination that such Applicant is in default of a previously executed assistance, award or allocation agreement(s). Further, an entity is not eligible to apply for an Award pursuant to this NOFA if, as of the applicable Application deadline, the CDFI Fund has made a final determination that an Affiliate of the Applicant: (i) Is a prior CDFI Fund awardee or allocatee under any CDFI Fund program, and (ii) has been determined by the CDFI Fund to be in default of a previously executed Assistance, award or allocation agreement(s). Such entities will be ineligible to apply for an Award pursuant to this NOFA so long as the Applicant's, or its Affiliate's, prior award or allocation remains in default status or such other time period as specified by the CDFI Fund in writing.

(d) *Termination in default:* The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program if, within the 12-month period prior to the Application deadline of this NOFA, the CDFI Fund has made a final determination that such Applicant's prior award or allocation terminated in default of the assistance, award or allocation agreement and the CDFI Fund has provided written notification of such determination to such Applicant. Further, an entity is not eligible to apply for an Award pursuant to this NOFA if, within the 12-month period prior to the Application deadline of this NOFA, the CDFI Fund has made a final determination that an Affiliate of the Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program whose award or allocation terminated in default of the assistance, award or allocation agreement and the CDFI Fund has provided written notification of such determination to the defaulting entity.

(e) *Undisbursed funds:* For the purposes of this section, the term ''undisbursed funds'' is defined as: (i) In the case of prior BEA Program Award(s), any balance of Award funds equal to or greater than five (5) percent of the total prior BEA Program Award(s) that remains undisbursed more than three (3) years after the end of the calendar year in which the CDFI Fund signed an Award Agreement with the Awardee, or (ii) in the case of prior CDFI Program or other CDFI Fund program award(s), any balance of award funds equal to or greater than five (5) percent of the total prior award(s) that remains undisbursed more than two (2) years after the end of the calendar year in which the CDFI Fund signed an assistance agreement with the awardee.

The term ''undisbursed funds'' does not include (i) tax credit allocation authority allocated through the New Markets Tax Credit Program; (ii) any award funds for which the CDFI Fund received a full and complete disbursement request from the awardee as of the Application deadline of this NOFA; or (iii) any award funds for an award that has been terminated, expired, rescinded, or deobligated by the CDFI Fund.

The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund awardee under any CDFI Fund program if the Applicant has a balance of undisbursed funds under said prior award(s), as of the Application deadline of this NOFA. Further, an entity is not eligible to apply for an Award pursuant to this NOFA if an Affiliate of the Applicant is a prior CDFI Fund awardee under any CDFI Fund program, and has a balance of undisbursed funds under said prior Award(s), as of the Application deadline of this NOFA. In the case where an Affiliate of the Applicant is a prior CDFI Fund awardee under any CDFI Fund program, and has a balance of undisbursed funds under said prior award(s), as of the Application deadline of this NOFA, the CDFI Fund will include the combined awards of the Applicant and such Affiliates when calculating the amount of undisbursed funds.

(f) *Control:* For purposes of this NOFA, the term ''Control'' means: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting securities as defined in 12 CFR 1805.104 (mm) of any legal entity, directly or indirectly or acting through one or more other persons; (2) control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any legal entity; or (3) the power to exercise, directly or indirectly, a controlling influence over the management, credit or investment decisions, or policies of any legal entity.

(g) *Contact the CDFI Fund:* Accordingly, Applicants that are prior awardees and/or allocatees under any CDFI Fund program are advised to: (i) Comply with requirements specified in assistance, award and/or allocation agreement(s), and (ii) contact the CDFI Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of a prior award(s). An Applicant that is unsure about the disbursement status of any prior award should contact the CDFI Fund by sending an email to *cdfihelp@cdfi.treas.gov*. All outstanding reports and compliance questions should be directed to Certification, Compliance Monitoring, and Evaluation support by email at *ccme@cdfi.treas.gov* or by telephone at (202) 622–6330. The CDFI Fund will respond to Applicants' reporting, compliance, or disbursement questions between the hours of 9 a.m. and 5 p.m. ET, starting on the date of the publication of this NOFA through July 25, 2012. The CDFI Fund will not respond to Applicants' reporting, compliance, or disbursement telephone calls or email inquiries that are received after 5 p.m. ET on July 25, 2012 until after the Application deadline. The CDFI Fund will respond to technical issues related to myCDFIFund Accounts through 5 p.m. ET on July 27 2012.

2. *Cost sharing and matching fund requirements:* Not applicable.

IV. Application and Submission Information

A. *Application Content Requirements:* Detailed Application content requirements are found in the Application related to this NOFA. Applicants must submit all materials described in and required by the Application by the applicable deadlines. Additional information, including instructions relating to the submission of the Application via Grants.gov, the FY 2012 BEA Signature Page via myCDFIFund, and supporting documentation, is set forth in further detail in the Application.

Please note that, pursuant to OMB guidance (68 FR 38402), each Applicant must provide, as part of its Application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number. In addition, each Application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the Internal Revenue Service (IRS) confirming the EIN. Applicants should allow sufficient time for the IRS and/or Dun and Bradstreet to respond to inquiries and/or requests for identification numbers. EINs and DUNS numbers must match the information in the Applicant's CCR account. An active CCR account is required to submit Applications via Grants.gov. Neither the CCR account, EIN nor the DUNS number can be that of the depository institution holding company of the Applicant. An Application that does not include an EIN or DUNS number is incomplete and cannot be transmitted to the CDFI Fund. The preceding sentences

do not limit the CDFI Fund's ability to contact an Applicant for the purpose of confirming or clarifying information regarding a DUNS number or EIN number. Once an Application is submitted, the Applicant will not be allowed to change any element of the Application.

As set forth in further detail in the Application, any Qualified Activity missing the required documentation will be disqualified. Applicants will not be allowed to submit missing documentation for Qualified Activities after the Application deadline.

B. *Form of Application Submission:* Applicants must submit Applications under this NOFA via Grants.gov with certain required documentation via paper according to the instructions in the Application. Applications sent by facsimile or by email will not be accepted, except in circumstances that the CDFI Fund, in its sole discretion, deems acceptable. In order to submit an Application via Grants.gov, Applicants must complete a multi-step registration process. This includes registration at CCR.gov. Applicants are advised to make sure their CCR account is active and valid well in advance of submitting an Application via Grants.gov and to allow ample time to complete the entire registration and submission process.

MyCDFIFund Accounts: All Applicants and CDFI Partners must complete a FY 2012 BEA Signature Page in myCDFIFund. All Applicants and CDFI Partners must register User and Organization accounts in myCDFIFund, the CDFI Fund's Internet-based interface by the applicable Application deadline. Failure to register and complete a FY 2012 BEA Signature Page in myCDFIFund could result in the CDFI Fund being unable to accept the Application. As myCDFIFund is the CDFI Fund's primary means of communication with Applicants and Awardees, organizations must make sure that they update the contact information in their myCDFIFund accounts. For more information on myCDFIFund, please see the ''Frequently Asked Questions'' link posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp*.

Qualified Activity documentation and other attachments as specified in the applicable BEA Program Application must be sent to: Bureau of the Public Debt, CDFI Fund—BEA Program Awards Management, A3–H, BPD Warehouse & Op Center Dock 1, 257 Bosley Industrial Park Drive, Parkersburg, WV 26101. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480–8071. The CDFI Fund will not accept Applications in its offices in Washington, DC. Applications and attachments received in the CDFI Fund's Washington, DC, office will be rejected.

C. *Application Deadlines:* The deadline for receipt of Applications via Grants.gov for the FY 2012 funding round is 11:59 p.m. ET on July 27, 2012. The deadline for the submission of the FY 2012 BEA Signature Page via myCDFIFund for the FY 2012 funding round is 5:00 p.m. ET on July 27, 2012. The deadline for receipt of paper documentation at the Bureau of Public Debt address specified above is 5 p.m. ET, July 31, 2012. Applications and other required documents and other attachments received after the deadline on the applicable date will be rejected. Please note that the document submission deadlines in this NOFA and the funding Application are strictly enforced. The CDFI Fund will not grant exceptions or waivers for late delivery of documents including, but not limited to, late delivery that is caused by third parties such as the United States Postal Service, couriers or overnight delivery services.

D. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the BEA Program funding Application has been assigned the following control number: 1559–0005.

V. Intergovernmental Review: Not Applicable

VI. Funding Restrictions: Not Applicable

VII. Application Review Information

A. *CDFI Related Activities:* CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities provided to eligible CDFI Partners. In addition to regulatory requirements, this NOFA provides the following:

1. *Eligible CDFI Partner:* CDFI Partner is defined as a CDFI that has been provided assistance in the form of CDFI Related Activities by an Applicant (12 CFR 1806.103(p)). For the purposes of this NOFA, an eligible CDFI Partner is an entity that has been certified as a CDFI as of the end of the applicable Assessment Period and is Integrally Involved in a Distressed Community.

2. Integrally Involved is defined as having provided: (i) At least ten percent of financial transactions or dollars transacted (e.g., loans or equity investments as defined in 12 CFR 1805.104(t)), or ten percent of Development Service activities (as defined in 12 CFR 1805.104(s)), in the Distressed Community identified by the Applicant or the CDFI Partner, as applicable, in each of the three calendar years preceding the date of the applicable NOFA, (ii) having transacted at least twenty-five percent of financial transactions (e.g., loans or equity investments) in said Distressed Community in at least one of the three calendar years preceding the date of the applicable NOFA, or (iii) demonstrating that it has attained at least ten percent of market share for a particular product in said Distressed Community (such as at least ten percent of home mortgages originated in said Distressed Community) in at least one of the three calendar years preceding the date of the applicable NOFA.

3. *Limitations on eligible Qualified Activities provided to certain CDFI Partners:* An Applicant that is also a CDFI cannot receive credit for any financial assistance or Qualified Activities provided to a CDFI Partner that is also an FDIC-insured depository institution or depository institution holding company.

4. *Certificates of Deposit:* Section 1806.103(r) of the Interim Rule states that any certificate of deposit placed by an Applicant or its Subsidiary in a CDFI that is a bank, thrift, or credit union must be: (i) Uninsured and committed for at least three years; or (ii) insured, committed for a term of at least three years, and provided at an interest rate that is materially below market rates, in the determination of the CDFI Fund.

(a) For purposes of this NOFA, ''materially below market interest rate'' is defined as an annual percentage rate that does not exceed 100 percent of yields on Treasury securities at constant maturity as interpolated by Treasury from the daily yield curve and available on the Treasury Web site at *www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.shtml*. For example, for a three-year certificate of deposit, Applicants should use the three-year rate U.S. Government securities, Treasury Yield Curve Rate posted for that business day. The Treasury updates the Web site daily at approximately 5:30 p.m. ET. Certificates of deposit placed prior to that time may use the rate posted for the previous business day. The annual percentage rate on a certificate of deposit should be compounded quarterly, semi-annually, or annually.

(b) For purposes of this NOFA, a deposit placed by an Applicant directly with a

CDFI Partner that participates in a deposit network or service may be treated as eligible under this NOFA if it otherwise meets the criteria for deposits in 1806.103(r) and the CDFI Partner retains the full amount of the initial deposit or an amount equivalent to the full amount of the initial deposit through a deposit network exchange transaction.

5. *Equity-Like Loans:* An Equity-Like Loan is a loan provided by an Applicant or its Subsidiary to a CDFI, and made on such terms that it has characteristics of an Equity Investment, as such characteristics may be specified by the CDFI Fund (12 CFR 1806.103(z)). For purposes of this NOFA, Equity-Like Loans must meet the following characteristics:

(a) At the end of the initial term, the loan must have a definite rolling maturity date that is automatically extended on an annual basis if the CDFI borrower continues to be financially sound and carry out a community development mission;

(b) Periodic payments of interest and/or principal may only be made out of the CDFI borrower's available cash flow after satisfying all other obligations;

(c) Failure to pay principal or interest (except at maturity) will not automatically result in a default of the loan agreement; and

(d) The loan must be subordinated to all other debt except for other Equity-Like Loans. Notwithstanding the foregoing, the CDFI Fund reserves the right to determine, in its sole discretion and on a case-by-case basis, whether an instrument meets the above-stated characteristics of an Equity-Like Loan.

6. *CDFI Program Matching Funds:* Equity Investments, Equity-Like Loans, and CDFI Support Activities (except technical assistance) provided by a BEA Applicant to a CDFI and used by the CDFI for matching funds under the CDFI Program are eligible as a Qualified Activity under the CDFI Related Activity category.

B. *Distressed Community Financing Activities and Service Activities:* Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments, Education Loans, Commercial Real Estate Loans and related Project Investments, Home Improvement Loans, and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). In addition to the regulatory requirements, this NOFA provides the following additional requirements:

1. *Commercial Real Estate Loans and related Project Investments:* For purposes of this NOFA, eligible Commercial Real Estate Loans (12 CFR 1806.103(l)) and related Project Investments (12 CFR 1806.103(ll)) are generally limited to transactions with a total principal value of $10 million or less. Notwithstanding the foregoing, the CDFI Fund, in its sole discretion, may consider transactions with a total principal value of over $10 million, subject to review. For such transactions, Applicants must provide a separate narrative, or other information, to demonstrate that the proposed project offers, or significantly enhances the quality of, a facility or service not currently provided to the Distressed Community.

2. *Reporting certain Financial Services:* The CDFI Fund will value the administrative cost of providing certain Financial Services using the following per unit values:

(a) $100.00 per account for Targeted Financial Services;

(b) $50.00 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services;

(c) $5.00 per check cashing transaction;

(d) $25,000 per new ATM installed at a location in a Distressed Community;

(e) $2,500 per ATM operated at a location in a Distressed Community;

(f) $250,000 per new retail bank branch office opened in a Distressed Community; and

(g) In the case of Applicants engaging in Financial Services activities not described above, the CDFI Fund will determine the unit value of such services.

(i) When reporting the opening of a new retail bank branch office, the Applicant must certify that it has not operated a retail branch in the same Distressed Community in which the new retail branch office is being opened in the past three years, and that such new branch will remain in operation for at least the next five years.

(ii) Financial Service Activities must be provided by the Applicant to Low- and Moderate- Income Residents. An Applicant may determine the number of Low- and Moderate-Income individuals who are recipients of Financial Services by either: (i) Collecting income data on its Financial Services customers; or (ii) certifying that the Applicant reasonably believes that such customers are Low- and Moderate-Income individuals and providing a brief analytical narrative with information describing how the Applicant made this determination.

(iii) When reporting changes in the dollar amount of deposit accounts, only calculate the net change in the total dollar amount of eligible Deposit Liabilities between the Baseline Period and the Assessment Period. Do not report each individual deposit. If the net change between the Baseline Period and Assessment Period is a negative dollar amount, then a negative dollar amount may be recorded. Instructions for determining the net change is available on the CDFI Fund's Web site.

C. *Priority Factors:* Priority Factors are the numeric values assigned to individual types of activity within: (i) The Distressed Community Financing, and (ii) Services categories of Qualified Activities. For the purposes of this NOFA, Priority Factors will be based on the Applicant's asset size as of the end of the Assessment Period (December 31, 2011) as reported by the Applicant in the Application. Asset size classes (i.e., small banks, intermediate-small banks, and large banks) will correspond to the CRA asset size classes set by the three Federal bank regulatory agencies and that were effective as of the end of the Assessment Period. The Priority Factor works by multiplying the change in a Qualified Activity by the assigned Priority Factor to achieve a ''weighted value.'' This weighted value of the change would be multiplied by the applicable Award percentage to yield the Award amount for that particular activity. For purposes of this NOFA, the CDFI Fund is establishing Priority Factors based on Applicant asset size to be applied to all activity within the Distressed Community Financing Activities and Service Activities categories only, as follows:

CRA asset size classification	Priority factor
Small banks (assets of less than $280 million as of 12/31/2011)	5.0
Intermediate-small banks (assets of at least $280 million but less than $1.122 billion as of 12/31/2011)	3.0
Large banks (assets of $1.122 billion or greater as of 12/31/2011)	1.0

D. *Certain Limitations on Qualified Activities:*

1. Low-Income Housing Tax Credits. Financial assistance provided by an Applicant for which the Applicant receives benefits through Low-Income Housing Tax Credits, authorized pursuant to Section 42 of the Internal Revenue Code, as amended (26 U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

2. New Markets Tax Credits. Financial assistance provided by an Applicant for which the Applicant receives benefits as an investor in a Community Development Entity that has received an allocation of New Markets Tax Credits, authorized pursuant to Section 45D of the Internal Revenue Code, as amended (26 U.S.C. 45D), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

3. Loan Renewals and Refinances. Financial assistance provided by an Applicant shall not constitute a Qualified Activity, as defined in this part, for the purposes of calculating or receiving an Award if, such financial assistances consists of a loan to a borrower that has matured and is then renewed by the Applicant, or consists of a loan to a borrower that is retired or restructured using the proceeds of a new commitment by the Applicant. Payoff of a separate third party obligations will only be considered a Qualified Activity if the payoff of a transaction is part of the sale of property or business to an unaffiliated party to the borrower. Applicants should include a narrative statement to describe any such transactions. Otherwise the transaction will be disqualified.

4. Prior BEA Awards. Qualified Activities funded with prior funding round Award dollars or funded to satisfy requirements of the BEA Program Award Agreement shall not constitute a Qualified Activity for the purposes of calculating or receiving an Award.

5. Prior CDFI Program Awards. No CDFI may receive a BEA Program Award for activities funded by a CDFI Program Award.

E. *Award percentages, Award amounts, selection process:* The Interim Rule describes the process for selecting Applicants to receive BEA Program Awards and determining Award amounts. Applicants will calculate and request an estimated Award amount in accordance with a multiple step procedure that is outlined in the Interim Rule (at 12 CFR 1806.202). As outlined in the Interim Rule at 12 CFR 1806.203, the CDFI Fund will determine actual Award amounts based on the availability of funds, increases in Qualified Activities from the Baseline Period to the Assessment Period, and each Applicant's priority ranking. In calculating the increase in Qualified Activities, the CDFI Fund will determine the eligibility of each transaction for which an Applicant has applied for a BEA Program Award. In some cases, the actual Award amount calculated by the CDFI Fund may not be the same as the estimated Award amount requested by the Applicant.

Should the CDFI Fund determine, upon analysis of the final BEA Awardee pool, that it has not achieved the 10 percent persistent poverty requirement mandated by Congress, this information will affect the ranking of Applications and/or the size of an Award. In this case, Award preference will be given to Applicants that commit to targeting a minimum of 10 percent of Award dollars to be invested in BEA Qualified Activities in persistent poverty count to ensure that this Congressional mandate is achieved. If an organization is selected to receive a BEA Award through the FY 2012 funding round, the stated commitment to serving PPCs will be incorporated in your organization's Award agreement and performance goals. Awardees may be held to the minimum and up to the maximum PPC commitment articulated in the application. No applicant, however, will be disqualified from consideration if it does not make a commitment to a BEA Persistent Poverty County.

In the CDFI Related Activities category (except for an Equity Investment or Equity-Like Loan), if an Applicant is a CDFI, such estimated Award amount will be equal to 18 percent of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated Award amount will be equal to 6 percent of the increase in Qualified Activity for the category. Notwithstanding the foregoing, for an Applicant that is a CDFI and for an Applicant that is not a CDFI, the Award percentage applicable to an Equity Investment, Equity-Like Loan, or Grant in a CDFI shall be 15 percent of the increase in Qualified Activity for the category. For the Distressed Community Financing Activities and Service Activities categories, if an Applicant is a CDFI, such estimated Award amount will be equal to 9 percent of the weighted value of the increase in Qualified Activity for the category. If an Applicant is not a CDFI, such estimated Award amount will be equal to 3 percent of the weighted value of the increase in Qualified Activity for the category.

If the amount of funds available during the funding round is insufficient for all estimated Award amounts, Awardees will be selected based on the process described in the Interim Rule at 12 CFR 1806.203(b). This process gives funding priority to Applicants that undertake activities in the following order: (i) CDFI Related Activities, (ii) Distressed Community Financing Activities, and (iii) Service Activities, as described in the Interim Rule at 12 CFR 1806.203(c).

Within each category, Applicants that are certified CDFIs will be ranked first according to the ratio of the actual Award amount calculated by the CDFI Fund for the category to the total assets of the Applicant, followed by Applicants that are not certified CDFIs according to the ratio of the actual Award amount calculated by the CDFI Fund for the category to the total assets of the Applicant.

The CDFI Fund, in its sole discretion: (i) May adjust the estimated Award amount that an Applicant may receive; (ii) may establish a maximum amount that may be awarded to an Applicant; and (iii) reserves the right to limit the amount of an Award to any Applicant if the CDFI Fund deems it appropriate.

For purposes of calculating Award disbursement amounts, the CDFI Fund will treat Qualified Activities with a total principal amount less than or equal to $250,000 as fully disbursed. For all other Qualified Activities, Awardees will have 12 months from the end of the Assessment Period to make disbursements and 18 months from the end of the Assessment Period to submit to the CDFI Fund disbursement requests for the corresponding portion of their Awards, after which the CDFI Fund will rescind and deobligate any outstanding Award balance and said outstanding Award balance will no longer be available to the Awardee.

The CDFI Fund reserves the right to contact the Applicant to confirm or clarify information. If contacted, the Applicant must respond within the CDFI Fund's time parameters or run the risk of being rejected.

The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures. If said changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's Web site.

There is no right to appeal the CDFI Fund's Award decisions. The CDFI Fund's Award decisions are final. The CDFI Fund does not provide debriefings and will only respond to questions regarding an Award decision 30 days prior to the end of the applicable fiscal year.

VIII. Award Administration Information

A. *Notice of Award:* The CDFI Fund will signify its selection of an Applicant as an Awardee by delivering a Notice of Award and Award Agreement to the Applicant. The Notice of Award and Award Agreement will contain the general terms and conditions underlying

the CDFI Fund's provision of an Award. The Applicant must execute the Notice of Award and Award Agreement and return it to the CDFI Fund. Each Awardee must also provide the CDFI Fund with complete and accurate banking information on the Automated Clearinghouse (ACH) form. The ACH form must be returned with the Notice of Award and Award Agreement.

The CDFI Fund reserves the right, in its sole discretion, to rescind the Award, the Notice of Award and Award Agreement if the Awardee fails to return the Notice of Award and Award Agreement signed by the Authorized Representative of the Awardee or any other requested documentation by the deadline set by the CDFI Fund.

By executing a Notice of Award and Award Agreement, the Awardee agrees that, if information (including administrative errors) comes to the attention of the CDFI Fund prior to the Effective Date of the Award Agreement, that either adversely affects the Awardee's eligibility for an Award, or adversely affects the CDFI Fund's evaluation of the Awardee's Application, or indicates fraud or mismanagement on the part of the Awardee, the CDFI Fund may, in its discretion and without advance notice to the Awardee, terminate the Notice of Award and Award Agreement or take other actions as it deems appropriate.

1. *Failure to meet reporting requirements:* If an Applicant, or its Affiliate, is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award or allocation agreement(s), as of the date of the Notice of Award, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds, until said prior awardee or allocatee is current on the reporting requirements in the previously executed assistance, award or allocation agreement(s). Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete and therefore met reporting requirements. If said prior awardee or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

2. *Pending resolution of noncompliance:* If an Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and if: (i) It has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination regarding whether or not the entity is in default of its previous assistance, award, or allocation agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. Further, if an Affiliate of the Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program, and if such entity: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. If said prior awardee or allocatee is unable to meet this requirement, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

3. *Default status:* If, at any time prior to entering into an Award Agreement under this NOFA, the CDFI Fund has made a final determination that an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program is in default of a previously executed assistance, award, or allocation agreement(s) and has provided written notification of such determination to the Applicant, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said Agreement within a timeframe set by the CDFI Fund. Further, if, at any time prior to entering into an Award Agreement under this NOFA, the CDFI Fund has made a final determination that an Affiliate of the Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program, is in default of a previously executed assistance, allocation or award agreement(s), and has provided written notification of such determination to the defaulting entity, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the CDFI Fund. If said prior awardee or allocatee is unable to meet this requirement, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

4. *Termination in default:* If, within the 12-month period prior to entering into an Award Agreement under this NOFA, the CDFI Fund has made a final determination that an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program whose award or allocation terminated in default of such prior agreement and the CDFI Fund has provided written notification of such determination to such organization, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds. Further, if, within the 12-month period prior to entering into an Award Agreement under this NOFA, the CDFI Fund has made a final determination that an Affiliate of the Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program, and whose award or allocation terminated in default of such prior agreement(s) and has provided written notification of such determination to the defaulting entity, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds.

B. *Award Agreement:* After the CDFI Fund selects an Awardee, unless an exception detailed in this NOFA applies, the CDFI Fund and the Awardee will enter into an Award Agreement. The Award Agreement will set forth certain required terms and conditions of the Award, which will include, but not be limited to: (i) The amount of the Award; (ii) the type of the Award; (iii) the approved uses of the Award; (iv) performance goals and measures; and (v) reporting requirements for all Awardees. Award Agreements under this NOFA generally

will have one-year performance periods. The Award Agreement shall provide that an Awardee shall: (i) Carry out its Qualified Activities in accordance with applicable law, the approved Application, and all other applicable requirements; (ii) not receive any monies until the CDFI Fund has determined that the Awardee has fulfilled all applicable requirements, and (iii) use an amount equivalent to the BEA Award amount for BEA Qualified Activities.

C. *Administrative and National Policy Requirements:* Not applicable.

D. *Reporting and Accounting:*

1. Awardees Without Persistent Poverty County Commitments: The CDFI Fund will require each Awardee without persistent poverty commitments that receives an Award over $50,000 through this NOFA to account for the use of the Award. This will require Awardees to establish administrative and accounting controls, subject to applicable OMB Circulars. The CDFI Fund will collect information from each such Awardee on its use of the Award at least once following the Award and more often if deemed appropriate by the CDFI Fund in its sole discretion. The CDFI Fund will provide guidance to Awardees outlining the format and content of the information to be provided, outlining and describing how the funds were used.

2. Awardees With Persistent Poverty County Commitments: The CDFI Fund will require each Awardee with persistent poverty county commitments, regardless of Award size, to report data for Award funds deployed in persistent poverty counties and maintain proper supporting documentation and records which are subject to review by the CDFI Fund's Certification, Compliance Monitoring and Evaluation unit.

IX. Agency Contacts

The CDFI Fund will respond to questions and provide support concerning this NOFA and the funding Application between the hours of 9 a.m. and 5 p.m. ET, starting on the date of the publication of this NOFA through close of business July 25, 2012 for the FY 2012 funding round. The CDFI Fund will not respond to Applicants' reporting, compliance or disbursement telephone calls or email inquiries that are received after 5 p.m. ET on July 25, 2012 until after the Application deadline. The CDFI Fund will respond to technical issues related to myCDFIFund accounts through 5 p.m. ET on July 27, 2012.

Applications and other information regarding the CDFI Fund and its programs may be downloaded and printed from the CDFI Fund's Web site at *www.cdfifund.gov.* The CDFI Fund will post responses to questions of general applicability regarding the BEA Program on its Web site.

A. *Information Technology Support:* Technical support can be obtained by calling (202) 622–2455 or by email at *ithelpdesk@cdfi.treas.gov.* People who have visual or mobility impairments that prevent them from creating a Distressed Community map using the CDFI Fund's Web site should call (202) 622–2455 for assistance. These are not toll free numbers.

B. *Application Support:* If you have any questions about the programmatic or administrative requirements of this NOFA, contact the CDFI Fund's BEA Program office by email at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–6355, by facsimile at (202) 622–7754, or by mail at CDFI Fund, 601 13th Street NW., Suite 200 South, Washington, DC 20005. The number provided is not toll-free.

C. *Certification, Compliance Monitoring and Evaluation Support:* If you have any questions regarding the compliance requirements of this NOFA, including questions regarding performance on prior Awards, contact the CDFI Fund's CCME Unit by email at *ccme@cdfi.treas.gov* or by telephone at (202) 622–6330. The number provided is not toll-free.

D. *Communication with the CDFI Fund:* The CDFI Fund will use its myCDFIFund Internet interface to communicate with Applicants and Awardees under this NOFA. Awardees must use myCDFIFund to submit required reports. The CDFI Fund will notify Awardees by email using the addresses maintained in each Awardee's myCDFIFund account. Therefore, an Awardee and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, email addresses, fax numbers, phone numbers, and office addresses) in their myCDFIFund account(s). For more information about myCDFIFund, please see the Help documents posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp.*

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: June 14, 2012.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2012–15282 Filed 6–21–12; 8:45 am]

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S. 292/P.L. 112–133

Salmon Lake Land Selection Resolution Act (June 15, 2012; 126 Stat. 380)

S. 363/P.L. 112–134
To authorize the Secretary of Commerce to convey property of the National Oceanic and Atmospheric Administration to the City of Pascagoula, Mississippi, and for other purposes. (June 15, 2012; 126 Stat. 382)

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